

Regulation of Aotearoa New Zealand
Residential Property Management Sector
Feedback on the discussion paper 'Residential Property
Management – Regulatory Options', April 2022



New Zealand Council Of
Christian Social Services

Contact Name:	Nikki Hurst Rachel Mackay Hamish Jarvie
Organisation Name:	New Zealand Council of Christian Social Services (NZCCSS)
Ko wai au Who we are:	<p>The New Zealand Council of Christian Social Services (NZCCSS) welcomes the opportunity to provide feedback on the Regulation of Residential Property Management.</p> <p>NZCCSS has six foundation members; the Anglican Care Network, Baptist Churches of New Zealand, Catholic Social Services, Presbyterian Support and the Methodist and Salvation Army Churches.</p> <p>Through this membership, NZCCSS represents over 250 organisations providing a range of social support services across Aotearoa. We believe in working to achieve a just and compassionate society for all, through our commitment to our faith and Te Tiriti o Waitangi. Further details on NZCCSS can be found on our website www.nzccss.org.nz.</p>

Tirohanga Whānui | Overview

We strongly support the kaupapa to introduce regulations to the property management sector. The majority of those that our member organisations serve are tenants, and robust reform in the form of the Healthy Homes Act and changes to the Residential Tenancies Act have served them well.

We see the regulation of property management as a profession to be the next logical step to ensure the best care and consideration towards our communities. We strongly suggest that the scope of these regulations be extended to include individuals managing their own properties ('owner-managers'), including social housing providers such as Kāinga Ora. We encourage review and extension of the training requirement of 15 hours to sufficiently equip individuals to work effectively.

Our main points are:

Item One – We tautoko this initiative to bring regulation and stewardship to this key industry

Property management stands on the frontline of the housing crisis, and we applaud bringing consistency and professional standards to this area.

Item Two – We strongly agree that Te Tūāpapa Kura Kāinga should retain regulatory stewardship of this sector

We affirm that homes are for people, not for business, and that Te Tūāpapa Kura Kāinga is the appropriate space to lead this mahi.

Item Three – We support the fit and proper person test, and encourage a requirement for a Code of Ethics be included in the legislation

In having a requirement for a fit and proper person test, it follows that an agreed Code of Ethics or Practice be developed to support this.

Item Four – We strongly urge a review and shortening of the proposed timeline

The housing crisis is happening now, and appropriate management of tenancies now is the concern for those already in the tenancy system. We should not have to wait until 2026 to see these changes.

Item Five – We encourage the simultaneous introduction of rent control and rental warrants of fitness to ensure that cost increases are not passed to tenants

There are obvious unintended consequences in the form of rent increases as property management companies seek to mitigate the costs of regulation. Alternately, costs to regulate may take priority over repairs and upgrades, resulting in sub-standard housing. We encourage ambitious and overdue rent control legislation and the more stringent application of the Healthy Homes Standard in tandem with these regulatory frameworks to ensure that this cannot happen.

Item Six - The scope of this legislation should extend to property owners managing their own properties, and as a result include provisions for the creation of an owner-manager register

We maintain that the good reasoning for this regulation be applied to all providing rental accommodation. In order to ensure that all owner-managers are captured by these regulations, the creation of an owner-manager register would be a critical element of the framework.

Item Seven – The proposed training requirements for property managers are insufficient

We recommend development of better understanding of what would be required in this space before denoting an actual time frame.

Taunakitanga | Recommendations

We raise the following points and recommendations for consideration:

Item One – We tautoko this initiative to bring regulation and stewardship to this key industry

There has been near universal support throughout the industry of property management and tenant advocacy for the proposal to bring regulations and professional standards to this sector. We add our voice of support to theirs and applaud the decision to introduce standards, consistency, and accountability to an industry which affects so many lives.

With Tenancy Services logging 383,193 active bonds at the start of 2021, the scope of property management is enormous and intrinsic to the functioning of rental housing provision across Aotearoa. Bringing consistency and industry standards to the sector is welcomed, timely, and critical to the ongoing management of the homes and tenancies of the thousands of New Zealand families in the rental market.

For this decisive action and forethought, we applaud this legislation.

Recommendation One: We applaud this action to bring professional standards and regulatory oversight to an industry that impacts many New Zealand households.

Item Two – We strongly agree that Te Tūāpapa Kura Kāinga should retain regulatory stewardship of this sector

We affirm that housing is for humans, and the priority of a regulatory body who manages them should be to the whānau who live within them. While the Tenancy Tribunal is currently under the stewardship of the Ministry of Business, Innovation, and Enterprise, we consider further aligning property in New Zealand to investment and business to be dispassionate and contrary to the real purpose of residential property – to house people. We consider the values and principles of Te Tūāpapa Kura Kāinga, especially that of arohatia, to be more aligned with our vision for a tenant-centred system.

Recommendation Two: We strongly support Te Tūāpapa Kura Kāinga as the regulatory steward of this system.

Item Three – We support the fit and proper person test, and encourage a Code of Ethics to be included in the legislative

We tautoko the inclusion of fit and proper person testing for admission into an industry which can affect the lives of a great many people. Further to this, we encourage there be a mandate placed upon the regulatory body of this system to establish and maintain a Code of Ethics / Code of Practice which individuals managed by this system would need to abide by. Common elements of a Code of Ethics include integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour. We believe that these attributes are fair and necessary and will contribute significantly to the safety of tenants.

Recommendation Three: We strongly encourage the inclusion of a Code of Ethics to follow along from the fit and proper person test for property managers.

Item Four – We strongly urge a review and shortening of the proposed timeline

This consultation document lays out the implementation timeframe for this legislation and places the expected date for provisions to be in force in mid-2026. We accept the process to ensuring that this reform is fit for purpose by passing through the necessary legislative stages, and that this may take time. Furthermore, we acknowledge the prudence and foresight in allowing the industry and regulatory body a year to gain compliance and build regulatory frameworks. This step will ensure

that regulated individuals have the best opportunity to meet new requirements and bring their industry knowledge up to the new standards. We however do not accept the expected timeframe between Royal Assent and commencement - currently estimated at a year.

The urgency in the housing system is evident. These regulations have been proposed in part to ensure that the public can have “*confidence in the integrity of the residential tenancies market*” and the individuals who manage it. Delays, especially those perceived to be purely bureaucratic in nature, further erode this confidence.

The Parliamentary Council Office website stipulates that the process of gazetting should only take five days following Royal Assent. As such, and with the allowance of an entire year for compliance under the Commencement phase, the intervening year between Royal Assent and Commencement with only the Gazetting of the legislation as a milestone casts doubt that the urgency of this matter is appropriately understood. The establishment of the regulatory body and enabling regulations could occur concurrently with the industry’s upskilling and compliance, recognising that the regulatory body would not have anyone to regulate during the period between commencement and full provision enforcement.

This document states that these regulations are part of the drive of a government that is “*committed to ensuring New Zealanders have access to secure, healthy, and affordable housing.*” The hundreds of thousands of New Zealanders who live in rented accommodation cannot wait another four years to see this come into effect.

Recommendation Four: We strongly support condensing the implementation timeframe to reflect the urgency in the housing sector.

Item Five - We encourage the simultaneous introduction of rent control and rental warrants of fitness to ensure that cost increases are not passed to tenants' properties

The cost-of-living crisis currently experienced in Aotearoa disproportionately impacts our most vulnerable. The exponential increase in rental costs which we expect to result from *any* changes relating to housing is untenable and we propose the regulation of these costs. Alongside rent control we request that the Healthy Homes Standard requires a certificate, renewed regularly. We would also urge that to ensure compliance that breaches attract sufficiently sizeable financial penalties to act as a deterrent.

The impact on renters of these proposed changes must be minimised, particularly due to the high numbers of low-income families who are already paying a significant percentage of their income in rent. The proposed regulation of property managers is highly likely to impose costs on property owners which will then be passed on to renters. We have seen this happen in the past when property owners have passed on the cost of compliance with the Healthy Homes Standards to their tenants. The government has shown that in times of crisis it is willing to freeze rent increases, and NZCCSS believes that the only way to minimise the impact of this emerging crisis is to limit rent increases through tying them to the minimum wage.

Further, we urge that to ensure that this process does not negatively impact the quality of the homes being rented, the Healthy Homes Standard be enforced. We suggest annual certification demonstrating that standards are met. Some property owners are still not providing the required evidence of either a Healthy Homes or Insulation Certificate to tenants. NZCCSS believes that a requirement of proof of certification before a property can be rented should be enacted, and that this should be recorded in the register recommended below.

Most literature advocating against rent controls draws on what is known as first generation rent control – complete rent freezes and price ceilings across a sector and region. While first generation rent control was effective to a degree, the most efficient and effective form of this regulation is

second generation; tied to the CPI and minimum wage and allowing for reasonable increase in certain circumstances. Directly basing rent increase possibilities on tangible, measurable indicators of economic wellbeing ensures that long term relief is felt by tenants. Evidence shows that rent controls which are tied to the minimum wage are effective at limiting increases in cost of living¹.

Despite this, there is a risk that both the increased costs of qualified property managers, and the perceived loss of income from rent control, will cause property owners to insufficiently upkeep their properties. As such, a rent control which is tied to the minimum wage must be accompanied by more stringent regulation of the Healthy Homes Standard, with certification from a registered provider necessary to rent a property.

Recommendation Five: We suggest rent be controlled through tying increases to the minimum wage, and the Healthy Homes Standard be enforced through a certification and registration process.

Item Six – The scope of this legislation should extend to property owners managing their own properties, and as a result include provisions for the creation of an owner-manager register

The harms of unregulated management of tenanted properties are clearly outlined in this consultation document. Without exception, every single element of harm that is outlined as being applicable to tenants is as applicable to owner-managed properties as it is to professionally managed properties. Variation in competency, capacity for compliance and lack of financial oversight are all possibilities and realities in the owner-managed portion of the rental market. The scope of this legislation is incomplete and insufficient if it does not extend to include all peoples delivering residential tenancies. We believe that there should be little or no variation in the quality of management between owner-managed properties and those professionally managed.

The scope section of this document intimates that property owners need not be regulated by additional legislation by virtue of the effects of the Residential Tenancies Act. While it is true that property owners are technically obligated by this legislation to meet these standards, the reality of the situation is that these individuals managing their own properties are not regulated or incorporated into professional bodies with standards of practice, provided formal training, background checked, or audited for compliance in any way. All the harms ascribed to poor property management can occur no matter who is managing the property, especially where there is no oversight and materially minor repercussions for breaches.

When considering the basic requirements for property managers into the profession, the rationale is that to be fit for this role and responsibility an individual must operate at a certain standard and be equipped with sufficient training. There is an understanding that the responsibility of managing a property has ramifications for the tenants in the property, and that it is in the best interest of these vulnerable individuals that managers be held to a higher standard. We contest that these minimum standards should be the same regardless of whether the individual is managing a single property, as many owner-managers are, or have a professional portfolio of a hundred properties or more. The individual responsible for managing the property must still have the same level of understanding of legislation, appropriate conduct, financial compliance, and practical management of a tenanted property. The necessity for appropriate training in these areas does not diminish simply because it is not done as a profession – owner-managers are still conducting this activity for business purposes and have the same capacity to cause harm to their tenants.

Power imbalances are noted between vulnerable tenants and property managers, and we agree that these exist, especially within the current market pressures. We do not understand how this same rationale cannot be ascribed to owner-managed properties. A property manager must, if nothing else, answer to the company they work for in response to poor performance and non-compliance.

¹ Arnott, R. (1995). Time for revisionism on rent control? *Journal of economic perspectives*, 9(1), 115-118.

Such businesses have marketing and public perception reasons to respond to such complaints. Tenants in owner-managed properties have only the Tenancy Tribunal to contact if they feel their rights as a tenant have been breached or that conduct has been insufficient. This imbalance of power – to have no recourse for complaints save attending tribunal proceedings – is even greater than that of a tenant to a property manager when they can begin complaint proceedings with an email or call to a supervisor. Incorporating owner-managers into this regulatory framework would provide this avenue for complaint and rectification which is currently missing.

To appropriately capture the owner-managers within this regulatory framework, it would be necessary to construct, maintain and audit a register of these individuals. Owner-managers could either be incorporated into the proposed public register for individual property managers or placed in a separate list that could have separate requirements for details, as owner-managers do not have a related place of business. As for professional property managers, this would include their training qualifications and ensure the compliance of individuals to these new regulations. Tenants would be able to confirm on this public register that any new tenancy they enter in the owner-managed property sector was with a qualified, competent, and regulated individual. Wales, Scotland, and Ireland (references below) are among countries which have had a public ‘landlord’ register in place for a number of years². This is not an unprecedented step and would work well in concert with a regulatory framework that not only works to remove bad-faith actors from the industry, but also to ensure the improvement of industry standards through qualifications.

As for the points above, we strongly consider that management of properties by vetted, qualified, and regulated individuals will result in better outcomes for tenants. We anticipate that increased regulations will result in additional costs. Some property owners will pass this cost increase along to their tenants in the form of a rent increase, but there is also a set who will take the property back to manage themselves. This will result in fewer properties being under the care of professional management, and therefore outside the scope of the harm reduction effects this document discusses. Should owner-managers instead be subject to the same requirements as professional property managers, this will have no net effect on the number of tenants living within these harm-reducing parameters.

Recommendation Six: We support the expansion of this legislation to include individuals managing their own properties, and the creation and upkeep of a central owner-manager register.

Item Seven – The proposed training requirements for those managing properties are insufficient

This discussion paper lists a comprehensive but not exhaustive list of all of the responsibilities a residential property manager may be expected to perform. These responsibilities are critical for the effective, legal, and compliant management of any rental property. Further, they are as much for the protection of the tenant as they are for the owner in terms of appropriate management of funds, arranging of maintenance, and inspections. Alongside these responsibilities sit the soft-skills required to enact them.

Appropriate understanding of all of the elements of practical property management alone would require comprehensive training and mentorship. Property managers often act as advisors of relevant legislation for both property owners and tenants and require a working knowledge of these

² [Landlord registers](#)

Northern Ireland Direct Government Services (n.d.) *Landlord registration scheme*.

<https://www.nidirect.gov.uk/articles/landlord-registration-scheme>

Rent Smart Wales (n.d.) *Landlord Registration*. <https://www.rentsmart.gov.wales/en/landlord/landlord-registration/>

Scottish Government (n.d.). *Scottish Landlord Register*. <https://www.landlordregistrationscotland.gov.uk/>

Scottish Government (n.d.). *Scottish Landlord Register*. <https://www.landlordregistrationscotland.gov.uk/>

alongside skills to communicate and enact these would be a bare minimum for adequate service provision.

We would urge that any training or educational requirements be supported by both experts in qualification development and experts in the field. We suggest a minimum level 4 qualification would be appropriate to align with existing Real Estate qualifications.

Recommendation Seven: We recommend development of better understanding of what would be required in this space before denoting an actual time frame.

Submitter information

Te Tūāpapa Kura Kāinga would appreciate it if you would provide some information about yourself. If you choose to complete the section below it will be used to help us understand how different sectors view the proposals and options for the regulation of residential property managers. Any information you provide will be stored securely.

Your name, email address, phone number and organisation

Name: Nikki Hurst, Rachel Mackay & Hamish Jarvie

Email address: eo@nzccss.org.nz

Phone number: 027 458 7730

Organisation: The New Zealand Council of Christian Social Services

Are you making this submission on behalf of a business or organisation?

Yes

No

If yes, please provide a brief description of your organisation and its aims.

As noted above – member based organisation representing social service providers and those they serve.

A. The best way to describe you or your organisation is:

Property Owner and/or Landlord

Tenant

Property Manager

Other (please specify below)

Property Management Company

Prefer not to say

Please specify here.

Member based organisation representing social service providers and those they serve

B. If you are a property manager, are you a member of an industry body?

Yes

No

If you are, what industry body are you a member of?

- Real Estate Institute of New Zealand (REINZ)
- Property Managers Institute of New Zealand (PROMINZ)
- Residential Property Managers Association (RPMA)
- Other (please specify)

Privacy & Official Information

Privacy Act 2020

The Privacy Act 2020 establishes principles about the collection, use and disclosure of personal information. Te Tūāpapa Kura Kainga adheres to these principles thus any personal information you supply to us will only be used for the purpose of assisting in the development of policy advice in relation to the issues canvassed in the discussion paper.

- Please tick the box if you do not wish to have your name or other personal information to be included in any information about submissions we may publish.

Official Information Act 1982

While we are not proposing to publish the individual submissions we receive, they may be requested under the Official Information Act 1982. To assist us address any request we may receive under the Official Information Act, please respond to the following:

- I consent to my submission being released if requested under the Official Information Act.

- I consider my submission, or identifiable parts of my submission, should be withheld from release under the Official Information Act and have stated my reasons and the grounds that apply under section 9 of the Act for consideration by Te Tūāpapa Kura Kainga:

Reasons for Withholding Submission in whole or in part:

We will take any objection you may have into account and will consult with submitters when responding to requests under the Official Information Act.

Follow Up

Are you happy for Te Tūāpapa Kura Kāinga to contact you if we have questions about your submission?

- Yes No