



21.06.2016

Submission to the Parliament on the Healthy Homes Guarantee Bill (No. 2)

### Introduction

1. This submission, which supports this bill has been prepared by the Wellington Community Justice Project. Overall, the Wellington Community Justice Project supports the bill but stresses that several checks should be made.
2. The Wellington Community Justice Project (WCJP) ([www.wellingtoncjp.org](http://www.wellingtoncjp.org)) is a student-led organisation at Victoria University of Wellington. The project, formed in 2010, has twin aims: to improve access to justice and legal services in the community; and to provide law students with an opportunity to gain practical experience. It pursues these goals by establishing community-based volunteer projects and working with other organisations that have similar goals.
3. The research for this submission was carried out by students Julia McLean (LLB) and Rosie Argyle (LLB) as part of volunteer work for the project.

## ***I General Policy***

The WCJP believes there are strong policy reasons for supporting the Healthy Homes Guarantee (No. 2) Bill. Adequate housing standards have been a topical issue in New Zealand recently and pressure is growing for the state to intervene and regulate the landlord-tenant relationship. One such group of tenants who would benefit from this government intervention is the university student population. Students generally live in cheaply rented flats on short-term leases, making them vulnerable to exploitative landlords. The Bill could place controls and restrictions on the type of dwelling that is deemed fit to be rented out, and students would directly benefit from this.

In this year's Budget, the government decided to continue the funding of the Warm Up New Zealand Healthy Homes scheme, which gives landlords with low-income tenants, or tenants with health issues, access to insulation subsidies.<sup>1</sup> Insulation is an effective measure in reducing energy use through heating, and thus reducing power costs. Insulated homes have less mould, are warmer and drier overall. Therefore it is not surprising that households with insulation report fewer sick days off work or school.<sup>2</sup> The proven effectiveness of the Warm Up New Zealand Healthy Homes scheme shows that state involvement in regulating housing quality can be successful. Therefore the Healthy Homes Bill is a useful addition to the legislative agenda.

## ***II Tertiary Students are Vulnerable Tenants***

The median national rent for a standard three bedroom flat is \$450 per week.<sup>3</sup> In the main urban centres, where the universities are located, rents are usually higher. This means students are facing high prices for their accommodation. Students are competing with working professionals for accommodation in these desirable inner city suburbs, and the latter group have higher incomes, meaning students are left to choose from the lower

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<sup>1</sup> Hon. Bill English, Minister of Finance *Summary of Initiatives in Budget 2016* (26 May 2016) at 52.

<sup>2</sup> Philippa Howden-Chapman et al. "Effect of insulating existing houses on health inequality: cluster randomised study in the community" (2007) 334 *British Medical Journal* at 4 and 6.

<sup>3</sup> Ministry of Business, Innovation and Employment "Market Rent" <<https://www.tenancy.govt.nz/rent-bond-and-bills/market-rent/>>.

quality flats. Full-time students have limited opportunities to earn money outside their studying schedules, and this is worsened by the lasting impact of the economic recession on unemployment. The 2013 census showed that young adults in the 15-24 age group experienced a drop in average personal income and as well as a decrease in the rate of employment overall.<sup>4</sup> Therefore students with minimal personal income attempting to find a place to rent in the competitive market are at a disadvantage.

Furthermore, most university students are young and lack life experience, making them even more vulnerable to accepting substandard accommodation. Students who are living in rental accommodation for the first time do not have the benefit of previous renting experiences to compare their current accommodation to. Most students are experiencing independent living for the first time and may have previously relied on parents or other family members to advocate for their needs. Students can be easily overwhelmed by all these formal negotiations, and may lack a precise knowledge of their tenancy rights. Their haste to find a place to live before the start of the academic year means they may be less discriminating when accepting a lease.<sup>5</sup> Students might take on a flat which appears acceptable at the beginning of the year in summer, only to realise it has inadequate heating and insulation in the depths of winter. Clause 4 of the Bill suggests every tenancy agreement include a statement verifying whether the premises meet the minimum standards set by the MBIE.<sup>6</sup> Including this type of statement would make understanding a tenancy agreement easier for students, and could warn them away from a flat they might not otherwise realise is substandard.

Students can also face difficulties asserting their rights against a landlord. The Victoria University of Wellington Students Association (VUWSA) cites the “power imbalance” between student tenants and their landlord as a major factor dissuading disgruntled students with legitimate claims from applying to the Tenancy Tribunal.<sup>7</sup> Students fear conflict with a landlord could escalate into eviction which would make it difficult to be

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<sup>4</sup> Statistics New Zealand *2013 Census QuickStats About Income* (September 2014) at 19.

<sup>5</sup> Matt Stewart “Wellington students ‘at mercy of price gougers’ in desperate hunt for flats” *Stuff* (New Zealand, 16 February 2016).

<sup>6</sup> Healthy Homes Guarantee (No 2) Bill (109-3), cl 4.

<sup>7</sup> VUWSA “Students tell Parliament about their mouldy flats” (10 February 2016) <[www.vuwsa.org.nz](http://www.vuwsa.org.nz)>.

accepted for other leases. The Tenancy Tribunal itself can be an intimidating institution to approach, particularly if students feel ignorant about their legal rights. If students are not able to access support from places such as the Citizens Advice Bureau, then the cost of legal advice can be prohibitive. Going through the process of applying and waiting for a hearing can be time-consuming and emotionally fraught. Even if the Tribunal rules in favour of the applicant, as most students move flats every year they may no longer be tenants by the time any mandatory improvements are implemented.<sup>8</sup> For many students, the Tenancy Tribunal is not an effective or accessible solution.

### ***III Housing and Student Mental Health***

Entering higher education entails significant changes in a young person's life. Studying towards a tertiary qualification can be stressful, due to the financial pressures discussed earlier, but also because many students are adapting to independent living away from family support, developing new social networks, and often encountering alcohol and drugs, while balancing heavy academic workloads in an intellectually competitive environment. The new expectations and roles required of a student create new pressures. All these factors can predispose students to risk of mental health issues.<sup>9</sup> According to a survey conducted by VUWSA in 2013, one in five students at Victoria University reported developing a mental health condition since their arrival at university.<sup>10</sup> The New Zealand Union of Students' Associations accessed the data of counselling services at universities and found a 21% increase since 2009 in the number of students seeking counselling support.<sup>11</sup> The fact that such a sharp increase has occurred since 2009, when the effects of the economic recession were beginning to be felt, suggests that students' poor mental health is linked to financial hardship.

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<sup>8</sup> VUWSA "Submission to the Social Services Select Committee on the Residential Tenancies Amendment Bill 2015" at 10.2.

<sup>9</sup> Azadeh Sayarifard and Elaheh Sayarifard "Identifying and Ranking the Factors Affecting University Students' Mental Health" (2013) 5 *Current Research Journal of Biological Sciences* 168 at 168.

<sup>10</sup> Sofia Roberts "Salient Recaps: Mental Health Awareness Week" *Salient* (online ed, Wellington, 14 October 2013).

<sup>11</sup> The New Zealand Union of Students' Associations (NZUSA) *Income and Expenditure Survey 2014* at 21.

Quality of housing is a factor that can contribute to a student's mental health and wellbeing. Money spent on high rent prices means there is less money left for the power bill.<sup>12</sup> Attempting to heat a flat with little to no insulation can be futile, especially when trying to maintain a comfortable indoor temperature in winter. Many students will opt not to use a heater at all. Those who do decide to pay for heating have less money to spend on food needed for a healthy diet, as well as money for entertainment and personal items.<sup>13</sup> This combination of financial hardship in an unhealthy living environment is not conducive to robust mental health. Students are very mobile as tenants, as it is the norm to change flats yearly as social groups disperse and short-term leases expire.<sup>14</sup> This pressure to find a new flat every year that is both affordable and comfortable to live in can be a significant source of stress. Studies have shown that uncertainty over housing can exacerbate existing mental health conditions.<sup>15</sup> By implementing the Bill and putting an obligation on landlords to provide quality rental accommodation, the government would help reduce the current pressure on students to find affordable, healthy housing.

Finally, While the gaining of a tertiary qualification results in more career opportunities, higher income and a sense of personal achievement, it is clear that students are exposed to significant mental health risks while undertaking study. Conditions such as anxiety and depression affect students' productivity. Vulnerable students with mental health issues are less likely to complete a qualification.<sup>16</sup> As the government subsidises tertiary education, it is in the interest of the taxpayer that as many students as possible complete their studies and transition into the skilled workforce. According to the Mental Health Foundation, mental health disorders, as a group, are the third leading health problem in New Zealand, behind cancer and vascular and blood conditions.<sup>17</sup> This puts pressure on the public health system, as the District Health Boards are the main provider of services

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<sup>12</sup> At 4.

<sup>13</sup> At 6.

<sup>14</sup> Rebecca Williamson "Flatting Futures: Negotiating Domesticity, Home and Individuality in the New Zealand Flat" (MA Thesis, Victoria University of Wellington, 2006) at 8.

<sup>15</sup> Mental Health Network NHS Confederation "Housing and Mental Health" (December 2011) <<http://www.nhsconfed.org/>>.

<sup>16</sup> Doris Iarovici *Mental Health Issues and the University Student* (Johns Hopkins University Press, Baltimore, 2014) at 7.

<sup>17</sup> Mental Health Foundation of New Zealand *Quick Facts and Stats 2014* (2014) <<http://www.mentalhealth.org.nz/>> at 1.

to New Zealanders suffering from mental health conditions.<sup>18</sup> It is becoming more likely that students who do manage to graduate into the workforce will be hampered with anxiety and depressive disorders which manifested during study, and will therefore be less productive as employees. There is a long-term benefit for the economy and the public health system if students are given adequate support to reduce mental health stressors, and this includes providing quality housing.

#### ***IV Rental prices***

It is essential that this Bill does not raise the cost of rental housing for students. We believe this Bill should be about enabling all New Zealanders to live in a healthy home. There needs to be adequate government support for both tenants and landlords to ensure effective implementation of the proposed Bill: a Bill that will aid New Zealanders' ability to live in a warm home and not take that dream further out of reach.

New Zealand, compared with other rich OECD countries, has relatively high rental costs and demand for rental housing, but relatively low standards of housing.<sup>19</sup> Present housing standards for existing dwellings have origins in the policy discussions of the 1930s and 1940s.<sup>20</sup> Consequently, minimal housing regulations coupled with the popularity of weatherboard-style housing, low expenditure on housing maintenance, and inadequate

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<sup>18</sup> At 2.

<sup>19</sup> Bonnie White *A Warrant of Fitness to Improve Housing Quality for Child Safety* (Department of Preventive & Social Medicine, University of Otago, March 2013) <<http://ipru3.otago.ac.nz/ipru/ReportsPDFs/Housing%20WOF%20Final%20Report%2018%20March%202013.pdf>> at 19.

<sup>20</sup> Sarah Bierre, Philippa Howden-Chapman, Louise Signal and Chris Cunningham "Institutional challenges in addressing healthy low-cost housing for all: learning from past policy" (2007) 30 *Social Policy Journal of New Zealand* 41 at 42.

provision for energy-efficient heating suggest that there is a desperate need for the standard of housing to be raised to ensure New Zealand homes are livable.<sup>21</sup>

### ***A. Potential Rental Cost Rise***

The New Zealand Property Investors Federation (NZPIF) states that:<sup>22</sup>

“...imposing minimum standards and regulations could actually make peoples' lives worse. This [Bill] could result in increased rental prices making it harder for tenants to turn on their heaters, for example, and achieve a reasonable standard of living.”

A further concern is that the cost of meeting the standards in the Bill may prevent landlords from purchasing rental housing, putting further pressure on the already overloaded rental market.<sup>23</sup>

However NZPIF concerns contradict the findings of a 2014 He Kainga Oranga Housing Warrant of Fitness survey. Despite the fact that 136 out of 144 Homes failed the Warrant of Fitness test, only twelve percent of the private landlords interviewed stated they would put up the rent as a result of improvements made.<sup>24</sup> The NZPIF also states that an insulation installer at a recent Select Committee hearing confirmed that the cost of ensuring an average rental property meet the proposed standards would be between \$2,500 and \$3,000.<sup>25</sup> If we assume that landlords are making on average approximately

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<sup>21</sup> Bierre, Howden-Chapman, Signal and Cunningham, above n 2, at 42.

<sup>22</sup> New Zealand Property Investors Federation “Target those in real need” (media release, 23 March 2015) <<http://www.nzpif.org.nz/news/view/57006>>.

<sup>23</sup> White, above n 1, at 45.

<sup>24</sup> He Kainga Oranga, Housing and Health *Results from Rental Housing Warrant of Fitness Pre-Test* (May 2014)

<[http://www.healthyhousing.org.nz/wpcontent/uploads/2012/03/Results\\_from\\_a\\_Rental\\_Housing\\_WOF\\_PreTest\\_May\\_2014.pdf](http://www.healthyhousing.org.nz/wpcontent/uploads/2012/03/Results_from_a_Rental_Housing_WOF_PreTest_May_2014.pdf)> at 6.

<sup>25</sup> New Zealand Property Investors Federation “Minimum standards good for tenants” (media release, 3 May 2016) <<http://www.nzpif.org.nz/news/view/57937>>.

\$900 dollars a fortnight from a property, this does not appear a significant cost for the long term benefits of insulation.<sup>26</sup>

Unlike the landlords in the He Kainga Oranga survey, as evidenced by many of our personal experiences, we aver that some landlords do not have the tenant's best interests in mind. The NZPIF and other independent landlords have raised concerns of an inevitable rise in rental costs as a result of the Bill. To prevent these landlord concerns from coming to fruition, adequate government support for students, families and landlords must be made available to make this Bill worthwhile.

### ***B. The need to keep rental costs down***

A 2014 Income and Expenditure Survey by the New Zealand Union of Students Associations made some shocking findings. The average rental price per person for a 3-bedroom flat in Auckland is \$218, however, the maximum weekly student loan payment available is just over \$176.<sup>27</sup> This is because although in Auckland the average rent has increased by \$50 in the last 5 years, the weekly loan payment has increased by only \$15 in the same period.<sup>28</sup> Nationally, the average student will use at least two-thirds of their loan payment, if not all of it, on rent alone.<sup>29</sup> Consequently, the average student is in significant financial distress, with 44% unable to afford all of their basic needs.<sup>30</sup> On top of this, the fight to find a flat is becoming so competitive that landlords are able to

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<sup>26</sup> Ministry of Business Innovation and Employment “Renting a House” (2016) *New Zealand Now* <<https://www.newzealandnow.govt.nz/living-in-nz/housing/renting-a-property>>

<sup>27</sup> The NZ Union of Students Association *Income and Expenditure Survey 2014* (2014) <[https://d3n8a8pro7vhnmx.cloudfront.net/students/pages/194/attachments/original/1439389138/NZUSA\\_Tertiary\\_Student\\_Income\\_and\\_Expenditure\\_Survey\\_2014.pdf?1439389138](https://d3n8a8pro7vhnmx.cloudfront.net/students/pages/194/attachments/original/1439389138/NZUSA_Tertiary_Student_Income_and_Expenditure_Survey_2014.pdf?1439389138)> at 19.

<sup>28</sup> The NZ Union of Students Association “Housing Crisis hitting Students” (media release, 10 February 2015) <[http://www.students.org.nz/housing\\_crisis\\_hitting\\_students](http://www.students.org.nz/housing_crisis_hitting_students)>.

<sup>29</sup> NZ Union of Students Association *Income and Expenditure Survey 2014*, above n 8, at 4.

<sup>30</sup> NZ Union of Students Association *Income and Expenditure Survey 2014*, above n 8, at 11.

instigate bidding wars, asking up to \$40 over the original asking price to take advantage of students desperate for somewhere to live.<sup>31</sup> The current loan payments of \$176 a week are not enough to live on. Government support is essential to ensure students can afford any raise in rental costs that result from implementing changes prescribed in the Bill.

### ***C. Suggestions for Keeping cost down***

#### ***1. Support for Landlords***

Support for landlords to meet the requirements of the Bill are necessary. Where a house is run-down but the land value is high,(e.g. downtown Wellington, North Dunedin, central Auckland) there is little incentive for landlords to upgrade their rental properties, because it does not improve their capital gain.<sup>32</sup> Furthermore, Students will often settle for substandard housing if they are able to pay a lower rent. Without the regulations in the proposed Bill, landlords are unlikely to cease taking advantage of desperate students as there are few incentives for them to improve housing quality.<sup>33</sup>

In order to support landlords in making the required changes, a government subsidy for landlords to reach the standards, for instance to purchase heat-pumps or for implementing energy efficient measures may be necessary. Another suggestion has been favourable tax treatment of any required improvements.<sup>34</sup>

Costs to landlords of any potential improvements to housing quality need to be weighted against the benefits to landlords of more desirable housing resulting in more stable long-

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<sup>31</sup> Alex Ashton “Wellington students fight to find flats” (5 March 2015) *Radio NZ* <<http://www.radionz.co.nz/news/regional/267794/students-fight-to-find-flats>>.

<sup>32</sup> White, above n 1, at 46.

<sup>33</sup> White, above n 1, at 46.

<sup>34</sup> Philippa Howden-Chapman, Michael G. Baker and Sarah Bierre “The Houses Children Live In: Policies to improve housing quality” (2013) 9 *Policy Quarterly* 35 at 37.

term tenancies in which tenants are healthy enough to spend their money on rent instead of hospital bills.<sup>35</sup>

## **2. *Support for Tenants***

A further concern raised is that even when landlords provide sufficient heating to homes, tenants cannot afford to turn their power on. The NZPIF has suggested that tenants who cannot afford to turn their electricity on should be provided with electricity vouchers.<sup>36</sup>

An Otago Medical School study says the Government saves \$4 for every \$1 spent on heating and insulation for low income households.<sup>37</sup> The cost of implementing such subsidies and support should be weighted against the suggested economic benefit of decreased hospital admission from damp related illness. Additionally, due to mould being identified as a prominent issue in student flats, we believe there should be an explicit provision in the Bill that landlords must take action to prevent or eradicate mould in their properties. If rental costs are to rise, the government should provide support for tenants to meet these costs.

## **3. *Education for tenants and landlords***

A concerning comment was made by NZPIF president Andrew King who stated that landlords would need to really educate themselves about the contents of the Residential Tenancies Act.<sup>38</sup> This suggests Landlords are currently unaware of their obligations and

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<sup>35</sup> Tenancy Services “Heating and Ventilation” (2015) *Tenancy Services* <<https://www.tenancy.govt.nz/maintenance-and-inspections/heating-and-ventilation/>>.

<sup>36</sup> New Zealand Property Investors Federation “Compulsory heating and insulation in rentals is not the answer” (media release, 3 May 2016) <<http://www.nzpif.org.nz/news/view/57876>>.

<sup>37</sup> New Zealand Property Investors Federation “Target those in real need” above n 4.

<sup>38</sup> The New Zealand Property Investors Federation “Investors see benefit in rental improvements” (media release, 9 July 2015) <<http://www.nzpif.org.nz/news/view/57302>>.

this may be exacerbated if this Bill comes into practice.<sup>39</sup> The government needs to ensure landlords understand their obligations under the Bill and have the resources available to implement the Bill effectively. This may include information as to the most efficient ways to heat the home that will save tenants money. This education can ensure both financial benefits for the tenant (in decreased electricity bills) and landlord (tenants more likely to rent properties with energy efficient heating) and also the environmental benefits of energy efficiency.

Members of the NZPIF state tenants are often not using any heating supplied and are inadvertently making their properties harder to heat by not opening curtains during the day to let sunlight heat their home, drying clothes inside and using unflued portable gas heaters.<sup>40</sup> This suggests there is also a need to educate tenants as to efficient ways to heat their properties.

Furthermore, complaints based systems have been shown to be ineffective.<sup>41</sup> Students are often unaware of their rights and due to short tenancies will often put up with bad situations as time constraints and the need for a good reference, prevent any action being particularly worthwhile.<sup>42</sup> Therefore there is a need for programmes to ensure tenants have the education and legal support to hold their landlords to account, without fear of a bad reference.

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<sup>39</sup> The New Zealand Property Investors Federation “Investors see benefit in rental improvements”, above n 19.

<sup>40</sup> The New Zealand Property Investors Federation “The complete answer for warm dry homes” (media release, 27 January 2016) <<http://www.nzpif.org.nz/news/view/57698>>.

<sup>41</sup> White, above n 1, at 24.

<sup>42</sup> Bierre, Howden-Chapman, Signal and Cunningham, above n 2, at 47.

#### ***4. The 5-year implementation plan***

The Bill states that the proposed standards must be set within 6 months of the Bill coming into effect, and then new leases that are in existence 12 months after the legislation comes into effect will have to comply with the standards that have been promulgated. Then, 5 years after the legislation comes into effect, every lease would have to comply. We believe that with the aforementioned government support for landlords and tenants this goal is achievable.

In an ideal world, all landlords would be like the 88 per cent of landlords in the 2014 He Kainga Oranga survey and would refrain from raising rental costs in order to provide their tenants with healthy housing. However, as many students' experience, landlords are seldom this reasonable. The competitive rental market at the moment leaves students with significant financial restraints, no choice but to settle for substandard housing. A culture has been created where it is completely normal to have a cold, mouldy, damp home because that is all students can afford.

What follows is a personal account of a second-year student at Victoria University.

“I live in Kelburn where the average rental cost per week is \$603.<sup>43</sup> I receive the maximum weekly loan payment of \$176 and pay \$185 a week for a cold room in a damp flat, and my flat is considered one of the nicer flats in Wellington. I work 15 - 20 hours a week to ensure I can afford food and electricity to live in this sub-standard flat so I can continue my university education. I go home over the summer and work full-time and yet am still faced with potentially being one of

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<sup>43</sup> Mava Moayyed “The Great Flat Hunt: Finding a place to call home” (3 February 2015) The Wireless <<http://thewireless.co.nz/articles/the-great-flat-hunt-finding-a-place-to-call-home>>.

the one in 14 students with a student loan of over 70,000 (of which 25% of those students will never pay off).”<sup>44</sup>

According to the 2014 NZUSA survey, that account epitomises the average university student and the WCJP is submitting to the Select Committee on the Healthy Homes Guarantee Bill because we want to help fellow students to have livable homes whilst studying. The current government seems intent on imposing a lifetime of financial struggle on students and there is a need for this Bill to ensure this struggle is not further exacerbated.

Students should not have to fall victim to greedy landlords providing substandard housing. Landlords should be provided with subsidies and support to make the changes under the Bill and tenants should be entitled to receive financial support to turn their electricity on and seek legal action against non compliant landlords. Both tenants and landlords should also receive education and resources with regard to energy efficiency and their rights under the proposed Bill. These costs can be met with the suggested savings to society of reduced medical costs from damp related illness, and in the future economic benefit of current students having the money later in life to contribute to the housing market and economy.

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<sup>44</sup> NZ Union of Students Association *Income and Expenditure Survey 2014*, above n 8, at 14.