



Background

Renters United is an advocacy group that organises renters and campaigns to make renting in New Zealand better for everyone. We see decent housing as a basic human right and our broken renting system as a barrier to realising this right for all.

In 2017, Renters United worked with ActionStation to collect hundreds of renters' stories and analysed these in the report *The People's Review of Renting*. We found four key needs failing to be met among the stories:

- a stable home,
- fair rent,
- a safe and healthy home, and
- meaningful enforcement.

These stories spoke of a power imbalance in the relationship between landlords and renters. The result of these interrelated problems is that renters are second-class citizens. Renters cannot reliably realise their rights to healthy and stable housing, as can property owners.

Following further consultation with members and tenant advocacy experts, in July 2018 we launched the Plan to Fix Renting. The Plan sets out 36 changes to the law and its application that will make the private rental sector healthy, safe, affordable, stable and — most importantly — fair.

Since then Renters United has been leading campaigning efforts, submitting on local and national plans, bills and reviews, and consulting with government officials as a member of the Tenants Advocacy Network.

Energy hardship expert panel and reference group

1. Privacy and other matters

- 1.1. We have read, understood, and accepted the conditions of the Privacy Statement included in the submission template.
- 1.2. This submission is made by Geordie Rogers on behalf of Renters United Incorporated.
- 1.3. Consent is given for our name to be published alongside our submission.
- 1.4. We can be contacted via email at [Privacy of natural persons](#)
- 1.5. This submission is on behalf of an organisation – Renters United Incorporated.
- 1.6. I can confirm Geordie Rogers is authorised to make a submission on behalf of Renters United Incorporated.
- 1.7. This submission is on behalf of Renters United Incorporated.
- 1.8. Renters United is a Non-governmental organisation.
- 1.9. We are not requesting any part of this submission to be kept confidential.

2. Strengthen monitoring, compliance and enforcement of the Healthy Homes Standards (HH3)

- 2.1. Renters United is fully supportive of HH3
- 2.2. We believe everyone in Aotearoa, regardless of whether they're renting or own their own home, deserves to live in a home that doesn't make them sick, or require them to use an exorbitant amount of money on power to keep their home warm and dry.
- 2.3. As addressed in the draft discussion document major barriers for whānau renting are, realistically, outside of their control. While renters have the opportunity to access their rights under the Residential Tenancies Act, very few do due to fear of being evicted, causing a rent increase, or being blacklisted from future properties.
- 2.4. While those renting in energy hardship can make changes to their behaviour, like when they draw the blinds and when they open the windows, it's often material changes to the house, such as the installation of adequate insulation, that would be of the most benefit to them.
- 2.5. In our experience the most important parts of the Healthy Homes Standards, insulation, draught, and moisture ingress, are the hardest for whānau to access. Both the primary and secondary regulations use industry terms such as R rating that create barriers to renters accessing their rights.
- 2.6. The Healthy Homes Standards, rely on renters having the time, money, and expertise to self enforce the standards.
 - 2.6.1. In our experience renters facing energy hardship do not have the time or money, and therefore can not access the skills required to enforce the standards. This leads to non-compliance going unchallenged.
 - 2.6.2. Landlords on the other hand are equipped with the time, and money to be able to defend any claims made by a renter. They also use the inherent power imbalance between them and their tenants to protect their investment over the health of their tenants.
 - 2.6.3. While renters are not able to access legal representation in the tribunal, landlords can. Through the appointment of property management firms as agents of the landlord, the landlord is able to ensure that any case they must defend in the

tribunal can be defended by someone with the resource and experience similar to that of a lawyer or a tenant advocate.

- 2.6.4. In particular, Kainga Ora has a team of trained representatives that travel around the country to represent Kainga Ora in tribunal appearances.
- 2.6.5. These examples all point to an issue addressed in the draft discussion document, that the current mechanism for enforcing the Healthy Homes Standards does not work.
- 2.7. An investigation by Renters United in July 2022 found only 9/50 applications by tenants to the tribunal where a tenant claimed a breach of the Healthy Homes Standards were successful¹.
 - 2.7.1. A major theme from this investigation was that the standards were too complex, and the communication of the standards had been poor. While many renters were clearly able to articulate how they believed their home was making them sick, they were not able to articulate the breach of the Healthy Homes Standards.
 - 2.7.2. In one of the cases captured by the investigation (NZTT 4281790) the renter presenting the case explicitly mentioned in their rehearing that their ability to pay for an independent inspection of the property was a major barrier to them being able to present a full case.
- 2.8. While the Tenancy Compliance and Investigation Team (TCIT) is doing their best to investigate non-compliance, they too are not resourced to ensure that renters throughout Aotearoa are living in the warm, dry, homes that they're paying for.
 - 2.8.1. While TCIT continues to solicit reports from renters they rarely follow through on these requests, reiterating to renters and advocates that their focus is on systemic, or exceptional cases. This leaves the majority of cases of non-compliance going unchecked.
 - 2.8.2. Investigations by TCIT are not successful in deterring landlords, even those who have been previously investigated. After a story first published in Stuff on the 29th of April 2021² TCIT conducted an investigation into Te Aro Tenancies properties.

¹ Recent HH Tribunal Rulings, Renters United, <https://bit.ly/HHS-50>

² Are these the most rundown flats in Wellington? 'They must be trying to set a world record,' says renter, Ethan Te Ora for Stuff, <https://www.stuff.co.nz/life-style/homed/124951898/>

- 2.8.3. In November 2022 a group of renters, who were well resourced and supported, were able to show that Te Aro Tenancies had negligently failed to inspect their mechanical ventilation system, a requirement for their exemption under the Healthy Homes Standards since their building did not have opening windows³.
- 2.8.4. The Tenancy Compliance and Investigation Team failed to identify this non-compliance, putting the health of the building's estimated 471 renters at risk.
- 2.9. Renters United agrees that monitoring of compliance done by Housing and Urban Development is not substantial enough to make any concrete claims about compliance across the rental sector.
- 2.10. Other organisations have conducted investigations into Healthy Homes compliance for rental homes across Aotearoa. Most notably is a pilot investigation, not yet published, by Anglican Advocacy of 70 properties in Christchurch.
- 2.10.1. This investigation is about to be scaled up and conducted across Aotearoa, however we wish to emphasise that an investigation of this type and scale should have already been completed as a part of the regulatory oversight.
- 2.10.2. This pilot investigation found that 43% of the properties selected for the pilot investigation were not compliant with the Healthy Homes Standards. Non-compliance ranged from one to fourteen breaches of the health homes standards per property. These properties were all found via public listings on trademe.co.nz
- 2.10.3. 120 days after the initial inspection a follow up was sent by the research team to the property manager or landlord to ask if the property was now compliant. Not a single landlord or property manager was able to confirm verbally, or in writing, that the property had since become compliant.
- 2.11. When combined with the experiences shared by renters, these investigations by advocacy organisations show there is a discrepancy between the reality faced by renters and the levels of compliance that landlords self report in HUDs monitoring. We are happy to see that this is acknowledged in the draft discussion document.
- 2.12. We agree that the best way to deliver better outcomes, oversight, and monitoring is through proactive enforcement of the Healthy Homes Standards.

³ NZTT 4390820, K Stirling, 22 November 2022, accessed at https://forms.justice.govt.nz/search/Documents/TTV2/PDF/8374692-Tribunal_Order_Redacted.pdf

2.13. The burden for proving a property is legally able to be let should fall on the party that will reap the financial benefit of the property being let, the landlord.

2.13.1. This approach is not uncommon in other industries such as the sale of food, the renting of motor vehicles, or the real estate industry. This is also the approach being taken for the regulation of property managers.

2.13.2. Additionally the state and taxpayers would benefit from active enforcement through reduced demand on healthcare services.

2.14. We believe that the best way to address this is through a nationwide Healthy Homes Warrant of Fitness, as detailed in our Plan to Fix Renting⁴.

2.14.1. Raise minimum quality standards for all rental housing to the level set out in the He Kainga Oranga Rental Warrant of Fitness, which includes both safety and health requirements. Rental properties must have a certificate showing compliance in order to be tenanted at all.

2.14.2. Legislate minimum standards for reasonable amenities in rental housing, including laundry and kitchen facilities.

2.14.3. Consolidate all pre-existing and new standards into a single definitive quality standard.

2.14.4. Create a Rental Housing Quality Grade system to incentivise improvements beyond the minimum standard. This would be similar to the food hygiene grades for restaurants.

2.14.5. Fund and empower local authorities to enforce the quality standard alongside their comparable duties for new-build housing (building consents), commercial property (building WOFs and earthquake-prone buildings) and other public health matters (food hygiene, sanitation).

2.14.6. Allow local authorities to supplement the national quality standard to take into account specific regional needs, for example, resilience in earthquake-prone regions or ventilation in warmer climates.

2.14.7. Introduce a regular review of the standard (to address new evidence and practice, including changes to the Building Code), and the effectiveness of enforcement.

⁴ The Plan to Fix Renting, Renters United, accessed at <https://fixrenting.org.nz/>

- 2.15. As the proportion of people renting grows, the necessity for meaningful enforcement of the Healthy Homes Standards becomes more important. With rents continuing to increase faster than incomes, we predict the number of people in rental accommodation facing energy poverty to rise.
- 2.16. We believe that the Ministry of Housing and Urban Development, and the Ministry of Business, Innovation and Employment have failed to adequately oversee and enforce the Healthy Homes Standards, at the cost of the health of renters throughout Aotearoa.
- 2.17. An Official Information Act request by Renters United showed that, when considering the extension of the Healthy Homes Standards compliance deadlines, HUD never considered the impact the extension would have on renters⁵.
- 2.17.1. In consultation with landlord and property manager peak bodies, no evidence was produced that showed a need to extend the compliance deadlines for private landlords. The decision to extend the Healthy Homes compliance deadlines for private landlords was based on a single interaction between the Minister's Office and the Chief Executive of Crockers.
- 2.17.2. In later conversations with Community Housing Providers, mixed feedback was given about their ability to meet the existing compliance deadlines. Kainga Ora submitted a presentation that showed an expected completion date for 100% of their properties by October 2023.
- 2.17.3. In a phone conversation between a Principal Advisor from Housing and Urban Development and the President of Renters United on the 25th of November 2022, HUD confirmed that they had no evidence that extending the compliance deadlines would lead to increased compliance.
- 2.17.4. The Principal Advisor was able to confirm in that conversation that the intention behind the extension was to “not unnecessarily punish landlords who were trying to comply” despite the fact that HUD had been presented evidence by the President of the NZPIF that the Tenancy Tribunal was not unnecessarily punishing landlords who were actively trying to comply with the existing deadlines.
- 2.17.5. Additionally in that phone conversation the Principal Advisor was able to confirm that at no point during the investigation of this extension did HUD consider the health impacts on reenters of the policy change.

⁵ HUD2022-001333, Housing and Urban Development, accessed at https://drive.google.com/file/d/1x5gEQtwsyStQMsfSxax-dJTlob0liinj/view?usp=share_link

- 2.18. The policy positions taken by Housing and Urban Development are all informed by the Kantar Public Healthy Homes Topline Report and anecdotal reports from landlords.
- 2.18.1. We believe that the Government, if they require further evidence, should complete a rigorous investigation of Healthy Homes compliance across the sector, and complete a review of the initial cost benefit analysis to determine if the assumptions made in the CBA are consistent with our current experiences.
- 2.18.2. However we believe that there is significant enough reporting from community organisations and research groups that a more proactive approach to the enforcement of the Healthy Homes Standards should be implemented immediately.
- 2.19. Unless the Government takes a proactive approach to enforcing the Healthy Homes Standards we will continue to see low levels of compliance that disproportionately affect Māori, Pacific People, and those facing energy hardship, for the benefit of private landlords.

3. Strengthen advocacy and support services for tenants (HH4)

- 3.1. Renters United is fully supportive of HH4.
- 3.2. Renters United strongly agrees that it is critical to shift the burden of enforcing Healthy Homes Standards (HHS) away from vulnerable tenants and volunteer organisations.
- 3.3. The existing enforcement system is funded by renters from the interest earned annually on lodged bonds (\$20.6 million in the 2016/17 financial year). It is reasonable to expect that renters get from this investment a fair and responsive enforcement system.
- 3.4. Community organisations like the Citizens Advice Bureau, Community Law, and the Manawatu Tenants Union are already made to compete for funding grants, none of which provide the finances any of these organisations require to cover the needs in their communities, created by the burden of renters enforcing the Healthy Homes Standards.
- 3.5. We agree that the funding for these services should be extensive enough that attention can be given to renters that face additional barriers such as finances, or language.
- 3.6. MBIE currently holds several million dollars of abandoned bonds that are ultimately returned to the Crown (last known balance was \$9.8 million). These bonds are renters money, and as such they should be used for advocacy services that benefit renters.