

Chair

Cabinet Social Wellbeing Committee

## **EXTENDING PUBLIC HOUSING TENANCY REVIEW EXEMPTIONS**

### **Proposal**

- 1 Tenancy reviews assess whether tenants are still eligible for public housing, and if they are, whether their housing is suitable for their needs. I propose to exempt the following groups from tenancy reviews as they are likely to have continued eligibility for public housing and are likely to gain the most benefit from greater stability of tenure:
  - tenancies where the signatory or their partner is aged 65 years and older
  - tenancies where the signatory or their partner has one or more dependent children aged 18 years and under in their care
  - tenancies where the signatory or their partner receives a Supported Living Payment from the Ministry of Social Development (MSD), either because they have a permanent and severe health condition or disability, or because they are providing full time care for another person (other than their spouse or partner) at home who would otherwise need hospital-level or residential care (or equivalent).

### **Executive summary**

- 2 Affordable, safe and stable housing underpins the ability of individuals and families to achieve positive education, health and labour outcomes. Public housing is one of the most effective ways to provide stability and contribute to improved wellbeing outcomes for those who are most in need.
- 3 Tenancy reviews for people in public housing were introduced in 2014. They aim to ensure that people living in public housing still need it, and that they are in a property suited to their needs. This is important in the context of rising demand for public housing (as at 31 March 2018, the Social Housing Register stood at 9,695 applications, the highest number since public housing system changes were implemented in April 2014).
- 4 However, it is important we recognise that some groups of tenants will continue to need secure public housing and support for an extended period of time, and that tenancy reviews can cause unnecessary stress and uncertainty for groups likely to remain eligible for public housing.
- 5 Currently, 8,967 tenancies (14 percent of all public housing tenancies) are operationally exempt from tenancy reviews, leaving around 56,221 tenancies (86 percent) able to be selected for a tenancy review. Three groups of tenancies are currently exempt; those aged 75 years or older, those living in modified properties (for example, to allow wheelchair access), and those with agreed lifetime tenure with Housing New Zealand Corporation (HNZC). There are also a small number of public housing tenants who, although not technically exempt from review, have 'assured tenancies' on the basis that they are working with an Oranga Tamariki—Ministry for Children Children's Team. These tenants can have their

tenancy reviews deferred for up to three years, with a possible further deferral of up to two years.

- 6 Out of the 56,221 housing tenancies eligible for review, around 7,000 tenancy reviews have been completed. These reviews have resulted in around 1,400 households (20 percent) moving from public housing into alternative accommodation, including private rentals and home ownership.
- 7 Exemptions aim to strike a balance between fully realising the benefits of public housing for tenants' wellbeing outcomes, and ensuring that public housing places are available for those who need them. They ensure that tenants who are likely to gain the most benefit from the security of public housing are recognised and protected, and are not unnecessarily subjected to a review that will likely confirm their continued eligibility.
- 8 I consider that there are more tenants beyond the three currently exempt groups who would benefit from greater security of public housing tenure. I therefore propose to broaden the existing exemptions to cover:
  - tenancies where the signatory or their partner is aged 65 years and over (this would **extend** the current exemption)
  - tenancies where the signatory or their partner has one or more dependent children aged 18 years and under in their care (this would be a **new** exemption)
  - tenancies where the signatory or their partner receives a Supported Living Payment due to having a permanent and severe health condition or disability, or being a full time caregiver (this would **replace** the current exemption for tenants in modified houses, which is not well targeted, and excludes most disabled people).
- 9 These are tenants who are highly likely to remain eligible for public housing, and who gain significant benefits from greater security of tenure.
- 10 In order to protect those who could be exempt under new criteria from leaving public housing, I have directed MSD to pause all tenancy reviews while decisions are made.
- 11 If these exemptions go ahead, 52,950 tenancies (81 percent of all public tenancies) would be exempted, leaving 12,238 tenancies (19 percent) eligible for review. This represents an increase from the current situation (8,967 tenancies, or 14 percent exempt, with 56,221 tenancies, or 86 percent, eligible for review).
- 12 Up until I paused tenancy reviews, MSD undertook approximately 3,000 tenancy reviews per year. Based on this rate of review, the 12,238 tenancies that would be eligible under the proposed exemptions could expect to be reviewed roughly once every four years on average, and no more than once every three years (as per current practice). These reviews will be better targeted towards the remaining pool of tenants who are more likely to be ready to move out of public housing, and should improve the efficiency of reviews.
- 13 Although there is likely to be some impact on the Social Housing Register from broadening the current exemptions, tenancy reviews are not the primary driver of exits from public housing. Between January 2015 and 31 March 2018:
  - only 5.5 percent of exits were due to a tenancy review.
  - the majority of reviews on the groups of tenants proposed for exemption would have resulted in continued eligibility for those tenants.
- 14 I therefore consider that the impact of the proposed exemptions on the Social Housing Register is likely to be relatively small.
- 15 Further, because, the exemptions I am proposing would leave a pool of tenants available for review who overall are **less** likely to have continued eligibility for public housing, improved targeting to this group could result in higher exit rates. MSD's data analysis suggests that,

using current rates of review and a similar profile for targeting, exit rates as a result of tenancy reviews could rise from the current rate of around 20 percent, to around 36 percent of all reviews undertaken going forward.

- 16 This Government also has an ambitious plan to increase housing supply (with 16,000 new affordable homes to be built over three years, and around 1,600 new public houses per year) that should go some way to addressing demand on the Register and offset the impact of expanded exemptions.
- 17 I intend to direct MSD to monitor the outcomes of the new tenancy review exemptions (including any unintended outcomes, and the impact on the Register) and review each public housing tenancy review exemption again in three years to assess whether it is still needed in a better functioning housing market.
- 18 If the proposed exemptions are agreed, I intend to enact a Ministerial Direction that clearly sets out the groups exempted from tenancy reviews. I propose to extend the current pause on tenancy reviews until the Ministerial Direction comes into effect and MSD recommences tenancy reviews in early 2019.
- 19 Exempt tenants will still be reviewed if their circumstances change in a way that may impact their eligibility for public housing, or if they need to move into a different property that better meets their needs.

## Background

- 20 Tenancy reviews for public housing tenants were introduced in 2014. They have two components; an **eligibility** assessment and a **suitability** assessment. The eligibility assessment helps make sure that people living in public housing still need it, and the suitability assessment ensures the type of property they are living in still meets their needs.
- 21 Tenancy reviews help in the effective utilisation of public housing, in that they can free up more public housing places as tenants become able to move into the private market, or transfer to another property better suited to their needs. This is important in the context of rising demand for public housing (as at 31 March 2018, the Social Housing Register stood at 9,695 applications, the highest number since public housing system changes were implemented in April 2014).
- 22 However, tenancy reviews are not the primary driver of exits from public housing. Between January 2015 and 31 March 2018, only 5.5 percent of exits were due to a tenancy review.
- 23 Up until I paused tenancy reviews, MSD undertook approximately 3,000 tenancy reviews per year. Reviews are targeted towards those most likely to no longer be eligible for public housing, or who are in a house not suited to their housing need. A high priority is given to reviewing market and near-market renters, and households who live in under-utilised properties (such as those with four or more bedrooms).
- 24 Out of a pool of 56,221 public housing tenancies eligible for review, around 7,000 tenancy reviews have been completed. These reviews have resulted in around 1,400 households (20 percent) moving from public housing into alternative accommodation, including private rentals and home ownership. Only 3 percent of these tenants have subsequently returned to public housing.
- 25 MSD's current operational policy allows people to be selected for a tenancy review no more than once every three years. Reviews take between six to twelve months to complete, and consider the full circumstances of the household in terms of whether the household can find (and sustain) accommodation in the private market, or whether there are personal or financial barriers that would prevent this (for example, if there is a lack of suitable modified housing in the private market for disabled tenants with access needs).

- 26 If a review finds that a tenant is no longer eligible for public housing and is able to move, MSD will work closely with them to help them make the move. If a review finds that a tenant remains eligible for public housing, their tenancy will continue and they will have their housing needs (property suitability) assessed, meaning MSD will look at whether the household is in an adequately sized property for its needs.

### **We need to recognise that there are some tenants who will need stable public housing and support for an extended period**

- 27 Not all people will be in a position to move from public housing into the private rental market or home ownership over the short or medium term. In fact, many people will require the stability of a public house for an extended period of time.
- 28 Barriers to movement into the private housing market will always exist, and the direction of travel can go both forward and backwards depending on individual circumstances. I believe there is a need to strike a balance between fully realising the benefits of public housing for tenants, and ensuring that public housing places are available for those who need them.
- 29 Some groups of tenants in public housing gain significant benefits from greater stability of tenure, and will need public housing for longer than the average tenant. It is largely counterproductive to subject these tenants to review, since they are unlikely to be in a position to exit from public housing.
- 30 Therefore, I want to provide greater stability of tenure for those tenants for whom tenancy reviews often result in confirmation of continued eligibility for public housing, and for whom reviews cause unnecessary stress and uncertainty. The most effective way of doing this is to exempt them from having to go through a tenancy review.
- 31 This is why, in March 2018, I announced that MSD would pause all tenancy reviews while I considered whether additional groups of tenants should be exempt from review.

### **I directed MSD to undertake impact analysis on broadening exemptions to include more tenants who would benefit from greater security of tenure**

- 32 Currently, 8,967 tenancies (14 percent of the 65,188 public housing tenancies as at December 2017) are operationally exempt from review, based on Ministerial agreement at the time of introducing tenancy reviews. These are tenancies:
- where the signatory or their partner is aged 75 years and older
  - in houses modified for their needs, for example, to enable wheelchair access
  - with agreed lifetime tenure with Housing New Zealand Corporation (HNZC).
- 33 There are also a small number of public housing tenants who, although not technically exempt from review, have 'assured tenancies' on the basis that they are working with an Oranga Tamariki—Ministry for Children Children's Team. These tenants can have their tenancy reviews deferred for up to three years, with a possible further deferral of up to two years.
- 34 While these tenants have greater security of tenure, they must still inform MSD if their circumstances change (for example if their income changes, or if a partner moves in). MSD is able to review their eligibility and/or income-related rent at that point, or at any time if MSD becomes aware of changes in circumstance that may affect their eligibility for public housing.
- 35 I directed MSD to consider who could most benefit from tenancy review exemptions, with a specific focus on three groups of tenants; older people, disabled people, and families with school-aged children.

36 MSD assessed the following issues as part of its analysis:

- *The quantum of benefit from having greater security of tenure* – exemptions should focus on those groups where research indicates security of tenure is more important as compared to other groups.
- *The likelihood of a tenant's continued eligibility for public housing* – in the absence of a tenancy review, a tenant could end up being in public housing for longer than they need, potentially having flow-on impacts on the Register. Exemptions should therefore focus on groups highly likely to continue to be eligible for public housing (for whom a tenancy review is of little value and may cause unnecessary stress and uncertainty).
- *The impact of proposed exemptions on public housing supply* – tenancy reviews are a critical part of freeing up the supply of public housing by exiting those able to sustain a private rental, or transferring tenants to a property better suited to their needs. Exempting a large group of tenants will not directly reduce the number of tenancy reviews, but will reduce the pool of tenants able to be selected for review. Exemptions should not create incentives for tenants to remain in public housing unnecessarily.

### **There is a strong case for exempting each of the three groups from tenancy reviews**

37 After I initially identified the three groups of tenants (older people, disabled people, and families with school-aged children) on whom I wished MSD to focus, I considered a range of potential ways that exemptions could be targeted at these groups (for example, by looking at subsets within each cohort). I have taken New Zealand and international research into account, as well as MSD data on tenancy review outcomes.

38 As a result, I am proposing to extend exemptions to cover the following groups:

- tenancies where the signatory or their partner is aged 65 years and older
- tenancies where the signatory or their partner has one or more dependent children aged 18 years and under in their care
- tenancies where the signatory or their partner receives a Supported Living Payment from the Ministry of Social Development (MSD), either because they have a permanent and severe disability, or because they are caring for another person (other than their spouse or partner) on a full time basis.

39 All three groups are highly likely to remain eligible for public housing, and will experience significant social benefits from having security of tenure. Research commonly cites these groups as particularly in need of security of tenure, as they are typically either asset and/or income poor and suffer adverse health, educational and employment impacts (depending on their circumstances) without such security. For example, the Productivity Commission, in its 2012 housing affordability report, noted that insecure tenure has a particularly detrimental impact on older people and families with children, and that providing stable public housing solutions was expected to improve children's education outcomes (among other things).<sup>1</sup>

40 These findings are supported by studies by the Australian Housing and Urban Research Institute<sup>2</sup>, the Growing up in New Zealand longitudinal study<sup>3</sup>, and other similar research.

---

<sup>1</sup> Productivity Commission Housing Affordability Inquiry (2012).

<sup>2</sup> AHURI, Research and Policy Bulletin, Issue 78, Aug 2006, 'How does security of tenure impact on public housing tenants?'

<sup>3</sup> Growing up in NZ: Residential Mobility Report 1 – Moving house in the first 1000 days (2014).

***I propose to extend the current exemption for tenants aged 75 years and over, to cover those aged between 65 and 74 years***

- 41 I propose to extend the current exemption for older tenants (where the signatory or their partner is aged 75 years or older), to also cover those aged between 65 and 74 years.
- 42 Tenants aged between 65 and 74 years are highly likely to continue to be eligible for public housing, so tenancy reviews are not well targeted to this group. Since January 2015, only 10 per cent of tenants aged between 65 and 74 years exited public housing as the result of a completed tenancy review. The remaining 90 per cent remained eligible, largely because:
- older people are less likely to be working, and likely to be on a fixed income
  - many will not have an income beyond superannuation
  - most older public housing tenants (over 80 per cent) have an income-related rent subsidy of more than \$150 per week, so are not close to being able to afford to move to the private market.
- 43 Evidence strongly suggests older tenants are a group who will benefit from exemption from tenancy reviews. A review in Victoria (Australia) noted that older tenants are also likely to be impacted disproportionately by frequent moves and uncertainty about the lengths of their tenancies<sup>4</sup>. Further, a New Zealand review of tenure security of older tenants found that tenure stability enables older tenants to:
- establish and maintain supports and connections with their community and services
  - manage housing and living costs
  - reduce expenses and stress associated with frequent moving
  - live in housing that is maintained for their comfort and safety.<sup>5</sup>
- 44 Older tenants are also more likely to need to be close to amenities as their mobility reduces.

***I propose a new exemption for tenants with dependent children aged 18 years and under***

- 45 Public housing provides greater security of tenure than the private rental market, resulting in improved well-being for children and families. Public housing can also contribute to reducing child poverty, as tenants pay only 25 percent of their income in rent. Several studies<sup>6</sup> have looked at the impact of security of tenure on families with children, consistently finding that a lack of secure tenure causes social dislocation to families with children. This can lead to negative impacts on health, education, and overall development.
- 46 New Zealand and international studies have found that housing insecurity has been associated with poor health, lower weight, and developmental risk among young children.
- 47 For school-aged children, New Zealand and international evidence suggests that the negative impacts of moving are greatest when children move both residence and school, and mobile (or transient) and very mobile students were more likely to receive special education services, and show up in truancy data.<sup>7</sup>

---

<sup>4</sup> Security of Tenure – Issues paper, RTA Review Victoria (2015)

<sup>5</sup> James, B. and Saville-Smith, N. (2016): Tenure Security for Older Tenants: A country review of policy, programmes and regulation.

<sup>6</sup> Studies include:

- Social and Economic Impacts of Housing Tenure – Report for the NZ Housing Foundation (2016)
- Exploring Security of Tenure through Co-Design, MBIE/Auckland Council/Auckland Co-Design Lab, (2015)
- NZ Housing Foundation, Research Bulletin April 2017, 'From social renting to housing independence – the social and economic impacts of housing tenure'.

<sup>7</sup> Ibid.

- 48 I therefore propose to introduce a new exemption for tenants with one or more dependent children aged 18 years and under in their care. The definition of a dependent child will be expanded from that already used for public housing purposes<sup>8</sup> to include children in respect of whom payments are being made under section 363 of the Oranga Tamariki Act. Children in respect of whom an orphan's benefit or an unsupported child's benefit is being paid will be included in the exemption, as these benefits are paid in respect of a dependent child.
- 49 I considered a range of ages under the dependent child exemption, and decided to include all children from newborns to 18 years of age, as evidence strongly suggests that secure housing supports better wellbeing outcomes for this entire cohort.
- 50 Early on, I considered excluding pre-school aged children from the exemption. However, removing tenants with only pre-school children from the proposed exemption would only increase the number of tenancies able to be considered for a tenancy review by around 3,400, and would not help achieve better wellbeing outcomes for this group.
- 51 Such a move would also have flow-on effects on the proposed disability exemption, which would need to be revisited to assess the impact on pre-school aged children with disabilities (who would otherwise have been covered by the proposed dependent child exemption).
- 52 As with older tenants, tenancy reviews for tenants with dependent children are not well targeted. Since January 2015, only 5 per cent of these tenants have exited public housing as the result of a completed tenancy review. The remaining 95 per cent remained eligible, largely because tenants with dependent children are less likely to be able to afford to move to the private market - around 85 per cent have an income-related rental subsidy of more than \$150 per week, so are not close to paying market rent.
- 53 There is the potential for this exemption to contribute to improved child and family wellbeing outcomes under our Child Poverty Reduction Bill, where we are setting targets for reducing child poverty and developing a child wellbeing strategy. Housing affordability is a key focus within the child poverty reduction area of the strategy, with work on this being co-led by MSD and DPMC's Child Poverty Unit.

***In addition, I propose to remove the current exemption for modified properties and replace it with a new exemption that better targets people with a permanent and severe health condition or disability***

- 54 The final group I consider should be exempted are tenancies where the signatory or their partner is receiving the Supported Living Payment due to either having a permanent and severe health condition or disability, or because they are providing full-time care for a person (other than their spouse or partner) with a severe health condition or disability who would otherwise require hospital, rest home or residential disability care.
- 55 As with the other groups, disabled people in public housing are highly likely to have ongoing eligibility for this type of housing, for affordability and accessibility reasons. This includes on average having significantly worse employment outcomes<sup>9</sup> and a lower weekly income<sup>10</sup> than non-disabled people.

---

<sup>8</sup> A dependent child is someone who is aged under 18 years (unless they are aged 16 or 17 years and are financially independent) or is aged 18 years and financially dependent and attending school or tertiary study), and primarily the responsibility of the signatory or their partner, and being maintained as a member of that family, and financially dependent on the signatory or their partner. They must also be in the care of the signatory or their partner for 6 or more nights over a 14 day period.

<sup>9</sup> In the June 2017 quarter, labour force participation was 25.2% compared to 72.6% for non-disabled people, and 22.4% employed compared to 69.3% for non-disabled people. (Stats NZ)

<sup>10</sup> In the June 2017 quarter, average weekly income for a disabled person was \$458 compared with \$833 for a non-disabled person. Average earnings were \$26.40 vs. \$31.01. (Stats NZ)

*The current exemption for modified properties is not well targeted*

- 56 There is currently a tenancy review exemption for tenants in public houses which have been modified to accommodate disabilities. However, I consider that this exemption is not well targeted, as it is tagged to the features of a property rather than the needs of an individual. There are two main issues with the way the current exemption is targeted:
- it only captures physical impairments which require property modifications, and not other types of disability
  - not all disabled tenants are able to access a suitably modified property in a suitable location, and some modified properties in some locations are occupied by non-disabled tenants (rather than leaving the property empty). This creates a further barrier for those tenants who need modified housing to access the limited number of suitable public houses available.
- 57 The number of disabled public housing tenants is unknown beyond those who receive disability-related support<sup>11</sup> from MSD. Of the main benefits available to disabled clients, the Supported Living Payment (SLP) represents the best proxy for people who are permanently disabled. SLP is available to:
- clients at least 16 years old whose work capacity is permanently<sup>12</sup> and severely restricted due to a health condition, injury or disability, or being totally blind. A client's medical eligibility for SLP is decided at the point at which it is granted, and their eligibility will be either reassessed every two years,<sup>13</sup> or never reassessed<sup>14</sup>
  - clients at least 18 years old if they do not have dependent children and are providing full-time care<sup>15</sup> at home for a person (other than their spouse or partner) with a severe health condition or disability who would otherwise require hospital, rest home or residential disability care, or at least 20 years old if they have dependent children.
- 58 Since January 2015, only 3 per cent of tenants in receipt of SLP have exited public housing as the result of a completed tenancy review. The remaining 97 per cent remained eligible.
- 59 I propose that this exemption should cover all public housing tenancies in receipt of SLP, given the benefits that continued access to public housing would likely have on this population group.
- 60 I considered limiting the exemption to tenancies in receipt of SLP (never reassessed), but decided against this for the following reasons:
- The number of exits from public housing due to tenancy reviews between 1 January 2015 and 31 March 2018 for SLP recipients (both medical and carers) is minimal. There were fewer than 50 exits from the entire SLP group over this period, out of a pool of over 1,600 tenancy reviews completed on this group. Broadening the pool to the overall SLP cohort would not have a significant impact on the number of public housing places that

---

<sup>11</sup> Main benefits include the Supported Living Payment and Job Seeker – Health Condition or Disability allowance. Disability Allowance is a supplementary benefit.

<sup>12</sup> 'Permanent' means the health condition, injury or disability the client has is expected to continue for at least two years, or that the diagnosis is related to a terminal illness (where the client is not expected to live more than two years).

<sup>13</sup> These clients are reassessed because it is reasonable to expect that the impact of their health condition or disability may change over time, and their capacity for work may improve. This could be because their condition improves, or because they are better able to manage the impact on their capacity to work.

<sup>14</sup> These clients will never have their ability to work reassessed. This is on the basis that the impact of their health condition or disability on their capacity for work is unlikely to ever improve enough that they could regularly work 15 hours a week or more in open employment.

<sup>15</sup> As defined in s40D of the Social Security Act 1964, where the person being cared for would otherwise have to receive care that is, or is equivalent to hospital care, rest home care, or residential disability care, within the meaning of the Health and Disability Services (Safety) Act 2001; or care of the kind referred to in s141 of the Oranga Tamariki Act 1989 (which relates to care of severely disabled children and young people).



would be freed up, but would have an impact on improving stability for this group of tenants.

- Exempting only those tenants in receipt of SLP (never reassess) would ignore the similar benefits of, and likelihood of ongoing eligibility for public housing for other SLP recipients. The criteria for SLP eligibility is stringent, and it would be unfair to only allow a small portion of people with permanent and severe health conditions or disabilities to be excluded from review on the basis that they will never be reassessed (when others who are reassessed may also never have their capacity to work improve).
- Broadening the exemption to include full-time carers recognises that they are caring for some of the most vulnerable people in the population (for example, a parent providing full-time care to a severely disabled adult child) and as such, are also highly likely to have ongoing eligibility for public housing for affordability and accessibility reasons.

*The impacts of changing the exemption will be monitored by MSD*

- 61 Changing this exemption would disadvantage<sup>16</sup> 539 tenancies in modified houses, where the signatory or their partner do not receive SLP. However, I propose that the individual circumstances of these tenancies be reviewed to assess whether they still have a need for a modified house. If the tenant is no longer eligible for public housing, MSD will work closely with them to identify whether:
- there is accessible private housing available (if required)
  - moving into the private market would be sustainable for the tenant.
- 62 MSD and HNZA will ensure that communication is undertaken with existing tenants of modified properties, to reassure those with access needs for modified housing that we will continue to work with them to identify appropriate housing support.
- 63 I note that while SLP is the best proxy currently available for identifying tenants with severe and permanent disabilities, there will inevitably be some people receiving it who will not have a continued need for public housing assistance. For example, anyone who is totally blind automatically qualifies for SLP (never reassessed) regardless of their capacity to work.
- 64 Some disabled people will be covered by the proposed exemption for tenants aged 65 years and older. Disabled children aged 18 years and under would be exempt through the proposed 'tenants with dependent children' exemption, by virtue of their age.
- 65 I intend to direct MSD to carry out further work to understand how many disabled people use public housing, and to monitor the effect of this exemption going forward.

***Taken together, the three proposed exemptions will result in 81 percent of all public housing tenancies being exempt from review, an increase from the current 14 percent***

- 66 Currently, 8,967 (14 percent) of the 65,188 public housing tenancies are exempt from review, leaving 56,221 (86 percent) still able to be considered.
- 67 The exemptions I am proposing would result in 52,950 tenancies (81 percent) of all public housing tenancies) being exempt from review, leaving 12,238 tenancies (19 percent) still able to be considered.
- 68 The 52,950 exempt tenancies would cover:
- 13,290 tenancies aged 65 years and older
  - 25,937 tenancies with a dependent child aged 18 years and younger

---

<sup>16</sup> Insofar as, like other client groups, they may still be found to be eligible for public housing under a tenancy review process.

- 9,256 tenancies receiving SLP
  - a further 4,467 tenancies in more than one of the above groups.
- 69 Based on MSD's current operational target of carrying out 3,000 tenancy reviews annually, the remaining 12,238 tenancies could expect to be reviewed roughly once every four years on average, and no more than once every three years (as per current practice). These reviews will be better targeted towards the remaining pool of tenants who are more likely to be ready to move out of public housing.

**Although there will likely be some impact on the Register from further exemptions, tenancy reviews are not the main driver of exits from public housing**

- 70 MSD data shows exits from public housing are slowing. This is due to a mix of flat incomes for public housing tenants, an ageing tenant population, differing incentives between accommodation support products, and rising unaffordability of housing in the private market. Slowing exits have a flow-on impact to the Register in that:
- it takes longer to house people who are on the Register
  - the bottleneck around availability of public housing places contributes to faster growth of the Register.
- 71 In the current climate, it is key to understand the impact of exemptions in terms of the number of public housing places becoming available. As at 31 March 2018, the Register was at its highest level (9,695 applications) since public housing system changes were implemented in April 2014.
- 72 Further exemptions may reduce the number of public housing places available for applicants on the Register, which could have a flow-on effect on its size.

***Only 5.5 percent of exits from public housing were directly attributable to a tenancy review***

- 73 The vast majority of exits from public housing are not due to the tenancy review process. Only 5.5 percent (around 1,410) of the 25,721 exits from public housing between January 2015 and March 2018 were directly attributable to a tenancy review.
- 74 MSD data for the 2016/17 year shows that, of the tenancy reviews in that year resulting in an exit from public housing:
- the majority of sustained exits from public housing were people who were already paying market rent, or close to it
  - 89 percent of tenants who left public housing as a result of a review were not receiving further accommodation support after 12 months, including Accommodation Supplement.
- 75 I expect that broadening the exemptions will have some impact on the Housing Register, but because the majority of reviews on the groups of tenants proposed for exemption would have resulted in continued eligibility, the impact is likely to be relatively small.
- 76 I also consider that the ambitious housing programme we are implementing to improve housing outcomes for New Zealanders (with 16,000 new affordable homes to be built over three years, and around 1,600 new public houses per year over the next four years), will help to offset any effect of the proposed changes on the Register.

**The proposed exemptions could potentially result in higher exit rates from public housing as a result of better targeted tenancy reviews**

- 77 Exemptions can improve administrative efficiency by excluding tenants from review if they are likely to continue to be eligible for public housing. Because the exemptions I am proposing would leave a pool of tenants available for review who, overall, are **less** likely to have

continued eligibility for public housing, improved targeting to this group could result in higher exit rates.

- 78 MSD data analysis using past exit rates from tenancy reviews suggests that the future rate of exits could improve from around 20 percent (baseline) to around **36 percent of all reviews** undertaken going forward. This figure controls for tenancies which would have been in more than one exemption category (eg with SLP and at least one dependent child).
- 79 In practical terms, using the pre-pause rate of 3,000 reviews per year, a 20 percent exit rate equates to around 600 exits. A 36 percent exit rate equates to around 1080 exits per year.
- 80 This modelling operates on the assumption that current rates of exit from reviews of those not exempt are maintained, and a similar profile of tenants is used for targeting.

**Exempt tenants<sup>17</sup> will still be reviewed if their circumstances change in a way that may impact their eligibility for public housing, or if they need to move into a different property that better meets their needs**

- 81 It is important that people who have benefited from public housing and whose situation has improved are supported to move into the private rental market or home ownership if they are able to. This frees up public housing places for those on the Housing Register.
- 82 Even if a tenant is exempt from review, they must still inform MSD if their circumstances change. MSD will still be able to review their eligibility and/or Income Related Rent at that point, or at any time if MSD becomes aware of changes in circumstance that may mean a tenant (whether exempt from a tenancy review or not) is no longer eligible for public housing.
- 83 However, the legacy group of tenants with agreed lifetime tenure with HNZN will not have their eligibility for public housing reviewed for any reason, as the terms and conditions of their tenancy agreements with HNZN provide them with lifetime tenure of the property they occupy. Their Income Related Rent can still be reviewed if their income changes.
- 84 All exempt groups of tenants, except those with agreed lifetime tenure with HNZN, will continue to have property suitability reviews where appropriate, to ensure that they are in the type of property that best meets their needs.
- 85 Clear communication to exempt tenants will be important, so that they understand their rights and obligations. MSD will work closely with HNZN and Community Housing Providers (CHPs) to ensure this takes place.

**A new Ministerial Direction will give legislative effect to the proposed exemptions**

- 86 Currently, the three groups of public housing tenants exempt from tenancy reviews are operationally exempted by MSD based on Ministerial agreement at the time tenancy reviews were introduced, rather than legally exempted.
- 87 For transparency, I plan to issue a new Ministerial Direction under section 102(3)(b) of the Housing Restructuring and Tenancy Matters Act 1992, for joint approval from the Minister of Finance, Minister for Social Development, and myself as Minister of Housing and Urban Development.
- 88 The Ministerial Direction will:
- set out all groups of tenants exempt from review of ongoing eligibility

---

<sup>17</sup> All tenants proposed for exemption except for the legacy group of 37 tenancies with agreed lifetime tenure with HNZN, as the terms and conditions of their tenancy agreements give them lifetime tenure of the property that they occupy and therefore their eligibility for public housing cannot be reviewed.

- confirm that these tenants (except for those tenancies with agreed lifetime tenure with HNZA) will still be able to be reviewed if MSD becomes aware that their circumstances have changed in a way that may impact their eligibility for public housing.

89 I anticipate that the legislative changes will take effect before the end of 2018, and I propose to extend the current pause on tenancy reviews from the end of June until MSD is able to recommence reviews in early 2019.

### **MSD has indicated it would be able to recommence tenancy reviews in early 2019**

90 I plan to instruct MSD to recommence tenancy reviews as soon as practical following the new Ministerial Direction coming into effect.

91 MSD has indicated that it will be able to undertake the same number of tenancy reviews going forward once the pause is lifted (around 3,000 per year).

92 Following scoping work on process and system redesign, MSD advises that tenancy reviews could be restarted in early 2019.

### **I will evaluate the impact of each exemption category after three years**

93 On balance, I consider that the significant social benefits that come from protecting our most vulnerable public housing tenants outweigh the predicted minimal levels of adverse impact on the Housing Register.

94 Nevertheless, it is important that the impact of the proposed exemptions be monitored. I therefore intend to direct MSD to monitor the outcomes of the new tenancy review exemptions (including any unintended outcomes, and the impact on the Register), collect more detailed information on the groups of tenants identified (eg the number of disabled users of public housing), and use those findings to inform a review of each proposed exemption in three years. The reviews will assess whether each exemption is still needed in a better functioning housing market.

### **Consultation**

95 This paper has been prepared by the Ministry of Social Development. The following agencies have been consulted: the Ministry of Business, Innovation and Employment, Housing New Zealand Corporation, Ministry of Health, Oranga Tamariki—Ministry for Children, Office for Disability Issues, Office for Seniors, Ministry for Women, Te Puni Kōkiri, the Ministry for Pacific Peoples and the Ministry of Justice.

96 The Department of Prime Minister and Cabinet and the Treasury have been informed.

### **Financial implications**

97 There are no direct financial implications of extending tenancy review exemptions. Tenancy reviews will continue to be undertaken as part of MSD's frontline service delivery functions.

### **Human rights implications**

98 The proposed exemptions will result in a material disadvantage to those who are not exempted. However, the exemptions can be justified under the Bill of Rights Act 1990 and are proportionate and involve the least interference to achieve the policy intent.

99 While the exemptions involve differential treatment based on some of the prohibited grounds in the Human Rights Act 1993, such treatment is consistent with the intent of section 129 of the HRTMA, which provides matters to which the agency may have regard in making decisions such as continued eligibility for public housing. The proposed exemptions achieve

a significant and important outcome – that of providing greater security of tenure for the most vulnerable public housing tenants.

### **Legislative implications**

100 If the proposed exemptions are agreed, I will prepare a Ministerial Direction Amendment under section 102(3)(b) of the Housing Restructuring and Tenancy Matters Act 1992 that clearly sets out the groups that are to be exempt from reviews of continued eligibility for public housing. The Direction requires joint approval from the Minister of Finance, Minister for Social Development, and myself as Minister of Housing and Urban Development.

### **Regulatory impact and compliance cost statement**

101 A regulatory impact statement is not required for the proposals in this paper.

### **Gender implications**

102 The allocation of public housing is gender neutral. However, as of December 2017 the second most common type of application (37 percent of applications) on the Register are single adult households with children. The adult in these households is most commonly female. The impact of exempting tenants with dependent children 18 years old and under is likely to favourably impact on outcomes for sole parent mothers.

103 More broadly, initiatives which support households and families may positively impact on women primary carers, particularly if they support women's economic independence and wellbeing.

### **Disability perspective**

104 Disabled people often experience difficulty accessing suitable housing, and those who receive SLP will benefit from being exempt from tenancy reviews and the associated security of tenure.

105 In addition, some disabled people will be covered by the proposed exemption for tenants aged 65 years and older. Given that 59 per cent of people over the age of 65 years identify as disabled, the ageing nature of New Zealand's population will likely result in an increasing proportion of people experiencing disability over time who will benefit from this exemption.

### **Publicity**

106 The Office of the Minister of Housing and Urban Development will manage publicity in relation to extending exemptions from public housing tenancy reviews. MSD and Housing New Zealand Corporation will ensure there are appropriate communications with tenants.

107 I plan to make this paper public at the appropriate time, subject to the standard withholding provisions of the Official Information Act.

### **Recommendations**

108 The Minister of Housing and Urban Development recommends that the Committee:

- 1 **Note** that 8,967 public housing tenants (those aged 75 years and older, those in modified houses, those with lifetime tenure, and those with assured tenancies) are currently exempted from tenancy reviews (i.e. reviews of continued eligibility for public housing) under Ministry of Social Development operational policies

- 2 **Note** that I have paused tenancy reviews to enable me to consider a wider set of exemptions
- 3 **Agree** that the exemptions in 1 be replaced by the following exemptions from being selected for a review of continued eligibility for public housing:
  - 3.1 tenancies where the signatory or their partner is aged 65 years and older (an extension of the current exemption)
  - 3.2 tenancies where is the signatory or their partner has one or more dependent children aged 18 years and under in their care, using an expanded definition of the term 'dependent child' to include those in respect of whom payments are being made under section 363 of the Oranga Tamariki Act (a new exemption)
  - 3.3 tenancies where the signatory or their partner receives a Supported Living Payment (a replacement of the existing modified houses exemption, which is poorly targeted)
  - 3.4 tenancies with agreed lifetime tenure with Housing New Zealand Corporation (a current exemption)
  - 3.5 assured tenancies that apply to tenants who are working with Oranga Tamariki—Ministry for Children Children's Teams and defer tenancy reviews for up to three years, with a further deferral of up to two years available, if necessary (this group will be exempted under the 'dependent child' exemption in 3.2 above).
- 4 **Note** that the exemptions outlined in 3 above could have a small impact on the growth in the Social Housing Register by exempting 52,950 tenancies, potentially reducing the number of public housing places available for people on the Register
- 5 **Note** that the potential impact on the Social Housing Register of the exemptions outlined in 3 above needs to be balanced with the benefits of security of tenure and the limited value of periodic reviews for these groups, and the fact that tenancy reviews are not the main driver of exits from public housing
- 6 **Note** MSD will still be able to review all tenants' eligibility, except for those tenancies exempted in 3.4 above, if MSD obtains information that indicates the tenant may no longer be eligible for public housing (for example through notification by the tenant, through a housing needs assessment or investigation under section 121 of the Housing Restructuring and Tenancy Matters Act 1992)
- 7 **Note** that all exempt groups of tenants except those in 3.4 above would still have their property suitability assessed where appropriate, to ensure their current property still meets their needs
- 8 **Note** that MSD will prepare a Ministerial Direction under section 102(3)(b) of the Housing Restructuring and Tenancy Matters Act 1992 that clearly sets out the groups that are to be exempt from reviews of continued eligibility for public housing, for joint approval from the Minister of Finance, Minister for Social Development, and myself as Minister of Housing and Urban Development
- 9 **Note** that the legislative changes in 8 are anticipated to take effect before the end of 2018, and the pause on tenancy reviews will be extended until MSD is able to recommence reviews in early 2019
- 10 **Note** that MSD will monitor the impacts of the extended exemptions, including any unintended consequences

11 **Note** that MSD will review each exemption from tenancy reviews in three years' time (by the end of 2021), to assess whether they are still needed following the improvements Government is aiming to make to housing affordability and the private rental market.

Authorised for lodgement

Hon Phil Twyford

Minister of Housing and Urban Development

\_\_\_\_ / \_\_\_\_ / \_\_\_\_