

# Regulatory Impact Statement: Introducing standards for Emergency Housing Special Needs Grants (EH SNG) suppliers

## Coversheet

Purpose of Document	
Decision sought:	<i>Agreement to introduce standards for emergency housing Special Needs Grant (EH SNG) suppliers. EH SNG suppliers are mainly commercial accommodation providers such as motels.</i>
Advising agencies:	<i>Ministry of Social Development (MSD) in consultation with Ministry of Housing and Urban Development (HUD)</i>
Proposing Ministers:	<i>Minister of Housing Minister for Social Development and Employment</i>
Date finalised:	<i>15 November 2022</i>
Problem Definition	
<p>Emergency Housing Special Needs Grant (EH SNG) recipients report issues with the condition of accommodation, safety concerns and poor customer service. Under current settings the Ministry of Social Development (MSD) has limited levers to address these issues or require EH SNG suppliers to meet standards or expectations about the level of customer service or quality / suitability of accommodation for clients. This Regulatory Impact Statement considers options for setting standards for EH SNG suppliers so that Government can ensure EH SNG recipients can access accommodation of appropriate quality.</p>	
Executive Summary	
<p>EH SNG suppliers are paid for the actual and reasonable cost for use of their accommodation by EH SNG recipients, and their household. In September 2022, there were 540 EH SNG suppliers. MSD reports that most EH SNG suppliers are suitable as short-term accommodation and treat clients as they would any other paying customer. However, there have been concerns raised by clients / occupants about poor-quality accommodation, safety matters and poor customer service. In the quarter ending June 2022, MSD received 379 complaints from occupants about these matters. These concerns have been echoed by third-parties including National Benefit Advocacy Consultative Group (NBACG), Community Law Centres Aotearoa (CLCA), Human Rights Commission (HRC) and other government agencies.</p> <p>Within current EH SNG settings, MSD (the administering agency) has little or limited control over suppliers. This is due to the nature of the EH SNG as a form of financial assistance paid to a supplier on behalf of the client. As the client is the recipient of the EH SNG the contractual relationship is between clients and suppliers in this situation. MSD's current role is to determine the client's eligibility for an EH SNG and grant this assistance and support the client, including by responding to client complaints and referral to support</p>	

services. In the current state MSD does not have any formal power to stop using a particular supplier, or to get them to comply with our expectations.

In July 2021 Ministers directed officials to undertake a review of the emergency housing system. Officials were asked to look at the role of the EH SNG in the future system. In July 2022, Cabinet agreed to the long-term vision for the emergency housing system where “Emergency accommodation is rarely needed and when it is used, stays are brief and non-recurring.” Cabinet also noted that a key feature of the future state would include “accommodation that is: accessible, warm, dry and safe; provide value for money and be appropriate for the maximum length of stay”. In September 2022, as part of ongoing advice on the review, the Minister for Social Development and Employment asked officials what changes could be made to the expectations of EH SNG suppliers and the ability to hold them to account without a contractual arrangement, for implementation in 2023.

This Regulatory Impact Assessment considers four options for introducing standards for EH SNG suppliers:

- **Option One** – Status quo, MSD does not have any formal power to stop using a particular EH SNG supplier, or to get them to comply with our expectations.
- **Option Two** – Change to the Welfare Programme, setting standards for EH SNG suppliers and amending the Special Needs Grants Programme (preferred option).
- **Option Three** – Primary legislation, amendment to or introduction of new legislation and changes to the Special Needs Grants Programme.
- **Option Four** – Contracting with individual EH SNG suppliers and making changes to the Special Needs Grants Programme.

Both Option Two and Option Three meet the policy objectives. However, given the need to act swiftly, Option Two is the preferred option.

Implementing Option Two will require change to the Special Needs Grants Programme (Welfare Programme) to limit MSD’s ability to make grants in respect of suppliers unless MSD is satisfied they meet the standards (except in limited circumstances). The amendment would establish a tiered system of registered and non-registered suppliers. MSD could grant an EH SNG for clients to stay with suppliers that do not meet the standards in exceptional circumstances including if there are no suppliers available that do meet the standards, or if MSD in its discretion determined a supplier that did not meet the standards would best meet the needs of a particular client.

Benefits of preferred option (Option Two):

- A set of standards would express MSD’s expectations about the suitability and quality of EH SNG accommodation provided and is a relatively ‘light-touch’ approach compared to other options. In this approach, suppliers would sign the declaration in the registration form to confirm they agree to comply/currently comply with the standards and will continue to comply.
- This option would be easier to implement than other options and can be done relatively quickly. This will build on existing administrative processes (including the supplier registration and complaints processes) and relationships that regional offices have with suppliers.

- This would enable MSD to improve the experience and safety of people and whānau staying in EH SNG accommodation.

Risks and mitigations of preferred option (Option Two):

- s 9(2)(h) [redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]
- [redacted]  
[redacted] This risk could be mitigated by:
  - ensuring that clients understand the nature of MSD’s relationship with EH SNG suppliers
  - ensuring that there is a clear process in place for grants to non-registered suppliers in exceptional circumstances that includes providing clients with information that MSD holds as to why the supplier is not registered.
- There will be no ability to compel a supplier to agree to the standards, or any additional incentives for a supplier to agree to the standards. Officials consider this risk to be small given that MSD pays market rates for accommodation and will pay a security deposit for damages. MSD consider that this tiered approach may provide an incentive to agree to and comply with the standards. It is important that suppliers understand the implications of not being registered as suppliers and how that will limit MSD’s ability to fund clients to stay at their accommodation.
- In respect of an incentive for suppliers to agree to and comply with the standards, the set of standards will not guarantee occupancy. This is a risk under the status quo and would only be mitigated by contracting supply (Option Four).
- Where a supplier agrees to but is not compliant with the standards it will be very difficult in practice for MSD to enforce compliance. There would be little MSD could do aside from work with the supplier and encourage them to do what is necessary to become compliant, and classify them as a non-registered supplier under the tiered approach proposed. This would still provide more influence than MSD has under the status quo. To maximise the effectiveness of any action taken, it is important that relationships are maintained (or developed) with suppliers, and suppliers understand the implications of failing to meet the standards and how that will limit MSD’s ability to fund MSD clients to stay at their accommodation.

Views of stakeholders and public

The National Beneficiary Advocacy Consultative Group (NBACG) and Community Law Centres Aotearoa (CLCA) strongly support supplier standards that address issues with supplier practice (treatment of clients and quality of accommodation). However, CLCA would prefer Option Three, with Option Two introduced in the immediate term.

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<sup>1</sup> For example, MSD could be found liable for the actions or omissions of EH SNG recipients, or of the EH SNG supplier. The cost of such liability could be substantial.

The Human Rights Commission (HRC) has recently adopted a strong stance on the right to adequate housing, and has suggested that [substandard emergency housing could be potential human rights breaches](#). The preferred option would likely address select concerns raised by the HRC, however, it will not respond to their broader recommendations (e.g. enforceable accountability).

Media stories which feature clients in emergency housing motels often note the sub-standard facilities specific clients are in (see [Undercover report: Rotorua's emergency housing crisis exposed](#)). The preferred option would likely address select concerns raised in these stories which focus on the quality of accommodation and supplier treatment of clients. However, it will not result in all clients staying in accommodation that meets the standards and similar circumstances could arise in the future.

EH SNG suppliers have not been consulted in the development of this policy. MSD intends to host engagement sessions with suppliers prior to implementation, to ensure the proposed standards are considered reasonable from supplier perspectives.

#### The preferred option (Option Two) can be implemented within 12 months

MSD will finish development of the standards (including consultation), and begin implementing them in the next 12 months. Development of a system tool so that front-line staff can tell the status of a supplier will cost \$0.950 million in Capital Expenditure over two years. Other costs of administering the standards and associated processes will be met within MSD's baseline.

### **Limitations and Constraints on Analysis**

Ministers directed officials to assess potential changes in the level of control Government has over EH SNG suppliers to ensure they treat EH SNG recipients like other paying clients, deliver the services paid for, and meet some minimum expectations around safety and suitability. The Minister for Social Development and Employment asked in September 2022 what could be implemented in 2023.

MSD has, to date, avoided relationships with suppliers that could be viewed as contractual by the courts to limit the amount of liability MSD takes on when granting an EH SNG. While contractual relationships were considered throughout the policy process, there has been a general aversion to the option because of the implications of liability, and practical difficulties of individually contracting with the significant number of suppliers.

While MSD has good data about the number of EH SNG suppliers and information about how many households are staying with each supplier, outside of the complaints process we do not have information about quality or other compliance issues of suppliers.

The analysis has assumed that the same number of people will be impacted and has undertaken limited population analysis. This is largely because we assume the population impacts to be broadly the same across all three options.

The costing information is limited to the up-front costs of implementation. There are no estimated costs for Option Three.

Consultation with the National Beneficiary Advocacy Consultative Group (NBACG) and Community Law Centres Aotearoa on options was focused on early options analysis, and there has been no consultation with EH SNG suppliers about introducing standards.

### Responsible Manager(s) (completed by relevant manager)

Hayley Hamilton

General Manager, Employment and Housing Policy

Policy

Ministry of Social Development



15 November 2022

### Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry of Social Development and Te Tūāpapa Kura Kainga – Ministry of Housing and Urban Development
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Panel Assessment & Comment:	<p>The Review Panel consider that the information and analysis summarised in this Statement partially meet the Quality Assurance criteria. Considering each of the four criteria:</p> <ul style="list-style-type: none"><li>• Complete – meets requirements. The Statement contains all the material necessary for a RIS. The limitations on analysis are clearly set out in the RIS.</li><li>• Convincing – meets requirements. The Statement provides an accurate, robust and balanced analysis of the issue and the proposed options to address it. The RIS has been strengthened alongside the QA process through additional explanation of the current problem.</li><li>• Consulted – does not meet requirements. Consultation with Emergency Housing providers has not occurred.</li><li>• Clear and concise – meets requirements. The Statement is clearly written and of an appropriate length.</li></ul>
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## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem and how is the status quo expected to develop?

Commercial accommodation is used by Emergency Housing Special Needs Grant recipients and their household

1. The Emergency Housing Special Needs Grant (EH SNG), introduced in 2016, provides “last resort” financial assistance to eligible individuals (and their household) to meet the cost of short-term commercial accommodation (usually a motel) where their housing need cannot be met in another way. For example, that the applicant has no other accommodation options and there are no available vacancies in transitional housing contracted by Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development (HUD).
2. Grants are used to pay for commercial accommodation as emergency housing. Grants are generally paid by MSD on behalf of the eligible client to commercial accommodation suppliers, referred to as EH SNG suppliers (usually motels) for the

benefit of eligible individuals and households. MSD does not have a legal relationship with EH SNG suppliers (the relationship is between the supplier and the client).

3. MSD can advise clients of possible suppliers in their area, but it is up to clients to choose where they stay. This can mean clients enter accommodation that may not be suitable for their needs.
4. Both the number of EH SNG recipients and EH SNG suppliers is high. At the end of September 2022 there were:
  - 3,753 households (with 4,221 adults and 3,486 children) staying in commercial accommodation paid for by an EH SNG, and the average duration was 26 weeks
  - 540 EH SNG suppliers nationwide.
5. MSD pays market rates for accommodation. The amount granted per quarter is shown in Figure One below. For the month of September 2022 MSD granted / paid to EH SNG suppliers \$29.8 million nationwide.

#### **The quality and condition of EH SNG suppliers was raised with Ministers in 2020**

6. Over 2020 and 2021 MSD implemented a number of improvements to support clients with respect to the suitability of accommodation and to help when concerns arise. This included:
  - **Introduction of the complaints process for clients and suppliers in April 2021.** The emergency housing occupant (client) complaints process records a range of concerns including whether they feel safe, any issues with the quality of the accommodation or issues with other clients. MSD will investigate these complaints and provide suppliers with the opportunity to remedy issues. MSD will also support clients to find alternative accommodation if they choose to move. MSD may also inform other agencies / authorities<sup>2</sup> so they can follow up.
  - **Undertaking checks for suitability.** Each of the MSD regions carried out a check on the suitability of suppliers. Regional teams also put in place processes to check on the suitability of suppliers. There have been additional actions undertaken in Rotorua as part of MSD's work with the Rotorua Housing Taskforce.

#### **Most complaints received in the quarter ending June 2022 were about property conditions, safety concerns and poor customer service**

7. For the year to date ending June 2022, the Ministry received a total of 379 Emergency Housing complaints<sup>3</sup>. Of these complaints, 227 were complaints from occupants, an increase of 101 (81 percent) compared to the same period last year. Over half of the occupant complaints in the last year were for property conditions, a quarter for safety concerns.
8. We consider that the true number of clients facing these issues is likely to be larger than the number of complaints suggests. This is because of the serious nature of the complaints, and the power imbalance between suppliers and clients. We also assume that minor issues will have been raised directly with EH SNG suppliers – and this is

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<sup>2</sup> For example, Fire and Emergency New Zealand (FENZ) with respect to fire safety standards.

<sup>3</sup> This includes Occupant complaints, supplier complaints and general EH complaints.

often reflected in the notes of the complaints – i.e. that the matter has been raised with the manager or motelier and it has not been addressed.

9. Over 2021 and 2022 some of the occupant complaints raised with MSD include:
  - **Property conditions:**
    - cleanliness – such as mould on walls/ceilings, moisture/condensation, rubbish, visible dirt, soiled linens
    - pest control issues – including cockroaches and other bugs, mice, rats
    - broken or missing items / fittings – such as broken light fixtures, unsafe appliances, no curtains, electrical faults, no heating
    - unstable utilities – such as power going off without notice, no hot water
  - **Safety concerns:**
    - issues related to health and safety of clients or children such as exposed nails
    - inability to keep premises secure, including doors or gates that do not stay shut, no locks on doors
    - fire safety matters, including no smoke alarms/fire suppression systems, smoke alarms that do not work
  - **Poor customer service:**
    - allegations against clients
    - no or limited servicing of units, such as limited cleaning, limits on consumables such as toilet paper
    - inappropriate behaviour by motel staff towards clients
  - **Theft/loss of property:** where the occupant has reported that their belongings have been taken during their stay by the supplier or a third-party.
10. Occupants may also raise other complaints, for example about the behaviour of other occupants or their guests.
11. The main outcomes following complaints include:
  - resolution of issues
  - client being relocated
  - notification to another party (e.g. police).
12. As the outcome following the complaints process most often involves moving the client, this indicates that the matter is such that either the client wants to move, or the supplier will not address the issue.

## **MSD does not have any formal levers to influence the quality or suitability of EH SNG suppliers**

13. The Residential Tenancies Act 1986 which sets out the rights and obligations of parties to a tenancy agreement and sets quality standards for private rentals (such as the Healthy Homes Standards) does not apply to premises used to provide emergency or transitional accommodation that are funded wholly or partly by EH SNGs or any other payment made by a government department.
14. MSD relies on EH SNG suppliers to comply with a range of regulations which impose quality standards and obligations under their respective regimes (such as the Consumer Guarantees Act 1993, Health Act 1956, Building Act 2004 and regulations, Resource Management Act 1991, and Human Rights Act 1993). MSD does not monitor EH SNG supplier compliance with these regulations but may refer an issue to the relevant authority (e.g. Fire and Emergency).
15. MSD leverages administrative processes and relationships, including:
  - MSD has a registration process for all suppliers. In this process suppliers sign a registration form to declare that they have understood the conditions for registration, and MSD undertakes standard due diligence on the business such as checking they are on the New Zealand Companies Register and that they are not bankrupt or insolvent.
  - Visits or conversations with EH SNG suppliers, to inform advice to clients.
  - The complaints process – clients can lodge complaints about substandard property conditions, safety concerns, poor customer service, theft/loss of property. A Regional Housing Manager will investigate the complaint and seek resolution of the issue, relocate the client, or notify the relevant authority (e.g. Police, Local Council).

## **The emergency housing system review**

16. In July 2021 Ministers directed officials to undertake a review of the emergency housing system. Officials were asked to look at the role of the EH SNG in the future system. One of the drivers was the increasing reliance on the EH SNG and therefore more commercial accommodation suppliers than originally envisioned.
17. As part of the Review, we advised Ministers that:
  - Emergency accommodation was not intended to be used for longer-term stays, and consequently, does not always deliver safe and quality accommodation, or support people appropriately.
  - Concerns have been raised about levels of drug and alcohol use, violence, and poor-quality accommodation, as well as specific concerns for the safety of children and young people.
18. In July 2022, Cabinet:
  - agreed to the long-term vision for the emergency housing system where “Emergency accommodation is rarely needed and when it is used, stays are brief and non-recurring”
  - noted that a key feature of the future state would include “accommodation that is: accessible, warm, dry and safe; provide value for money and be appropriate for the maximum length of stay”.

19. In September 2022, as part of ongoing advice on the review, the Minister for Social Development and Employment asked officials what changes could be made to the expectations of EH SNG suppliers and the ability to hold them to account without a contractual arrangement.

### Counterfactual

20. If the status quo remains unchanged:
- MSD would not have a legislative basis to refuse an EH SNG for accommodation that does not meet expected standards
  - clients would continue to experience the existing level of substandard accommodation, and MSD would have no legal power to refuse a supplier that does not meet expected standards. Clients may not use the complaints process to raise quality issues if it is seen to have little impact. Suppliers would not be incentivised to comply as MSD would continue to have no legal lever that prevents EH SNGs being granted to suppliers that do not meet expected standards
  - any Government 'message' to suppliers regarding expected standards would be less impactful.

### What is the policy problem or opportunity?

21. There are a range of challenges with the EH SNG in the current housing context including:
- **Demand has continued to grow since EH SNGs were established in 2016, and people are staying for longer than anticipated.** The original intent of EH SNGs was to provide short-term financial assistance for the costs of emergency housing for up to 7 nights. As an income support payment, the EH SNG is flexible but is only appropriate for the short-term. In the current state there are over 4,000 households being supported by an EH SNG. For the month ending 30 September 2022, clients have received an EH SNG for 25 consecutive weeks, on average.
  - **Reliance on the commercial accommodation market (mainly motels).** As the number of EH SNGs has grown, as has Government's reliance on EH SNG suppliers – this was an unintended consequence. Reliance on the commercial accommodation market means that supply is limited to motels who are willing to take EH SNG clients, and that government has limited influence over key elements (i.e. price, quality).
22. The underlying causes largely stem from:
- a shortage of suitable housing, particularly rental properties that are affordable for lower income households, public housing, and supported housing
  - a lack of transitional housing places, or contracted emergency housing places – while the number of places has grown by approximately 4,000 places since 2017, they have not kept pace with the growth in EH SNG numbers.
23. In the current state there are two main problems with quality of supply:
- EH SNG recipients have limited protections in relation to the quality of accommodation, or how they are treated. Clients may choose to move accommodation or to complain to MSD about the supplier, however clients may not exercise these rights due to a fear that they may not get help in the future or may be evicted.
  - MSD does not have clear levers to refuse to pay poor quality EH SNG suppliers, and they are not covered by the Residential Tenancies Act 1986. Reliance on

other regulatory regimes (such as the Health Act 1956) is not sufficient. MSD has sought to manage some of these matters within the current state by implementing a complaints process – clients can lodge complaints about substandard property conditions (e.g. unclean rooms, broken or damaged equipment or furniture, lack of amenities), safety concerns, poor customer service, theft/loss of property. A Regional Housing Manager will investigate the complaint and seek resolution of the issue, relocate the client, or notify the relevant authority (e.g. Police, Local Council).

### Stakeholder views

24. In early 2021, CLCA raised concerns about EH SNG supplier quality standards during engagement with MSD officials. Community Law Centres Aotearoa believe that MSD has a duty of care when EH SNGs are being paid to suppliers on behalf of clients, and strongly recommended MSD impose minimum quality standards (see: [Emergency Housing Standards Urgent - Community Law](#)).
25. The NBACG has also expressed concern over client experience while receiving an EH SNG stating that people are choosing to live on the street because of the quality and their treatment. The NBACG also stated that the lack of procedures and communications between MSD and EH SNG suppliers have been negatively impacting on people's wellbeing, especially for people with medium-high needs. The lack of obligations on EH SNG suppliers is resulting in a partial service (even though MSD pays the full rate) where cleaning often occurs once a week, including situations where clients are residing in emergency housing without clean linen.
26. During the emergency housing system review, other government agencies also raised concerns about:
  - the lack of quality accommodation and associated risks to client health
  - that some motel rooms are not suitable for longer stays, as they do not have the right amenities
  - safety concerns, particularly for rangatahi and tamariki
  - lack of stability for clients, who may need to move rooms with no clear reason, or to different motels at the end of their grant period due to unavailability
  - clients not being treated fairly – for example being evicted without warning or preventing clients from using facilities that are available to other customers.

### What objectives are sought in relation to the policy problem?

27. Regulating EH SNG suppliers is one component of the emergency housing system review. One of the objectives of the review is to deliver fit-for-purpose emergency accommodation.
28. Objectives related to improving EH SNG accommodation include:
  - that EH SNG clients can access emergency accommodation that is suitable and of reasonable quality
  - that EH SNG clients are treated like other paying clients – i.e. the same level of customer service.

## Section 2: Deciding upon an option to address the policy problem

### What criteria will be used to compare options to the status quo?

29. For the purposes of this Regulatory Impact Statement, changes to regulate EH SNG suppliers will be considered against the following criteria.
- **Impact on the wellbeing of EH SNG clients** – whether the option will improve the quality, suitability, or safety of emergency housing for clients while maintaining choice.
  - **Impact on the supply of emergency housing** – striking the balance between having a pool of EH SNG suppliers that meet the standards and retaining the flexibility to use non-registered suppliers when there are limited options.
  - **Ability to enforce the standards** – whether the option can be practically or reasonably enforced to hold EH SNG suppliers to account when they do not meet the standards.
  - **Fiscal impacts** – cost of the option.
  - **Implementation feasibility within the next 12 months** – the practicality for MSD to implement changes to the EH SNG within existing operational capacity in the next 12 months.

### What scope will options be considered within?

30. The analysis for this Regulatory Impact Statement is constrained by decisions that have already been made by Ministers. This includes:
- the 2019 decision to exclude emergency housing providers / suppliers from the Residential Tenancies Act 1986
  - the Minister for Social Development and Employment asked in September 2022 what could be implemented in the next 12 months to improve the quality of accommodation paid for by an EH SNG.
31. Extending the Transitional Housing Code of Practice (which is under development) was a non-regulatory option that was explored. This was excluded as it relies on a contractual mechanism to implement. However, contracting has been included as a non-regulatory option for comparison.

### What options are being considered?

#### Option One – Status Quo (non-regulatory option)

32. Description: MSD has no responsibility, and therefore no liability, in respect of the emergency housing accommodation itself. MSD is only responsible for administering the EH SNG.
33. MSD continues to leverage its relationships with suppliers to encourage adequate standards of accommodation and treatment of clients. MSD does not have formal powers to stop using a particular EH SNG supplier, or to get them to comply with our expectations.
34. Analysis: While some compliance may be gained by continuing with this approach (based on a positive relationship between MSD and the supplier) and supply maintained, there is no formal mechanism for MSD to use when suppliers do not comply – MSD will continue to grant EH SNGs to suppliers who do not meet expected

standards, even when there are available suppliers who do meet the standards. MSD would be able to raise issues with suppliers around accommodation quality or treatment of clients, however, there would be no assurance that suppliers would then begin to comply.

35. NBACG and CLCA do not support status quo and consider that current practice has negative wellbeing impacts for clients.

#### **Option Two – Change to the welfare programme (regulatory and preferred option)**

36. Description: The Special Needs Grants Programme (SNG Programme) is amended so that MSD has the mandate to respond to a breach of the standards. The amendment would establish a tiered system whereby EH SNGs:

- would only be granted for clients to stay with suppliers that do not meet the standards if there are no available suppliers that do meet the standards, or
- could be granted for clients to stay with a supplier that did not meet the standards if MSD in its discretion determined that the supplier would best meet the needs of the client or if there are exceptional circumstances.

37. The standards will set out expectations of suppliers, such as:

- providing clients with a similar standard of service provided to privately funded occupants (e.g. check-in/check-out, routine housekeeping, access to amenities)
- ensuring clients have access to drinking water, electricity, heating, bed, mattress, clean sheets, toilet and shower facilities
- providing clients with appropriately sized accommodation for the number of occupants in the client's household
- making clients aware of any rules of the accommodation upon arrival
- ensuring that any changes to rules of accommodation are communicated to the client
- not moving clients from a room they are currently occupying without good reason (e.g. damage or fault with the room)
- contacting MSD in advance of evicting clients where possible.

38. Analysis: This can be implemented easily, relatively quickly (within 12 months), and at a relatively low cost. This option means MSD can prioritise suppliers that meet the standards. This would mean that suppliers who do not meet the standards are only used to where they are the only option available (or discretionally considered a better option for a client's circumstances). This ensures that we establish expectations of compliance and prioritise the wellbeing of clients.

39. This would maintain supply, as while there will be prioritised registered suppliers, there would still be an option to grant to non-registered suppliers where necessary. There are no penalties for non-registered suppliers, which reduces the likelihood of non-registered suppliers (when they are the only option) refusing EH SNG clients.

40. Other than retaining EH SNG revenue (which may be less of a priority for suppliers than it was between 2020-early 2022), there is no legal obligation or strong incentive for suppliers to comply. The legal lever instructs MSD, not supplier practice.

41. This would be of more benefit to clients, Government and the public than the status quo. There is currently no legal mechanism to prioritise registered suppliers for the

benefit of client aside from MSD making recommendations to clients – this option would establish that mechanism.

42. Both NBACG and CLCA have been supportive of setting standards for suppliers, however this may not have the level of enforcement or independent dispute resolution that they would like to see. This would best be achieved by Option 3. CLCA have indicated that their preferred approach would be to implement Option 2 in the next 12 months, alongside undertaking the necessary policy work to implement Option 3 as soon as possible.
43. This option would also signal to the market that all suppliers across the emergency housing system will be expected to lift the quality of accommodation and experience for clients. This may also mean that some EH SNG suppliers engage in opportunities to become contracted emergency housing suppliers (led by HUD). This will support efforts to include contracted emergency motels in regional responses to meeting emergency housing need (another objective within the emergency housing system review).
44. Population impacts: This option will benefit the existing emergency housing population, which is disproportionately Māori. Rural communities will not benefit as much under this option compared to communities closer to urban areas. Rural communities generally have lower numbers of available supply and will be more likely to enter substandard accommodation because it is the only option. However, this option is better for rural communities than options 3 or 4, where there is a risk that non-registered suppliers would not be an option for EH SNG clients, even when needed as a last resort. Options 3 or 4 may mean that MSD would decline EH SNGs for people in rural communities even if there are available, albeit low than expected standards, suppliers in their area. This could lead to other forms of homelessness (e.g. rough sleeping).

### **Option Three - Primary legislation (regulatory option)**

45. Description: Introduce legislation or a new section to existing legislation (eg, Public and Community Housing Management Act 1992) that requires EH SNG suppliers to comply with a set of standards, with corresponding penalties for non-compliance. This could be similar to how the Healthy Homes Standards have been introduced under the Residential Tenancies Act 1986. Penalties could be introduced to assist with compliance and enforcement.
46. Analysis: This would take longer to implement because it would require an appropriate legislative vehicle. It has not been costed, but may incur additional costs due to infrastructure, resources and skills required to establish an emergency housing regulator function, for example in establishing an independent disputes function.
47. Primary legislation would provide certainty of expectations for suppliers, penalties for failure to comply, and a purpose-built ability for the courts to address issues and uphold the rights of clients. It would mean that MSD holds significant power to ensure that clients have access to quality accommodation.
48. It would likely compromise the current level of supply. Suppliers are no longer as dependent on EH SNGs for revenue (compared to 2020-early 2022) and may choose not to accept EH SNG clients rather than become registered – particularly if compliance comes at a cost. Depending on the severity of penalties, suppliers may also choose not to accept EH SNG clients to manage the risk of being found to be non-compliant. This may mean that while there are higher standards expected of suppliers

in the short-term, a reduced supply in the long-term due to disincentives could mean an increase in other forms of homelessness (eg, rough sleeping).

49. We estimate that this option would take at least two years to develop/implement. MSD would need to secure a spot on the legislative programme, and would need to undertake further policy work.
50. We consider that stakeholders would support this option, and that it could be implemented in conjunction with Option 2.

#### **Option Four – Contracting (non-regulatory option)**

51. Description: MSD contracts with individual EH SNG suppliers. This option would build off the targeted approach HUD is taking in priority places, where contracts are formed with a subset of existing EH SNG providers to strengthen the network of provision.
52. The contracting approach could include either:
  - contracting for all EH SNG provision, replacing the current grant-based system with a national network of contracted providers.
  - contracting part of EH SNG provision using a tiered approach (similar to Option Two), to give MSD a mandate to take action in response to a breach of the contract while allowing flexibility to use non-contracted suppliers where there is no contracted option.
53. Analysis: This would take longer to implement (at least 18 to 24 months) because it would require MSD to establish an emergency housing contracting function and mitigations for significant legal risks associated with contracting (e.g. higher imposition of duty of care to EH SNG clients as a result of contracting). The timing and costs of this option were developed based on contracted emergency housing in Rotorua. Compared to the counterfactual/status quo and option two, this would be costly (between \$6 and \$10 million to implement for staff and IT costs, excluding contracting costs).
54. While HUD has been able to contract a subset of motels in a place, a completely-contracted network may not be able to ensure consistent supply, as suppliers would not be required to enter into a contract and may be disincentivised to enter a contract as MSD cannot guarantee occupancy.
55. We consider that NBACG and CLCA would support this option as it provides better ability for enforcement and to be clear about the rights of clients with respect to accommodation. However, CLCA have previously indicated that flexibility is important where there is a lack of supply, which may not be possible to achieve with this option.

## How do the options compare to the status quo/counterfactual?

	Option One – Status Quo	Option Two – Change to the Welfare Programme	Option Three – Primary Legislation	Option Four – Contracting
<b>Wellbeing of EH SNG clients</b>	0	+ Standards are clear, but clients may still go to suppliers who do not meet the standards.	++ Can only use suppliers that meet standard.	++ Standards are clear.
<b>Maintain supply for emergency housing</b>	0	++ Maintains flexibility. Can still grant to suppliers who do not meet in exceptional circumstances.	+ No incentive to be a supplier may mean some exit.	- May reduce available supply if only using contracted suppliers.
<b>Ability to enforce standards</b>	0 Relies on relationship management	+ Will be able to send to registered suppliers over non-registered.	++ Ability to require suppliers to meet standards, and could include monitoring regime and penalties.	0 Breach of contract could be used, however this can be time consuming and costly and may not be effective.
<b>Fiscal impact</b>	0	\$0.950 million for a tool so front-line can tell if a supplier meets standards or not.	? Not costed.	Approximately \$6 to \$10 million (does not include contracting costs).
<b>Implementation feasibility within 12 months</b>	0	++ Within 12 months.	- 24 months minimum. No spot on the legislative programme.	- 18 to 24 months minimum. Would require MSD to establish a new function.
<b>Overall assessment</b>	0	++	++	+

### Key:

++ much better than the status quo

+ better than the status quo

0 about the same as the status quo

- worse than the status quo

-- much worse than the status quo

**What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

56. Option Two and Three both meet the policy objectives. The main trade-offs between Option Two and Three relate to the time to implement / impact on supply, and ability to enforce standards. On balance and given the need to act swiftly, Option Two is the preferred option as it can be implemented within 12 months and maintains the flexibility to grant to suppliers who do not meet the standards when there are no other options. We note that Option Three would still be possible in the future should stronger enforcement be required.

**What are the marginal costs and benefits of the option?**

<b>Affected groups</b> <i>(identify)</i>	<b>Comment</b> <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	<b>Evidence Certainty</b> <i>High, medium, or low, and explain reasoning in comment column.</i>
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups	<p>EH SNG suppliers (mainly commercial accommodation providers such as motels).</p> <p>There will be a one-off cost for current EH SNG suppliers to register again. There may be ongoing costs to comply, however many suppliers will already have these costs under the status quo to remain competitive in the tourism market.</p> <p>There is a risk that some EH SNG suppliers choose to exit as there is no additional incentive for them to comply.</p>	Low.	Low. We have not tested the standards with suppliers.
Regulators	MSD: One off costs of implementation to making required changes (IT tool, registration process, complaints process, training etc). Ongoing costs for registering new suppliers and	Medium.	Medium. Both registration process and complaints process already exist. The impact is likely to vary across regions

	investigating complaints.		
Others (eg, wider govt, consumers, etc.)	EH SNG clients – benefit to wellbeing.	Medium.	
<b>Total monetised costs</b>	Development of a tool for front-line staff.	\$0.950 million	High. High confidence in IT costs.
<b>Non-monetised costs</b>	Compliance costs for existing suppliers to register again.	Low – many suppliers are likely to comply with the standards.	Medium.

## Section 3: Delivering an option

### How will the new arrangements be implemented?

57. MSD will be responsible for finalising the standards and implementing them.
58. MSD is already responsible for the EH SNG and has a supplier registration process and complaints process in place. MSD will be able to build on / extend these processes to support the new standards. MSD can also leverage existing relationships with EH SNG suppliers, including where regional office staff already visit suppliers so that they can provide recommendations to clients about the suitability of a particular place (e.g. about amenities, location etc).
59. The preferred option can be implemented in the next 12 months and will involve:
  - consulting with suppliers and other stakeholders
  - defining a set of standards that EH SNG suppliers are encouraged to agree to
  - amending the Welfare Programme so that MSD has the mandate to respond to a breach of the standards. The amendment would establish a tiered system whereby EH SNGs would only be granted for clients to stay with “non-registered” suppliers if there are no “registered suppliers” available, or if MSD in its discretion determined a non-registered provider best meets the needs of a particular client or if there are exceptional circumstances
  - amending the registration process (and form) for suppliers to declare that they agree that they are, and will continue to be, compliant with the standards which are annexed to the form
  - administrative changes to ensure that the complaints process is transparent to suppliers during the registration process
  - developing a process for determining whether a supplier meets the standards, and what steps a supplier could take to meet the standards again if they were judged as non-compliant at any point
  - implementing the tool so that the status of suppliers can be accessed by MSD staff before granting an EH SNG.
60. MSD will take on a regulator role for the ongoing arrangements, noting that the enforcement will still largely rely on relationships with EH SNG suppliers, administrative processes around registration and the complaints process.
61. To allow sufficient preparation time for MSD and EH SNG suppliers the arrangements will come into effect from mid-2023, pending changes to the Welfare Programme.

Development of the system tool will be completed by the end of 2023, but MSD regional offices will manage the process manually in the interim.

62. MSD will communicate with current and potential EH SNG suppliers about the proposed changes, and with the schedule for changes. This information will also be available on MSD's website.
63. We understand the Government will also announce the change, which will assist in raising awareness of the new standards.

### **How will the new arrangements be monitored, evaluated, and reviewed?**

64. MSD will remain responsible for EH SNGs.
65. There is an existing complaints process for EH SNG suppliers, and suppliers can raise issues directly with MSD. MSD will continue to keep a log / record of any issues that arise and how they have been responded to or resolved.
66. MSD already collect data about the number of EH SNG suppliers and the number of households they accommodate. Supplier declarations of compliance or non-compliance will enable data to be collected to monitor the proportion of suppliers who meet the standards overtime. This data could be reported alongside other system metrics.
67. We expect that the number of EH SNG suppliers who meet the standards will be low at the beginning of the implementation process but will rise over the first 12 months.
68. There is no planned evaluation of the proposed change at this time.