



**Te Tūāpapa Kura Kāinga**  
Ministry of Housing and Urban Development

# **Submission form**

## **Regulation of Residential Property Managers**



## How to submit this form

Te Tūāpapa Kura Kāinga - the Ministry of Housing and Urban Development (HUD), would like your feedback on the proposals contained in the discussion paper *Residential Property Management – Regulatory Options*. Please provide your feedback by **5pm, Tuesday, 19 April 2022**.

Please complete this submission form and submit it to us by email to:  
[propertymanagersreview@hud.govt.nz](mailto:propertymanagersreview@hud.govt.nz)

When completing this form, please provide comments and supporting explanations for your reasoning where relevant. Your feedback provides valuable information and informs decisions about the proposals.

We appreciate the time and effort you are taking to respond to this consultation.

## 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: Aneleise Gawn

Email address: [aneleise@consumer.org.nz](mailto:aneleise@consumer.org.nz)

Phone number: 04 801 0418

Organisation: Consumer NZ

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.

This submission is from Consumer NZ, an independent, non-profit organisation dedicated to advocating on behalf of New Zealand consumers. Consumer NZ has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

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.

Consumer advocacy organisation

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 you submission?

Yes

No

## **The Preferred Regulatory Model - Overview**

The regulatory system should promote public confidence in the delivery of residential property management services and protect the interests of property owners and tenants by:

- establishing professional entry standards for residential property managers
- establishing industry practice standards for the delivery of residential property management services
- providing accountability through an independent, transparent and effective disciplinary and complaints resolution process that applies to residential property managers and the delivery of property management services.

The following table depicts the emerging preferred regulatory model's key features which we have assessed against a range of other options and outlined more fully in the discussion paper.

<b>System Features</b>	<b>Preferred Model Description</b>	<b>Rationale/Comment</b>
<b>Regulated Parties</b>	Residential property managers and residential property management organisations	Regulating both individuals and organisations provides better protection to property owners and tenants and allows a wider range of interventions to be applied.
<b>Registration and Licensing</b>	Public register for individuals and organisations. Licensing for individuals only.	Registration requires all individuals providing property management services to list their name and place of business on a public register. Registration provides a means for identifying and contacting a practitioner.  Licensing requires individuals to meet the prescribed requirements to become licenced and to retain their licence.
<b>Professional Entry Requirements</b>	<ul style="list-style-type: none"> <li>18 years of age</li> <li>Fit and proper person test</li> <li>Education/training ("<i>basic</i>" course - 15 hours)</li> </ul>	Entry requirements are complemented by a suite of on-going practice requirements.  Entry requirements are less onerous than for real estate agents but are in line with what property management industry bodies are requiring of their members.
<b>Industry Practice Standards</b>	<ul style="list-style-type: none"> <li>Continuing Professional Development (20 hours per annum)</li> <li>Code of Conduct</li> <li>Indemnity and public liability insurance</li> <li>Trust Accounts (including independent review with periodic audits as required by the regulator)</li> </ul>	Property managers have to comply with the on-going practice requirements to be able to continue to operate as a property manager.  These ongoing requirements complement the entry requirements to ensure property managers meet appropriate competency and good practice requirements.
<b>Complaints &amp; Disciplinary</b>	A tiered complaints system that allows for complaints to be escalated depending on their seriousness. The framework allows for mediation, or consideration by either a dedicated complaints committee or a tribunal.  Extending the mandate of either: <ul style="list-style-type: none"> <li>REA Disciplinary Tribunal (<i>Preferred</i>);</li> <li>or Tenancy Tribunal (<i>Under consideration</i>)</li> </ul>	This framework is intended to provide a mechanism for addressing complaints related to the professional conduct of a property manager (or organisation). It will complement established dispute resolution mechanisms such as those provided under the Residential Tenancies Act.  The regulator can investigate issues and take disciplinary action in its own right making it easier for vulnerable tenants to raise issues about property managers.
<b>Offenses &amp; Penalties</b>	The details on proposed offences can found in the discussion paper. General maximum penalties: <ul style="list-style-type: none"> <li>for an individual – a fine not exceeding \$40,000</li> <li>a company – a fine not exceeding \$100,000.</li> </ul>	Offences and penalties are required to help ensure parties comply with regulatory system requirements.  The proposed offences are consistent with legislative and regulatory good practice requirements.  The penalties are aligned with penalties applied in other similar regulatory systems.
<b>Regulatory Management</b>	Real Estate Authority's mandate extended; or MBIE administered regulatory management ( <i>Under consideration</i> )	We propose a regulator independent of the property management industry. It will be more cost effective to establish the regulator's functions within an existing organisation. Two options are under consideration.
<b>Cost recovery</b>	A mixed model involving full cost recovery of some services, partial recovery of others and no recovery of 'public good' regulatory stewardship costs / initial establishment costs.	A significant portion of the costs associated with the delivery of the regulatory system will be met by third parties through fees and levies rather than being funded by the Crown.
<b>Regulatory Stewardship</b>	Te Tūāpapa Kura Kāinga	Regulatory stewardship involves overseeing the performance of the regulatory system. It requires providing policy advice on the system design and development; monitoring and evaluating the system; and monitoring and reporting on the performance of the regulatory authority. Te Tūāpapa Kura Kāinga is expected to fulfil this role.

1. Do you agree or disagree with our proposed objectives for the regulatory system?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

We support the objective of introducing a regulatory system that promotes public confidence in residential property management services by establishing entry standards, industry practice standards and providing accountability through effective disciplinary and complaints processes.

2. Do you agree or disagree with the emerging regulatory model as a whole?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we agree with many aspects of the emerging regulatory model. See our answer to question 3 for more information.

3. Are there any changes that should be made to the overall regulatory model?

Yes, we suggest further consideration be given to the regulation of private landlords.

In Wales, legislation was introduced in 2014 requiring all landlords and letting agents are registered and licensed. Scotland and Ireland have similar schemes.

The UK is also considering new regulations for the private rental sector. A white paper, due to be released soon, will be exploring the idea of a national landlord register to require landlords to meet certain standards and to enable tenants to check their landlord meets basic requirements to let out property. The white paper will also set out plans for a crackdown on rogue landlords.

We also suggest the following changes:

- Property management businesses – as well as property managers - should be required to hold a licence. See our answers to questions 6 and 9.
- To ensure standards in the industry are lifted, we consider individuals should have to complete a level 4 certificate, rather than a basic training course. See our answer to question 13.
- Standard form contracts are required to help eliminate the use of unfair terms and to make it easier for tenants to understand and compare contracts. See our answer to question 33.

## The case for intervention

The residential property management sector plays a significant role in the New Zealand residential tenancies market, which houses nearly one in three New Zealand households.

We estimate that there are between 2,096 and 7,881 residential property managers operating in New Zealand. They are responsible for managing about 42 percent of rental properties.

While many property managers abide by appropriate professional standards, the sector as a whole is not required to meet minimum competency and industry practice standards. A wide range of stakeholders have highlighted the significant risk that a lack of common industry good practice standards, controls and an accessible independent disciplinary and disputes resolution process pose to property owners and tenants.

The Government is committed to ensuring New Zealanders have access to secure, healthy and affordable housing. Towards that end we want to ensure residential property managers operate in a manner that supports public confidence in the integrity of the residential tenancies market and safeguards the interests of property owners and tenants.

4. Do you consider government regulation of property managers is required to address the risks posed by property managers to tenants or the owners of residential properties they manage?

Yes  No  Don't know

*Please explain why/comment*

We have been calling for the regulation of property managers for many years. In our view, the current model of voluntary, self-regulation, does not work and regulation of the sector is long overdue.

Parliament's Justice and Electoral Select Committee recommended immediate action be taken to create a regulatory regime for property managers in 2008.

The majority of submissions to a subsequent Ministry of Justice review also supported some form of regulation. However, the government decided against intervention.

Without regulation, the risk of significant harm to tenants and property owners continues.

New Zealand is also one of the only places in the OECD that doesn't currently regulate property managers. As more New Zealanders find access to homeownership unaffordable and are forced to remain tenants, some for life, our laws need to be brought into line with those in other jurisdictions where renting is not viewed as a temporary option which is less deserving of adequate protections for tenants (and landlords).

5. Do you have any comments on our overview of the residential tenancy market, the residential property management sector, or the current regulatory environment?

We agree with the overview in the discussion paper. However, we note that our research indicates that the percentage of private landlords is declining. According to our most recent Consumer Sentiment Tracker Survey data, the percentage of those renting through a private landlord has decreased from 54% in June 2021 to 48% in February 2022.

## Establishing a new occupational regulatory system

We are proposing to regulate the activities of residential property managers and residential property management organisations. The proposed legislation would bind the Crown and, therefore, capture public sector organisations and employees that deliver residential property management services. There would be scope for the regulator to provide exemptions from all or part of the system's requirements for occupations that have appropriate standards and accountability arrangements already in place.

6. Do you agree the regulatory system should apply to individuals and organisations providing property management services operating in the private, community and public sectors?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we agree the system should apply to individuals and organisations providing property management services operating in the private, community and public sectors.

We consider public sector landlords should set an example for other sectors and must be subject to the same regulatory requirements and behavioural standards.

However, as mentioned above, we think further consideration should be given to the regulation and licensing of property management businesses. Under the Real Estate Act, both companies and individuals can be licensed. We think a similar approach should be adopted for property management companies.

7. Should real estate agents be exempt from holding a property manager license but still held to account for compliance with industry entry and practice standards through the complaints and disciplinary process?

In our view, real estate agents who work as property managers should still have to comply with industry entry and practice standards and be held to account through the complaints and disciplinary standards.

The training that real estate agents receive is focused on property sales, not property management, so any real estate agent wishing to act as a property manager should be required to undertake the same training as any other property manager.

They should also have to meet the same practice standards and be held to account through the complaints and disciplinary process.

Our preliminary view on licences is that we do not think real estate agents should be exempt from holding a property management licence because there needs to be the power to revoke or suspend their licence if they do not meet the required standards. However, we would like to see further analysis of this issue.

## Certification, Registration and Licensing

To be employed or trade as a residential property manager individuals would need to hold a licence issued by a regulatory authority that determines they meet specified licensing requirements. While residential property management organisations would not need to hold a licence to trade and employ property managers, they would be subject to industry practice standards and complaints and disciplinary arrangements. The regulator would maintain a public register of residential property management organisations and licensed property managers.

8. Do you agree that individual property managers should be required to hold a licence?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

We strongly agree that individual property managers should be required to hold a licence. This will ensure they meet minimum standards and are held to account for their actions.

We agree certification would not be sufficient as it places the onus on others to distinguish between certified and uncertified property managers. Also, it would be unlikely to result in significant change as there would be no obligation on property managers to gain certification.

Similarly, we do not think registration alone would be sufficient as it doesn't set minimum competency or practice standards so would not lift standards in the sector. However, we think it is important that there is a national register of property managers and property management organisations to complement the licensing regime. We also think there is merit in requiring private landlords to register.

9. Do you agree that organisations offering residential property management services should not be required to hold a licence provided they are subject to industry practice standards and the complaints and disciplinary arrangements?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

As stated earlier, we consider organisations offering residential property management services should be required to hold a licence.

10. Do you have any comments on the proposed licence renewal, conditions, suspension, and revocation arrangements?

Yes  No

*If yes, please comment.*

We support licences being renewed on an annual basis. We also support the regulator having the ability to impose conditions on licences, suspend licences and revoke licences.

## Occupational Entry Requirements

To obtain a residential property management licence, applicants will need to be at least 18 years of age, meet a fit and proper person test, and provide evidence that they meet the minimum training and education requirements. Those requirements are expected to include satisfactory completion of a training course involving approximately 15 hours study and cover:

- Legislative and regulatory requirements related to residential property management
- Knowledge about maintaining a property
- Managing relationships with tenants
- Conduct expected from a property manager.

11. Do you agree that a fit and proper person test should be required of property managers?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, property managers have access to people's properties, large sums of money and personal information. There is also a considerable imbalance of power between property managers and tenants, particularly in the current rental market. We therefore consider it appropriate to require property managers meet a fit and proper person test.

This would help exclude those who are unfit or who become unfit (for example, if they'd committed dishonesty offences or been declared bankrupt), to carry out residential property management work.

12. Do you agree there should be a minimum training or education requirement to be able to trade as a property manager?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we strongly agree there should be minimum training or education requirements to be able to work as a property manager.

In our view, many problems experienced by consumers are because of a lack of knowledge on the part of property managers. Requiring property managers to complete adequate training is an obvious way to remedy these problems.

13. Do you agree that a basic level of training of about 15 hours, along with other requirements, is sufficient to lift the standards of property managers? If you do not agree, what would you consider to be an appropriate level of training?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Although requiring 15 hours of basic training is an improvement on the status quo, in our view, it will not be sufficient to raise industry standards. Nor will it be sufficient to teach the skills required.

We consider the appropriate level of training should be a level 4 certificate. A level 4 certificate for residential property management already exists. Real estate agents are also required to have level 4 certificates. We therefore suggest further consideration be given to introducing a similar requirement for property managers.

14. Should property managers be required to gain some industry experience under the supervision of an experienced practitioner before becoming fully licensed?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Although we consider it would be useful to require industry experience, we agree that, on balance, this shouldn't be required.

We suggest consideration be given to requiring a set period of supervision by an experienced property manager, rather than requiring industry experience. For example, new property managers could be required to work under the supervision of an experienced property manager (with 2 years' experience or more) for a period of 6 to 12 months.

15. Do you agree that there should be a minimum age requirement of 18 years of age?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we support a minimum age requirement of 18 years. This is in line with the age criteria for Real Estate Agents, and for property managers in some Australian states and will recognise the need for property managers to be able to sign legally binding contacts.

## Professional and Industry Practice Standards

Residential property managers and residential property management organisations will need to comply with professional and industry practice standards. These will include:

- Meeting Continuing Professional Development requirements, anticipated to involve a commitment of around 20 hours each year
- Operating in accord with a Code of Conduct
- Holding professional indemnity and public liability insurance
- Operating trust accounts
- Ensuring trust accounts are subject to independent review annually and periodic audit as may be required by the regulator from time to time.

16. Do you agree that property managers should be required to undertake continuing professional development?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we agree property managers should have to undertake continuing professional development (CPD). It is common for occupational regulation to require CPD to ensure knowledge and skills remain up to date.

In our view, CPD of around 20 hours per year is necessary to ensure property managers stay up to date with any changes or updates to the law, policy or practice.

17. Do you agree that property manager should abide by a Code of Conduct?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we agree that property managers should abide by a code of conduct. This will help ensure appropriate standards are maintained and provide greater confidence to consumers and landlords that these standards are being met. It will also provide a benchmark against which property manager can be measured if they fail to meet the standards.

We agree the benefits of such a code would outweigh the additional regulatory costs. However, to be effective, there will need to be strong sanctions for breaching the code and appropriate enforcement.

18. Should property managers be required to use trust accounts?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we strongly agree that property managers should be required to use trust accounts. Property managers deal with large sums of rental and bond money so trust accounts should be required to ensure this money is protected and to reduce the risk of funds being misused.

Requiring property managers to use trust accounts will also give consumers and property owners confidence that their money is being handled appropriately.

19. Should property managers' trust accounts be subject to independent review with the regulator able to require the periodic audit of accounts?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

We support either an annual audit of trust accounts or an independent review. We consider this will provide an additional layer of security for funds being handled by property managers. It will also increase the likelihood that any unusual or unlawful activity is identified and dealt with.

20. Should property managers be required to hold both professional indemnity and public liability insurance?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we consider property managers should be required to hold both types of insurance. Property managers have a lot of responsibility and with that comes risk. Professional indemnity and public liability insurance will help ensure adequate compensation is available when something goes wrong.

In practice, it may be that their employer (the property management business) will hold these insurance policies.

## Complaints and Disciplinary Framework

The regulatory system will incorporate an independent complaints and disciplinary framework. It will be modelled on the framework that applies to real estate agents.

The regulator would triage complaints, which includes determining whether a complaint involves a breach of the property management legislation or should be referred to another organisation. The regulator could also proactively identify, investigate and initiate disciplinary proceedings in its own right. For complaints that are covered by the legislation, resolution can take place through mediation, a Complaints Committee appointed by the regulator (for cases that may involve 'unsatisfactory conduct') and through a Disciplinary Tribunal (for more serious cases that may involve 'misconduct').

Either the Real Estate Agents Disciplinary Tribunal (REA Disciplinary Tribunal) or the Tenancy Tribunal could have their mandates extended to provide Tribunal-related services. On balance, however, we propose extending the mandate of the REA Disciplinary Tribunal to cover property management issues.

All parties would have the right to appeal a Complaints Committee decision to the Disciplinary Tribunal and retain a further right of appeal to the High Court, and to the Court of Appeal on questions of law. Complaints Committee and Disciplinary Tribunal decisions would be published in a publicly accessible 'decisions' database.

21. Do you agree with the proposed complaints and disciplinary framework?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

We agree a robust complaints and disciplinary framework is critical for ensuring property owners, tenants and consumers have confidence in the sector.

We support the proposed framework. However, we think further consideration needs to be given to ensuring the complaints and disciplinary framework is accessible to all tenants. See our answer to question 30.

22. What are your views on the proposed disciplinary tribunal delivery options?

We support the extension of the REA Disciplinary Tribunal's mandate for the reasons stated in the discussion paper.

However, we also see merit in extending the Tenancy Tribunal's mandate as we consider it would be useful to have a "one-stop shop" considering all matters relating to residential tenancy and property management complaints.

We would like to see further analysis of this issue.

Whichever tribunal is chosen, it must be well-resourced.

## Offences and Penalties

A number of offences with appropriate penalties will be included in legislation to ensure compliance with regulatory requirements. They will form part of the system's overall compliance management framework and complement other features that encourage voluntary compliance or, where necessary, address non-compliance.

### *Offences*

The proposed offences include:

- Providing false or misleading information to obtain a licence or register as a residential property manager
- Failing to notify the regulatory authority of a change in circumstances that would have a material impact on eligibility to gain or retain registration or a licence
- Practising as a residential property manager when unregistered or unlicensed (unless exempt from these requirements)
- Employing or contracting an unregistered or unlicensed person as a residential property manager to provide residential property management services
- Failing, without reasonable excuse, to comply with a lawful requirement of the regulatory authority established in primary or secondary legislation such as, for example producing financial records or other documents specified in regulation
- Failure to meet obligations in relation to property management transactions that may be specified in primary or secondary legislation such as:
  - Failure to hold money in audited trust accounts
  - Failure to pay a person lawfully entitled to money received
  - Rendering false financial accounts
  - Failing to disclose a conflict of interest
- Resisting, obstructing or providing false or misleading information to any person undertaking a lawful function provided for in legislation
- Failing to comply with a lawful summons or acting in contempt of a Tribunal or other Court hearing proceedings established under the legislation.

Unless a lesser penalty maxima is provided for specific offences, the maximum penalties should be:

- in the case of an individual a fine not exceeding \$40,000
- in the case of a company or other organisation, a fine not exceeding \$100,000.

The proposed offences and penalties are aligned with those included in similar occupational regulatory systems – in particular the Real Estate Agents Act 2008.

23. Do you agree with the proposed offences framework?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

We support the proposed offences framework.

24. Are there any additional offences that should be included in the framework?

We suggest further consideration should be given to including specific trust account offences – similar to those set out in the Lawyers and Conveyancers Act (Trust Account) Regulations 2008.

25. Do you agree with the proposed maximum penalties?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

No, we are not convinced that the maximum penalties will act as a sufficient deterrent and suggest consideration is given to increasing these penalties.

## Regulatory Management and Stewardship

An independent regulator would be responsible for the regulatory service design and delivery. Its functions would include:

- Education and professional development
- Registration and licensing
- Standard setting
- Compliance management
- Disputes resolution.

We propose that the regulator's powers and functions be vested in a body independent of the property management industry. This could involve either extending the Real Estate Authority's (REA) mandate or having the Ministry of Business, Innovation and Employment (MBIE) provide regulatory management services. Further analysis is required to assess the implementation issues and costs associated with these two options.

Te Tūāpapa Kura Kāinga would act as the steward of the new regulatory system, however, further consideration will need to be given to the implications for the current accountability arrangements for Courts and Tribunals, the REA and Tenancy Services, which are performed by the Ministry of Justice and MBIE.

26. Do you have any comments to make on Te Tūāpapa Kura Kāinga proposed regulatory stewardship role?

No comments.

27. Do you have any issues or concerns with the regulatory authority's proposed functions?

No.

28. Do you agree the regulatory authority's functions should be vested in a body independent of industry?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we strongly agree the authority's functions should be vested in a body independent of the industry.

29. Which entity is best placed to perform the regulator's functions:

Real Estate Authority (REA)

MBIE

Other

*Please explain why/comment*

We consider REA would be best placed to perform the regulator's functions for the following reasons:

- it is independent
- it is an established regulatory authority (so there would be no additional establishment costs)
- it could use the policies, processes and systems it already has in place
- it already regulates real estate agents, some of whom are also property managers.

## Cost Recovery

A significant proportion of the costs associated with the delivery of the regulatory system should be met by the property management sector through fees and levies rather than being funded by the Crown. Principles based on equity, efficiency, justifiability and transparency would be incorporated in primary legislation to frame the establishment of cost recovery arrangements.

The cost recovery requirements, including the charge levels, will be established in regulations which will be subject to Ministerial approval. Before seeking to recover costs, the regulatory authority would be required to ensure affected parties, or representatives of affected parties, have been consulted. The affected parties include property managers, property owners, tenants and tangata whenua.

An initial government appropriation to cover the regulatory authority's establishment and first year operating costs may be required.

30. Do you agree with the proposed cost recovery framework?

Strongly Agree  Agree  Not sure  Disagree  Strongly disagree

*Please explain why/comment*

Yes, we agree a significant portion of the costs associated with delivery of the regulatory system should be met by property managers as it is their activity that creates the risks the system is being introduced to manage.

We agree the cost of the complaints and disciplinary framework should primarily be funded by a levy on the property management sector.

However, we are concerned that any fees to use the disputes resolution process could act as a barrier to justice. In our view, there needs to be some way of ensuring that people who cannot afford the fee, are not barred from accessing dispute resolution.

We also support the costs associated with the regulatory stewardship responsibilities for Te Tūāpapa Kura Kāinga being met from core government funding.

31. Are there any changes that should be made to the framework?

No comment

## Delivery and Next Steps

When the submissions period closes, we will analyse the submissions and report to the Associate Minister of Housing (Public Housing).

If agreed by Cabinet, the regulation of residential property managers will require new legislation. This will provide another opportunity for public input when the Government’s draft Bill is being considered by a Parliamentary Select Committee. Consultation will also take place during the development of regulations required to give effect to the primary legislation.

To enable the establishment of the regulatory authority and the promulgation of enabling regulations, we anticipate the primary legislation would not come into force until approximately 12 months following it being passed by Parliament.

We also anticipate the legislation will include transitional arrangements and a further transitional period of approximately 12 months to provide time for:

- Regulated parties to meet the legislation’s regulatory requirements; and,
- The regulator to complete the initial registration and licensing of all regulated parties (with phased renewal dates to smooth the administrative burden associated with this process).

Te Tūāpapa Kura Kāinga will also implement monitoring and evaluation arrangements.

Indicative Implementation Timeframes	
Milestone	Target Date
Cabinet agrees to develop draft Bill	September 2022
Cabinet approves introduction of the draft Bill to Parliament	April 2023
Draft Bill’s receives First Reading & referred to Select Committee	May 2023
Select Committee report back	Late 2023
Passage completed and Royal Assent	Mid 2024
Regulations gazetted	Mid-late 2024
Commencement	Mid 2025
All provisions in force	Mid 2026

32. Do you have any concerns with the proposed development process and indicative timeline?

Yes, given the ongoing issues in the sector and the severity of these issues, we support as short a timeframe as possible.

33. Do you have any final comments you wish to make?

Yes, in the discussion paper, Te Tūāpapa Kura Kāinga states it doesn’t consider there is a need to establish standardised contract provisions.

We disagree and urge Te Tūāpapa Kura Kāinga to reconsider this issue.

Consumer NZ receives regular complaints from tenants who have been disadvantaged by terms in tenancy agreements that we consider unfair. Complaints we’ve received include those about terms that allow a landlord or property manager to:

- charge fees to end a fixed-term tenancy early

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- hold tenants liable for the landlord's own expenses, such as advertising costs
- increase rent under a fixed term agreement
- limit liability for the landlord's agents
- unilaterally vary the services provided as part of the tenancy
- charge a re-letting fee for renewing a tenancy
- charge fees for changing one name on a tenancy agreement.

In our view, requiring the use of standard terms would resolve many of these issues. It would also ensure contracts are drafted in plain English, consistent, easier to understand and easier to compare.

*ENDS*