



# Regulation of the Aotearoa New Zealand residential property management sector

## WHY THE REGULATION IS NEEDED

A well-functioning residential tenancies market is vital to ensuring New Zealanders have access to secure, healthy and affordable housing.

Residential property managers play a significant role in that market managing over 40% of New Zealand's rental accommodation.

The market has grown in recent decades and now houses nearly 1 in 3 New Zealand households.

### Residential property managers

While many property managers abide by appropriate professional standards established by the industry, the sector as a whole is not required to meet minimum competency and industry practice requirements.

This presents significant risks to property owners, tenants and other consumers.

Many industry stakeholders support regulation of the sector.

### Property Owners

Have no assurance that property managers have the competencies required to manage their assets and meet their legal obligations.

Can incur significant reputational damage and additional costs as a result of the property managers' acts and omissions. Their return on investment and their asset's value may be compromised.

### Tenants

Can face a significant power imbalance when dealing with property managers, particularly in a tight rental market. Consequently, tenants are less likely to raise issues for fear of losing their home or jeopardising their future ability to secure a rental property.

They can experience discrimination and breaches of their rights under the Residential Tenancies Act and other legislation.

Their tenancy can be at risk, which can impact adversely on their health, education and employment.

### Introduction of legislation

Would help promote public confidence in how residential property management services are delivered and protect the interests of property owners, tenants and other consumers by:

- establishing professional entry standards for residential property managers
- establishing industry practice standards
- providing accountability through an independent, transparent and effective disciplinary and complaints resolution process.



Read more and provide feedback

<https://consult.hud.govt.nz/policy-and-legislation-design/property-managers-review>

Submissions close 5pm, Tuesday 19 April 2022

# The proposed regulatory model

Promote public confidence in the delivery of residential property management services and protect the interests of property owners, tenants, and other consumers.

System features	Preferred model description	Rationale/Comment
Regulated Parties	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.
Registration & Licensing	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.
Professional Entry Requirements	<ul style="list-style-type: none"> <li>18 Years of age</li> <li>Fit and proper person test</li> <li>Education/training (<i>"basic" course - 15 hours</i>)</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.
Industry Practice Standards	<ul style="list-style-type: none"> <li>Continuing Professional Development (<i>20 hours per annum</i>)</li> <li>Code of Conduct</li> <li>Indemnity and public liability insurance</li> <li>Trust accounts (<i>including independent review with periodic audits as required by the regulator</i>)</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.
Complaints & Disciplinary	A tiered complaints system that allows for complaints to be escalated depending on the seriousness. The framework allows for mediation, or consideration by either a dedicated complaints committee or a tribunal.  Extending the mandate of either: REA Disciplinary Tribunal ( <i>Preferred</i> ), OR Tenancy Tribunal ( <i>under consideration</i> )	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.
Offences & Penalties	The details on proposed offences can be 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.
Regulatory Management	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.
Cost Recovery	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.
Regulatory Stewardship	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.