

**IN CONFIDENCE****In Confidence**

Office of the Minister of Housing

Office of the Associate Minister for Social Development and Employment

Cabinet Social Wellbeing Committee

**Recommencing Public Housing Tenancy Reviews****Proposal**

- 1 This paper seeks agreement:
  - 1.1 to recommence public housing tenancy reviews, with an initial focus on eligible tenants paying the market rent, that have held a tenancy for three years or more, and
  - 1.2 that in the longer term, tenancy reviews are carried out in four specific circumstances (including for eligible tenants paying the market rent, that have held a tenancy for three years or more).

**Executive Summary**


- 2 Tenancy reviews were introduced in 2011 for new tenants [CAB Min (11) 13/5 refers] and extended to existing tenants in 2014 [CBC Min (13) 2/7 refers] to free up public housing places for those with greater need. As housing system pressures intensified, tenancy reviews became less effective in making public housing available. In March 2020, tenancy reviews were placed on pause in response to COVID-19.
- 3 In March 2022, the Cabinet Social Wellbeing Committee deferred a decision on the Future State of Public Housing Tenancy Reviews [SWC-22-MIN-0042 refers] and Ministers directed officials to start policy work on what a future state would look like. Tenancy reviews remained paused.
- 4 The Ministry of Social Development (MSD) has identified a potential review group of 423 tenancies paying market rent, that have held the tenancy for three years or more<sup>1</sup>, that could potentially be reviewed. There is some key information about the group to be aware of. Māori and Pacific peoples are overrepresented among the potential review group, and over half are aged 55 – 64 years. Most are Kāinga Ora tenants (380), and the remaining 43 are tenants of a Community Housing Provider (CHP).
- 5 We propose recommencing tenancy reviews with an initial focus on the identified potential review group. We also propose that in the longer term MSD retains the

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<sup>1</sup> It should be noted neither MSD nor Kāinga Ora hold data on the duration that a tenant (holding a tenancy for more than three years) has been paying market rent, meaning some tenants may have cycled in and out of paying market rent depending on their circumstances, such as seasonal work or not providing data for MSD's annual review. During a tenancy review stability of income is considered in determining if sustainable appropriate alternative housing is possible.

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discretion to undertake public housing tenancy reviews in four defined situations (these are set out in paragraph 11).

- 6 A focus of the tenancy reviews, however, is that those who may no longer be eligible for public housing are made aware of other support they may have available to them (for example, the Accommodation Supplement and Housing Support Products).
- 7 Recommencing tenancy reviews at the earliest opportunity would show clear intent towards ensuring public housing is being used efficiently and would contribute towards making sure those who are most in need of public housing secure public housing. It will also help make some progress in moving people from the public housing register into public housing.
- 8 MSD would need to be sure that those reviewed are able to sustain a private market rental on an ongoing basis, as otherwise there is a risk that these tenants might require public housing, and/or emergency accommodation in the future.
- 9 s 9(2)(h) 
- 10 The lead-in time required for MSD to recommence public housing tenancy reviews under the proposed initial approach would be approximately three to six months. Depending on the resource allocated, reviews of the potential review group of 423 tenancies is likely to take one to two years to complete. Due to the complexity of the process, regardless of the cohort in scope, housing providers are unlikely to see flow through of outcomes until 6 – 24 months after tenancy reviews are recommenced.
- 11 We propose that in the longer term, MSD retains the discretion to undertake public housing tenancy reviews in four defined situations:
- 11.1 a household has obtained their public housing due to providing MSD incorrect information (this could include fraud)
- 11.2 where a public housing provider requests a tenancy review, because the tenant may no longer be eligible or have a need for public housing
- 11.3 where MSD receives information that indicates that a review may be appropriate and after a discussion with the public housing provider
- 11.4 tenants paying market rent that have held the tenancy for more than three years.

**Public housing tenancy reviews were first introduced in 2011, to ensure public housing is being well utilised**

- 12 MSD is responsible for undertaking tenancy reviews to assess whether tenants are still eligible for public housing, and/or whether the property the tenant is living in still meets their needs. MSD advises the public housing provider of the outcome of the review, and the housing provider then makes the decision on whether or not to end the tenancy and issue the tenant a 90-day notice.

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- 13 Tenancy reviews were introduced in 2011 for new tenants [CAB Min (11) 13/5 refers] and extended to existing tenants in 2014 [CBC Min (13) 2/7 refers] to free up public housing places for those with greater need. At the time around 80 percent of public housing tenants were eligible for a review every three years. Tenants who were exempt included people aged 75 years and older, people in houses modified for their needs, and people with an agreed lifetime tenure with the Housing New Zealand Corporation.
- 14 In 2018, Cabinet agreed that additional vulnerable cohorts of public housing tenants should be exempt from periodic tenancy reviews. This was in recognition that some vulnerable groups such as older people (people aged 65 or over), families with dependent children and people with disabilities, would continue to need secure public housing and support for an extended period (possibly for life), and that tenancy reviews can cause significant stress and uncertainty for vulnerable tenants. This meant that by 2019 only around 20 percent of public housing tenants remained eligible for a review every three years [SWC-18-MIN-0112 refers].
- 15 In March 2020, tenancy reviews were placed on pause in response to COVID-19. In March 2022, the Cabinet Social Wellbeing Committee deferred a decision on the Future State of Public Housing Tenancy Reviews [SWC-22-MIN-0042 refers] and tenancy reviews have remained paused. We directed officials to start policy work on what a future state of public housing tenancy reviews would look like, including advice on changes to the housing market, recommended changes to the proposal for the Future State of Public Housing Tenancy Reviews and advice on improving the tenancy review process.

**.. and still have value for those tenants that could, with support, sustain a private rental tenancy**

- 16 Housing system pressures have intensified since tenancy reviews began in 2011. Due to high housing demand and high costs, the public housing system is under pressure to support those in need. However, limited supply and consequent affordability pressures in the private rental market mean that public housing tenants are less likely to be assessed as able to access and sustain a private rental tenancy.<sup>2</sup> In many areas, the limited supply of affordable and appropriate rental housing creates greater competition for available rentals, and can increase discrimination against groups that are over represented among public housing tenants, such as Māori and Pacific peoples.
- 17 The original intent of tenancy reviews continues to have value for those tenants who could, with support (such as the Accommodation Supplement and Housing Support Products), access and sustain a private rental tenancy or home ownership and to ensure public housing is well utilised and targeted towards providing individuals and whānau with a stable, affordable place to live.

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<sup>2</sup> Between March 2019 and March 2020, 13 tenants out of 876 selected for review exited public housing following a tenancy review. Note, it is unknown whether these tenants left public housing as a result of the review or for another reason.

**IN C O N F I D E N C E****MSD and public housing providers work collaboratively and play specific roles in the tenancy review process**

- 18 In relation to public housing and tenancy reviews, MSD:
- 18.1 assesses eligibility for public housing, and calculates and reviews income-related rent
  - 18.2 is responsible for undertaking tenancy reviews for eligible public housing tenants, to assess whether tenants are still eligible for public housing and/or whether the property the tenant is living in still meets their needs
  - 18.3 responds to requests for a tenancy review by the public housing provider, and advises them of the outcome
  - 18.4 decides whether a review should take place, if it receives information that a review may be appropriate (for example, when a tenant's circumstances have changed significantly). MSD consults with the provider before deciding, which enables it to establish factors such as whether the tenant is likely to be able to access and sustain alternative housing, how significant the tenant's change in circumstances are, and any other factors that should be considered (such as recent bereavement)
  - 18.5 works with tenants to support them to access alternative housing if they are found to be ineligible for public housing.
- 19 Kāinga Ora and Community Housing Providers (CHPs):
- 19.1 are the providers of public housing with subsidised rent, functioning as landlords
  - 19.2 can request that MSD undertake a tenancy review
  - 19.3 after a review that finds a tenant ineligible, decide whether or not to end the tenancy by issuing the tenant with a 90-day notice.

**When public housing tenants are no longer eligible, voluntary exit from the housing is favoured**

- 20 We are advised that the Kāinga Ora Board has agreed in principle that where a Kāinga Ora tenant has had their tenancy reviewed and is found to be no longer eligible, Kāinga Ora will issue a 90-day notice as a measure of last resort, after engaging with the tenant and having explored all options for the tenant to voluntarily vacate the public housing. MSD will also look at alternative housing options with tenants as part of the tenancy review process. Kāinga Ora is undertaking detailed operational policy work to support its decision making regarding 90-day notices.
- 21 The steps taken by CHPs if a tenant is found to be no longer eligible for public housing would depend on the specific CHP that provides the housing.

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**MSD has identified a group of 423 tenancies paying market rent that could potentially be reviewed**

- 22 MSD data shows that as at the end of April 2023, out of 74,780 public housing tenancies there were 1,664 tenancies paying market rent. Excluding tenants exempt from tenancy review (for example, they are aged 65 or over, have a dependent child or children or are receiving a Supported Living Payment) and those who have held their tenancy for less than three years, leaves a group of 423 tenancies that could potentially be reviewed.
- 23 Of the 423 tenancies in the potential review group:
- 23.1 over half (215) are aged 55 or older
  - 23.2 over half (262) have been in the tenancy for over 10 years
  - 23.3 the majority (267) are in single person households
  - 23.4 Pasifika (121) and Māori (162) households are overrepresented as a proportion of the group compared to the New Zealand population<sup>3</sup>
  - 23.5 the largest group (140) live in Auckland City, with the next largest groups from Christchurch City (62) and Porirua City (29).
- 24 It is likely that the number of tenants that are able to move into and sustain private housing will be significantly fewer once MSD has begun the process of looking at individual tenancies, and the full circumstances of these households are understood. For example, some may be intergenerational households, including dependent grandparents, and others may be refugee households with more than one family unit in the household.
- 25 MSD will also need to be sure that it is likely that the tenants are able to sustain a private rental or homeownership. Many public housing tenants are already dealing with multiple and complex issues, and may struggle in the private market, due not only to lack of affordability, but also barriers such as discrimination or a lack of accessible housing options.

**We propose recommencing tenancy reviews with an initial focus on eligible tenants paying the market rent, that have held a tenancy for three years or more**

- 26 We propose recommencing tenancy reviews with an initial focus on the identified potential review group. The numbers may be small, but recommencing tenancy reviews will help make some progress in moving people from the public housing register into public housing.
- 27 We also propose that in the longer term MSD retains the discretion to undertake public housing tenancy reviews in four defined situations, while taking into account

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<sup>3</sup> However, the proportion of Māori and Pacific people in the potential review group (38 percent Māori and 28 percent Pacific people) is broadly consistent with proportions in all of public housing (38 percent Māori and 23 percent Pacific people), as at the end of April 2023.

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the full circumstances of a household, and whether or not tenants are able to sustain a private rental or homeownership:

- 27.1 a household has obtained their public housing due to providing MSD incorrect information (this could include fraud)
  - 27.2 where a public housing provider requests a tenancy review, because the tenant may no longer be eligible or have a need for public housing
  - 27.3 where MSD receives information that indicates that a review may be appropriate, and after a discussion with the public housing provider <sup>4</sup>
  - 27.4 tenants paying market rent that have held the tenancy for more than three years.
- 28 The existing exemptions from tenancy reviews will continue to apply. Kāinga Ora, CHPs and regional staff often have more localised knowledge about their tenant cohorts and build relationships with families and whānau in their properties. This can lead to better decisions being made, with the tenant, as to their housing situation.
- 29 MSD may receive information that indicates a review may be appropriate including, but not limited to:
- 29.1 information direct from the tenant, as tenants have a duty to advise MSD of a change in circumstances that may affect their eligibility for public housing
  - 29.2 when reviewing a tenant's income-related rent or where tenants do not complete their annual income-related rent review.
- 30 The change to carrying out tenancy reviews in the four defined circumstances will enable local-level decision making and tenant circumstances to be considered, by building in discussion with Kāinga Ora or a CHP before MSD decides to undertake a tenancy review.

**Work is underway to address public housing and affordable rental supply**

- 31 Te Tūāpapa Kura Kāinga-Ministry of Housing and Urban Development's (HUD) Change in Housing Affordability Indicator shows that at a national level, rental affordability has slightly improved (four percent) in the March 2021 to March 2023 period. This is because wages nationally grew faster than rents.
- 32 We have delivered more than 13,000 net public housing places since October 2017, including over 11,000 new builds. Budget 2023 included funding for an additional 3,000 public houses to be delivered by mid-2025. This build programme will help place high priority households on the register into safe, stable homes.

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<sup>4</sup> Consultation with a housing provider prior to deciding whether or not to carry out a tenancy review will enable MSD to establish factors such as whether the tenant is likely to be able to access and sustain alternative housing, how significant the tenant's change in circumstances are, and any other factors that should be considered such as recent bereavement. Providers are better placed to identify tenants who may access and sustain private housing due to their ongoing relationship and engagement with tenants.

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- 33 We have also implemented the Affordable Housing Fund rental pathway, which has provided \$150 million in two funding rounds to increase the supply of affordable rentals. This supply provides housing alternatives that reduces pressure on the housing register, which totalled 29,744 at the end of June 2023. It also creates a potential pathway for public housing tenants to re-enter the private market when they are paying market rent for their public house.

**There are some risks associated with recommencing public housing tenancy reviews including only marginal benefits and negative population impacts**

- 34 s 9(2)(h)
- [Redacted text]

- 35 There are risks associated with recommencing public housing tenancy reviews:

- 35.1 There could be a negative impact on the different populations represented in the group identified, who will find it difficult to access and/or sustain a tenancy in the private rental market, including due to barriers from discrimination and/or a lack of accessible housing options. This includes Māori and Pacific peoples (who make up the majority of the market renting group identified)<sup>5</sup> and disabled tenants (not all of whom will be entitled to the Supported Living Payment).
- 35.2 The review process is likely to be stressful for many tenants, as it may come at the expense of tenants' wellbeing. Many tenants are already dealing with multiple and complex problems, and a tenancy review may create the unintended consequence of housing instability where a tenant had been doing well.
- 35.3 A risk of negative publicity, for example, should a tenant or group of tenants not agree with being selected for review, or with having to move as the result of a review.

- 36 There are ways to mitigate these risks. There will be opportunities to discuss with some eligible tenants the possibility of entering home ownership, either with or without government assistance. It should be noted that the number of tenants who might benefit in this way is likely to be small, and that in general home ownership will be unaffordable for most tenants paying the market rent, unless they have a substantial deposit.

- 37 There are some potential benefits from recommencing tenancy reviews for identified market renters. Some among the group may be better suited to a private market rental (potentially with support, such as the Accommodation Supplement). There would also be benefit to those on the public housing register, who may be in greater need, that would take up the vacated places, and potential cost savings to the Crown across the

<sup>5</sup> Māori are also likely to benefit from tenancy reviews that result in freeing up public housing as Māori make up 49.3% of the Housing Register, as at 11 August 2023.

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housing support system (for example, on emergency housing) through moving people out of public housing. However, MSD would need to be sure that those reviewed are able to sustain a private market rental on an ongoing basis, as otherwise there is a risk that the tenants in question might in future need to be placed on the public housing register, and/or in emergency accommodation.

**Te Tiriti o Waitangi implications**

- 38 The Waitangi Tribunal established the WAI 2750 – Housing Policy and Services Kaupapa Inquiry to hear claims concerning the Crown’s housing policy and services that affect Māori. The recent WAI 2750 Kāinga Kore: Stage One Report on Māori Homelessness in May 2023 found that Crown consultation with Māori has been relatively narrow, and that the Crown has a duty to achieve equitable housing outcomes.
- 39 We know that Māori are overrepresented in public housing and the public housing register. As at the end of April 2023, 38 percent of public housing tenants were identified as Māori (the national proportion of Māori is approximately 17.4 percent). As at 11 August 2023, Māori made up 49.3 percent of the Housing Register.
- 40 Māori are more likely to be impacted by recommencing tenancy reviews due to overrepresentation of Māori in public housing and in the initial review group (compared to the New Zealand population) and could face negative impacts such as stress and uncertainty during the review process and finding it difficult to access and/or sustain a tenancy in the private rental market.
- 41 However, tenancy reviews that result in public housing tenants moving to sustainable appropriate housing in the private market would likely free up public housing places for Māori who make up 49.3 percent on the Housing Register.

**Timeline for recommencing public housing tenancy reviews**

- 42 The lead-in time required for MSD to recommence public housing tenancy reviews under the proposed initial approach, for tenants paying market rent that have held a tenancy for three years or more, would be approximately three to six months. This would allow time to identify the appropriate resources and review guidelines for the tenancy review process.
- 43 Prior to the pause of tenancy reviews, each full time equivalent (FTE) undertook approximately 20 tenancy reviews at a time. Based on timeframes of completion from March 2019 to March 2020, undertaking 423 reviews for the households identified would take approximately:
- 12-14 FTEs one year to complete
  - 6-7 FTEs two years to complete.
- 44 Due to the complexity of the process, regardless of the cohort in scope, housing providers are unlikely to see flow through of outcomes until 6 – 24 months after tenancy reviews are recommenced.



**Cost-of-living Implications**

45 The proposed recommencement of public housing tenancy reviews is unlikely to impact cost of living. Mitigation of cost-of-living impacts is built-in to the public housing tenancy review process, as a review considers the tenant’s ability to sustain a tenancy outside public housing in the private housing market.

**Financial Implications**

46 There are no financial implications arising from the proposal in this paper.

**Legislative Implications**

47 The proposal will require amending the 2018 Ministerial Direction on Application of Reviews of Continued Eligibility for Social Housing (the Ministerial Direction). This will require approval by the Minister for Social Development and Employment, the Minister of Finance, and the Minister of Housing, given the joint responsibility for the Ministerial Direction.

48 s 9(2)(h) [Redacted]

48.1 s 9(2)(h) [Redacted]

48.2 s 9(2)(h) [Redacted]

48.3 s 9(2)(h) [Redacted]

**Impact Analysis**

**Regulatory Impact Statement**

49 The Treasury's Regulatory Impact Analysis team has determined that this proposal to recommence public housing tenancy reviews is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

**Climate Implications of Policy Assessment**

50 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

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## Population Implications

Population group	How the proposal may affect this group
Māori	Māori are disproportionately represented in public housing and the Housing Register. The housing disparities between Māori and other New Zealanders are significant. Māori face greater rates of homelessness, higher rent costs compared to income, lower rates of home ownership resulting in lower equity and higher poverty rates. Taking whānau circumstances into account and aligning to a sustaining tenancies approach better supports social wellbeing outcomes.
Pacific peoples	Pacific peoples are disproportionately represented in public housing. Pacific peoples are among the cohorts that face discrimination and social exclusion and often face barriers in the private rental market. Security of tenure will remove a level of stress for many Pacific peoples who are public housing tenants and allow for potential increases in their social and economic wellbeing.
Women	Women are disproportionately represented as public housing tenants. Likely lower earnings capacity and lifetime savings - for women generally, but particularly older women, contribute to difficulties in housing affordability. Single parents (who are predominantly women in New Zealand) regularly face difficulties and discrimination in the private market, making accessing alternative accommodation difficult. In the longer term, only carrying out tenancy reviews in the specified circumstances will potentially mitigate stress for many women in public housing.
Disabled people	Disabled people often experience difficulty accessing suitable housing and in the longer term will benefit from only carrying out tenancy reviews in the specified circumstances due to the associated security of tenure. While disabled people receiving the Supported Living Payment are already exempt from tenancy reviews, not all people with a disability or long-term health condition who live in public housing receive this payment.
Children	From the first 1000 days through to the school years, the security of tenure provided to families and children through only carrying out tenancy reviews in the specified circumstances has many positive impacts for children. These include, but are not limited to, increases in health and wellbeing, and greater educational engagement and performance through a reduction in transience. Security of tenure contributes to a reduction in family stress and a growth in important informal and formal community support networks.
Members of the LGBTQ+ community	Many members of the LGBTQ+ community are discriminated against when accessing private rentals with many landlords being reluctant to rent to them. Security of tenure will allow for an increase in their wellbeing and allow for a sense of security and building of connections within their communities.
Older People	Older people can experience significant housing stress and discrimination in the private rental market. Tenants who are aged 65 years or older (or who live with a partner who is) are currently exempt from tenancy reviews. However, security of tenure in the years leading up to the current age of exemption will have positive impacts on their health and wellbeing.  People aged 55 to 64 represent over half of the potential review group and may be more likely to be impacted by the tenancy reviews of the potential review group.

**IN CONFIDENCE****Human Rights**

51 There are no human rights implications arising from this paper.

**Use of external Resources**

52 Not applicable.

**Consultation**

53 This paper has been prepared by the Ministry of Social Development, in consultation with Te Tūāpapa Kura Kāinga-Ministry of Housing and Urban Development, and Kāinga Ora. Treasury, the Ministry for Pacific Peoples, Oranga Tamariki – Ministry for Children, Te Puni Kōkiri, the Office for Seniors and Whaikaha – Ministry of Disabled People have also been consulted in the preparation of this paper.

**Communications**

54 No public announcements are intended.

**Proactive Release**

55 We intend to proactively release the paper.

**Recommendations**

The Minister of Housing and the Associate Minister for Social Development and Employment recommend that the Committee:

- 1 **note** that public housing tenancy reviews were introduced in 2011 for new tenants, and extended to existing tenants in 2014, with the intention of ensuring public housing is being well utilised
- 2 **note** that in 2020, in response to COVID-19, Ministers agreed to pause public housing tenancy reviews
- 3 **note** that prior to the pause on tenancy reviews in 2020, the following groups of tenants were not eligible for a three-yearly tenancy review [SWC-18-MIN-0112 refers]:
  - 3.1 tenancies where the signatory or their partner is aged 65 or over
  - 3.2 tenancies where the signatory or their partner has one or more dependent children aged 18 years and under in their care
  - 3.3 tenancies where the signatory or their partner receives a Supported Living Payment
  - 3.4 tenancies with agreed lifetime tenure with Housing New Zealand Corporation
- 4 **note** that in March 2022, the Cabinet Social Wellbeing Committee deferred a decision on the Future State of Public Housing Tenancy Reviews [SWC-22-MIN-0042 refers] and tenancy reviews have remained paused

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- 5 **agree** to recommence public housing tenancy reviews, with an initial focus on eligible tenants paying the market rent, that have held a tenancy for three years or more
- 6 **agree** that in the longer term, tenancy reviews are undertaken by the Ministry of Social Development (MSD) in the following four circumstances:
- 6.1 a household has obtained their public housing due to providing MSD incorrect information (this could include fraud)
  - 6.2 where a public housing provider requests a tenancy review, because the tenant may no longer be eligible or have a need for public housing
  - 6.3 where MSD receives information that indicates that a review may be appropriate and after a discussion with the public housing provider
  - 6.4 tenants paying market rent that have held the tenancy for three years or more
- 7 **note** that the proposals in recommendations 5 and 6 above, will require changes to the Ministerial Direction on Application of Reviews of Continued Eligibility for Social Housing
- 8 **invite** the Minister for Social Development and Employment, Minister of Finance and Minister of Housing to approve the necessary amendments to the Ministerial Direction on Application of Reviews of Continued Eligibility for Social Housing
- 9 **note** that the Ministry of Social Development will implement the new approach to tenancy reviews from March 2024.

Authorised for lodgement

Hon Dr Megan Woods

Minister of Housing

Hon Priyanca Radhakrishnan

Associate Minister for Social Development and Employment