

# Guidance on Transitional Accommodation Occupation Agreements

15 May 2018

Community Housing Aotearoa is pleased to announce the release of [Guidance on Transitional Accommodation Occupation Agreements](#). This is in response to requests from members and other providers for assistance following the rapid growth in the emergency housing sector. CHA carried out a review of the occupancy and tenancy agreements used by Emergency and Transitional Housing providers to support the development of best practice. We will soon be releasing a model tenancy agreement incorporating this guidance and legal advice.

New funding for emergency accommodation started under the previous Government resulting in a surge of new providers. Whilst under the current MSD contracting framework there are requirements related to the administration of contracted services, much of the day-to-day practice including the form and content of occupation and tenancy agreements is at the discretion of each provider. This resulted in wide variation in the agreements used.

To inform our work, we requested and received documents used by providers. We reviewed these agreements currently in use, identified the key elements of current practice and the operational requirements of MSD and providers.

We then obtained an independent legal opinion from the law firm DLA Piper. The advice indicated that it is almost certain that **the Residential Tenancies Act 1986 (RTA) governs all Transitional Housing tenancies**. DLA Piper identified three main types of tenancies under the RTA that may apply:

1. Boarding house tenancies;
2. Short fixed-term tenancies; and
3. Residential tenancies under the RTA – either fixed-term tenancies of more than 90 days or periodic tenancies.

Based on this advice we developed a discussion paper and ran workshops in Christchurch (April) and Auckland (May) to test our findings and assess whether the guidance we developed is helpful to providers.

Based on the review and the workshops we finalised the Guidance Note (attached) outlining the legal status of Emergency/Transitional housing and explaining the good practice elements that we identified. We have also developed a model tenancy agreement for Transitional Accommodation Providers that incorporates all the hallmarks of best practice whilst being legally correct, which we will circulate once it has been reviewed.

We will also use the information we have gathered to inform a submission to the Government's upcoming review of the Residential Tenancies Act. Based on the what we have learned, we do not feel that the Act currently meets the needs of Emergency/Transitional Housing Providers.

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