

**Submission to:**

Government Administration Select Committee

23 June 2016

Subject:

Healthy Homes Guarantee Bill (No 2)

We wish to appear before the Committee to speak to our submission.

Contact Person:

Lisbeth Gronbaek

Ph 04 382 8759

Background

Citizens Advice Bureau New Zealand (CABNZ) Ngā Pou Whakawhirinaki o Aotearoa welcomes the opportunity to comment on the Healthy Homes Guarantee Bill (No 2)

The purpose of our organisation is to:

1. Ensure that individuals do not suffer through ignorance of their rights and responsibilities or of the services available; or through an inability to express their needs effectively — Me noho matāra kia kua te tangata e mate i tāna kore mōhio ki ngā āhuatanga e āhei atu ana ia, ki ngā mahi rānei e tika ana kia mahia e ia, ki ngā ratonga rānei e āhei atu ana ia; i te kore rānei āna e āhei ki te whakaputu i āna hiahia kia mārama mai ai te tangata.
- Exert a responsible influence on the development of social policies and services, both locally and nationally — Kia tino whai wāhi atu ki te auahatanga o ngā kaupapa-ā-iwi me ngā ratonga-ā-rohe, puta noa hoki i te motu.

We support the principle of partnership reflected in the Treaty of Waitangi. E tautoko ana Ngā Pou Whakawhirinaki o Aotearoa i te mātāpono o te pātuitanga e ai ki Te Tiriti o Waitangi.

We work to empower individuals to resolve their problems and to strengthen communities. The person-to-person service provided by over 2,400 Citizens Advice Bureau (CAB) volunteers is unique in New Zealand. From 83 locations around New Zealand, the CAB provides individuals with a free, impartial and confidential service of information, advice, advocacy and referral. In the 2014/2015 financial year we had 530,000 interactions with clients, including over 200,000 in-depth enquiries where we offered information, advice and support across the gamut of issues that affect people in their daily lives.



We use our experience with clients to seek socially just policies and services in Aotearoa New Zealand.

This submission restates many of the points we made earlier this year in response to the Residential Tenancies Amendment Bill. The measures introduced by that bill go some way towards giving tenants safer and warmer homes, but we believe more still needs to be done.

We urge the Committee to use the Healthy Homes Guarantee Bill as a fresh opportunity to make long-overdue improvements to living conditions and security of tenure for the growing number of renters in New Zealand.

1.0 Increase in CAB enquiries relating to renting situations

- 1 From 1 July 2010 to 1 June 2016, bureaux received almost 70,000 enquiries relating to renting situations. Most of these enquiries were from tenants.
- 2 Over the same time period, the number of enquiries about renting increased by 40%, much more than the 5% increase in enquiries overall.

2.0 Good quality housing and secure tenancies - cornerstones of a fair and well-balanced rental market

- 3 Around half of our population now lives in rented accommodation. This makes it all the more important to have rental housing that is in good condition, and a renting culture that supports an even balance of rights and responsibilities between landlord and tenant.
- 4 Citizens Advice Bureau New Zealand regards good quality rental housing and security of tenure as cornerstones of a fair and well-balanced rental market. They are also essential to good public health. If we can't offer these to renters, we compromise the wellbeing of individuals and communities.
- 5 Inhabitants of housing that is cold and damp are more likely to suffer from ill-health,¹ and therefore less likely to be able to participate fully at school, at work or in the community. When people live in conditions that are injurious to health, the losses and the costs to society go far beyond the immediate effect on the individual.
- 6 At the same time, just as occupants suffer when homes are poorly maintained, so does our much-needed housing stock. We risk diminishing the quality of this valuable national resource (whether it be publicly or privately owned) if we allow it to deteriorate through exposure to dampness and mould.
- 7 Insecurity of tenure, too, takes a toll on individuals and communities. If you are in a periodic tenancy you can be asked to leave with as little as 42 days' notice. This makes it less likely that you will feel inclined to connect with and contribute to the community in which you reside.

¹ *Home Truths: confronting New Zealand's housing crisis*. Philippa Howden-Chapman, BWB Texts 2015 p.71ff

- 8 Being issued with a 42-day notice only gives you six weeks to find a new place to live and to make the necessary adjustments to other aspects of life such as school or work. We see clients who are extremely distressed, and stressed, by the disruption and uncertainty this creates. This is why we are asking for the removal from the Act of the provisions which currently permit a landlord to issue a 42-day notice of termination under certain circumstances.
- 9 Adding to insecurity of tenure, and tipping the balance of power well away from the tenant, is the lack of affordable rental housing in some areas. This makes it less likely that landlords will strive to retain tenants and less likely that tenants will feel confident to take action against a landlord who is in breach of the Residential Tenancies Act.
- 10 For all these reasons, Citizens Advice Bureau New Zealand believes we need to take bold steps to improve the quality of rental housing in New Zealand and to increase stability and security for tenants.

3.0 Need for high standards and active enforcement

- 11 CABs across the country receive a regular stream of enquiries from people who are struggling to cope with living in rented accommodation that is cold, damp and mouldy. Even when tenants (adults as well as children) become ill as a consequence of the condition of the property they are renting, landlords can be reluctant to take decisive action. Instead, tenants can be told to do things like run a dehumidifier, keep the windows open, wipe up condensation, clean off mould every time it reappears. Sometimes, adding insult to injury, a landlord will go so far as to threaten to take action against the tenant as a result of the damage caused by mould or damp.
 - *Client was renting a property which had very damp, mouldy rooms. As a result, the whole family ended up sleeping in the lounge.*
 - *Client had to leave her flat as it was mouldy and she was feeling sick all the time.*
 - *Property manager told client that if she didn't get rid of the mould in her rental she would be taken to Court. Client had tried to remove the mould but it kept coming back.*
 - *The house client is renting has mould on the walls by the windows. Landlord has suggested tenant wipe down the walls and sills to get rid of the condensation and has said that if the problem persists the tenant can paint the walls.*
 - *Client is renting a property which is very damp, with lots of condensation running down the windows even in summertime. Landlord has been spoken to about this situation but done nothing. Tenants are afraid they will lose their bond when they move out as the carpet now seems to be growing mould as a result of the dampness.*
 - *Client and his young family have moved into a rental property which was in a very poor condition including mould and walls needing painting. The condition of the property was unacceptable to the client but they were desperate for somewhere to live.*

- 12 It is totally unacceptable for properties that are not dry, warm and safe to be offered for rent. This needs to change.
- 13 Our organisation believes that a mandatory, comprehensive ‘warrant of fitness’ regime is the best way to improve the health of rental homes and their occupants. This would involve agreeing on high standards of fitness for habitation, ensuring these standards are easy to access and apply, and establishing a system of universal monitoring and enforcement by an agency independent of tenants and landlords.

High standards of fitness for habitation

- 14 This Bill proposes that the Ministry of Business, Innovation, and Employment be empowered to set standards that describe what constitutes adequate methods of heating, insulation, indoor temperatures, ventilation, draught stopping and drainage and give guidance on how to measure adequacy.
- 15 We support this approach, provided that the standards the Ministry sets are high enough to ensure that properties offered for rent are not just habitable but healthy.
- 16 For example, we think it particularly important to upgrade the standards relating to sources of heating in rental homes. The Housing Improvement Regulations 1947 set the current standard. They state that “Every living room shall be fitted with a fireplace and chimney or other approved form of heating.” (Regulation 6). That was a perfectly acceptable minimum standard in 1947, but today, almost seventy years on, we can do much better.
- 17 CABs see tenants who are renting properties where the heat source is malfunctioning, or where, despite the current regulations, there is no heat source at all.
 - *Client is renting a house where the open fire is not working properly. The agent is not responding to the client’s calls.*
 - *Client from the South Island is living in rented accommodation where there is no heating. The fireplace has been removed.*
 - *Client renting a cold house where the heat pump was not working correctly. This had resulted in large power bills. Client had the heat pump checked and was told that it was too old and new unit was needed. Landlord wanted to replace it with another old unit instead. Client worried that this would not change anything.*
- 18 Given the significant health benefits of living in warm and dry conditions, and given the range of heating options on the market today, we believe it is both reasonable and necessary to make it mandatory for all properties offered for rent to have an efficient and properly-functioning source of fixed heating. Provided properties are also draught-proof and well-insulated, this should increase the likelihood of tenants being able to affordably maintain a healthy indoor temperature in their rented home.

Standards to be easy to access and apply

- 19 Certain key requirements relating to habitability of rental homes are stated in very general terms in the Residential Tenancies Act:

45 Landlord's responsibilities

(1) The landlord shall—

- (a) provide the premises in a reasonable state of cleanliness; and
- (b) provide and maintain the premises in a reasonable state of repair having regard to the age and character of the premises and the period during which the premises are likely to remain habitable and available for residential purposes; and
- (c) comply with all requirements in respect of buildings, health, and safety under any enactment so far as they apply to the premises;

- 20 The terms 'reasonable state of cleanliness' and 'reasonable state of repair' provide absolutely no guidance to landlords about the standard they are expected to meet. This makes it harder for landlords to be sure they are doing the right thing, harder for tenants to challenge a landlord about the state of a property, and more likely that disagreements about the state of cleanliness and repair will end up before the Tenancy Tribunal.
- 21 We believe it is time to be much more specific about standards of cleanliness and repair for properties that are being offered for rent. We therefore propose that a clause be added to this Bill to require the Ministry of Business, Innovation, and Employment to provide guidance on standards of cleanliness and general repair.
- 22 With regard to 45(1)(c), tenants or landlords who want more clarity about their rights and obligations will not necessarily be aware that the other enactments referred to include the Health Act 1956, the Building Act 2004 and the Housing Improvement Regulations 1947. The fact that habitability requirements are spread across multiple legislative instruments is, once again, extremely unhelpful. It makes it harder for landlords to work out what their obligations are, and harder for tenants to be fully informed about their rights under the law.
- 23 The new section 132A proposed by this Bill would have the advantage of bringing key provisions relating to habitability under one piece of legislation.

Universal monitoring and enforcement by an independent agency

- 24 However, the Bill does nothing to address the problem of enforcement of standards. The existing system relies on tenants to take action if the property they are renting is in poor condition or unsafe. This means first complaining to the landlord - but, as we have already indicated, it is not unusual for a tenant's concerns to fall on deaf ears:
- *Client and his children are living in rented accommodation where the ceilings are leaking badly. They are sleeping in the lounge. Client has been in contact with the landlord who refuses to do anything about it.*

- *Client was living in rented accommodation where the carpet is full of moth larvae and there is a cockroach infestation. Landlord was not responding to requests to take action.*
- *Client is living in a rented property which has blocked drains, a faulty ventilation system and is cold and damp. Client's children are becoming ill, and client is finding it very stressful knowing that the house is an unhealthy place for children to live. Wants to know how to get the landlord to do the necessary maintenance.*
- *Client's landlord was refusing to respond to the tenant's concerns about the condition of the property. Problems included appliances not working, windows not able to be closed and an unsafe driveway.*

25 Next steps involve tenants issuing a notice to remedy, and, if this fails, complaining to the Tenancy Tribunal. Not all tenants have the confidence, time and energy to go this far. Some also fear retribution from the landlord as a result. It is not uncommon for CAB volunteers to hear clients say they are afraid they will lose their tenancy if they make demands of their landlord or complain.

26 We see cases where tenants who have complained to their landlord are suddenly served with a 42-day notice on the basis that the landlord or a family member wishes to move into the property. It is impossible to know whether these are retaliatory terminations, but doing away with the 42-day notice option (as we propose below) would ensure that this provision could not be used in retaliation.

27 What we need is a system of universal monitoring and enforcement, carried out by a 'neutral' agency. This will ensure maximum compliance with improved standards of fitness for habitation and reduce the risk of putting pressure on landlord/tenant relationships as these new standards are met. We recommend that the Healthy Homes Guarantee Bill be amended to establish such a system.

4.0 More stability and security for tenants

28 CAB client enquiries reveal insecurity of tenure to be a significant issue and we see this Bill as an opportunity to make one small change to begin to address this.

29 The change we are proposing is the simple removal of the option for a landlord to give a tenant 42 days' notice under certain circumstances. This would make 90 days the minimum period of notice required to be given by a landlord to terminate a tenancy by notice under section 51 of the Act. Currently s.51 reads as follows:

51 Termination by notice

(1) Subject to sections 52, 53, 53A, 59, and 59A, the minimum period of notice required to be given by a landlord to terminate a tenancy shall be as follows:

(a) where the owner of the premises requires the premises as the principal place of residence for the owner or any member of that owner's family, 42 days:

(b) where the landlord customarily uses the premises, or has acquired the premises, for occupation by employees of

the landlord, that fact being clearly stated in the tenancy agreement, and the premises are required for occupation by such an employee, 42 days:

(c) where the owner is required, under an unconditional agreement for the sale of the premises, to give the purchaser vacant possession, 42 days:

(d) in any other case, 90 days.

30 We are proposing that s.51 be amended to read:

51 Termination by notice

(1) Subject to sections 52, 53, 53A, 59, and 59A, the minimum period of notice required to be given by a landlord to terminate a tenancy shall be 90 days

31 This observation from a CAB sums up the main reasons we are suggesting the removal of the 42-day notice period:

- *Security of tenure for people renting is problematic. People can be given 6 weeks' notice, and within a few months in a new place this can be repeated. The consequences of repeated moves can be serious for children. They can be lost to agencies who are working with the family, their schooling is disrupted, and their health and wellbeing can suffer.*

32 Being issued with a 42-day notice only gives you six weeks to find a new place to live and to make the necessary adjustments to other aspects of life such as school or work. This can be distressing and disruptive:

- *Client and her partner have just been given 42 days' notice. Client's partner is seriously ill and undergoing treatment. This would make moving extremely difficult and stressful.*
- *Elderly client has been given a 90-day notice to quit her tenancy but has been told by her landlord that if the house is sold unconditionally she will only have 42 days to move. She wants to know if this is allowed.*
- *Client has been informed that the landlord wishes to move back in to the property they have been renting for under a year. Client had been hoping to stay there for much longer and is very upset.*
- *Client has received notice to leave her rental property within 42 days as it had suddenly been sold. She was not aware that it had been on the market and considered this to be very unfair. She had many other commitments and expenses to meet and would now also have to move.*

33 Where the tenancy is new, 42 days' notice puts the tenant in a prolonged state of insecurity and flux.

- *Client has been in a rental property for 5 weeks, but has been given 42 days' notice because the owners want to move into the property. She was very upset and wanted to know if this was correct.*



- *Client has rented a house for about 4 weeks now and has been given 42 days' notice. He wonders if this is right.*
- 34 Conversely, where people have been in a tenancy for years, 42 days is not long to uproot and move:
- *Client has lived in the same property for almost ten years. Now has to leave as the landlord wishes to let it to family.*
 - *Clients have been renting the same place for a number of years and have made many small improvements to the property. They have now been informed that they will have to move as the property is being sold.*
- 35 Moreover, in the current market it can be impossible to find another affordable rental within 90 days, let alone 42. This means that people who were perfectly adequately housed before the notice was issued can suddenly find themselves worrying that they may be facing homelessness:
- *Family has been given 42 days' notice to vacate property and are struggling to find another place despite that fact that they have good references and have been stable tenants for over 5 years. Agents are saying there is a shortage of good rentals in their area at present.*
 - *Client has been given 42 days' notice by their landlord as family wanted to move into house. He is worried that he may not be able to afford the bond for a new rental property.*
 - *Client is enquiring on behalf of an elderly friend who has been given notice that her tenancy will end in 42 days. She is wondering where her friend will find a new home at an affordable rent.*
- 36 We want renters in this country to experience more security, less disruption and more certainty. Removing the option for landlords to give 42-days' notice would be a small but significant step in this direction.

Once again, Citizens Advice Bureau New Zealand urges the Committee to take this opportunity to further improve living conditions, and security of tenure, for the growing number of renters in New Zealand.

Do not hesitate to contact me if you have any questions, or want any clarification about our submission.

Yours sincerely

Lisbeth Gronbaek
Policy Advisor