



Te Ngākau Kahukura

Submission to the Residential Property Managers Bill

October 2023

Te Ngākau Kahukura is a national initiative that works to make communities, environments and systems more safe and inclusive for rainbow¹ people across Aotearoa. We work collaboratively with professionals, organisations and wider systems that support people across Aotearoa, including health, housing, social, education and justice. We provide advice, best practice guidance and training to support systems change.

Our vision is an Aotearoa where rainbow people grow up feeling safe, valued and like they belong in the places where they live, learn and access healthcare and social support.

This submission shares our perspective on the importance of a non-discriminatory housing environment for rainbow people, and suggests strengthening the Bill to recognise that residential property managers have an important role to play in supporting rainbow people's rights to a decent home.

Rainbow housing precarity in Aotearoa

In Aotearoa, rainbow people are generally over-represented in homelessness and housing precarity². There are complex factors behind these inequities. Widespread discrimination (including in housing, education, welfare and employment settings) contribute to economic instability and lower incomes. Discrimination also contributes to higher rates of mental distress, substance use and other health impacts that make it harder to maintain stable housing. As a population, rainbow people are more likely to face conflict, rejection and violence from family, which in turn reduces access to intergenerational housing support within birth whānau. Another factor contributing to housing precarity is discrimination in the private rental market, which makes it harder for rainbow people to secure or keep a place to stay.

For rainbow people who are also Māori, Pacific, disabled, recent migrants or living in poverty, these disadvantages compound. For example, the Youth'19 study found that takatāpui and rainbow Māori young

¹ We use *rainbow* as an umbrella term to describe people whose sexual orientation, gender identity, gender expression or sex characteristics differ from majority, binary norms. This include people who identify with terms like takatāpui, lesbian, gay, bisexual, intersex, transgender, queer, non-binary or fa'afafine, as well as people who don't use specific words for their identity, people whose identity changes over time, and people who are in the process of understanding their own identity and may not have 'come out' to themselves or others. It's estimated that people under the rainbow umbrella make up between 6 and 15% of New Zealand's population.

² Making Space (2022) *An Introduction to Rainbow Homelessness: A knowledge brief for Making Space*. Retrieved from: <https://www.making-space.nz/our-publications-about-rainbow-homelessness-in-aotearoa>

people were significantly more likely to be sleeping in temporary or unsuitable places due to unaffordable housing or lack of space (26%) than non-rainbow rangatahi Māori (17%), Pākehā rainbow young people (10%), or non-rainbow Pākehā young people (4%).³

Rainbow people in Aotearoa are more likely to be renting than the general population⁴, and evidence indicates that they are more likely to face discrimination in the rental market. For example, in one study sexual minority respondents to the General Social Survey were twice as likely to have tenancies ended early because of rainbow-targeted discrimination⁵. The *Counting Ourselves* survey found trans and non-binary New Zealanders were three times more likely than the general population to report experiences of discrimination while trying to rent housing in the previous 12 months⁶.

Like everyone in Aotearoa, rainbow people have the right to a decent home⁷. Reducing discrimination in the rental market is one part of ensuring that this right is upheld. This is a complex challenge that requires changing social attitudes among landlords and fellow tenants, as well as those commercially involved in providing rental services. We consider that this Bill provides an opportunity to improve rental experiences for rainbow people by defining the professional role of a residential property manager as requiring non-discriminatory practice.

Prohibiting people from being licensed who have engaged in unlawful discrimination

Section 18 of the Bill prohibits people from being licensed as a residential property manager if they have been found to be dishonest or violent. We suggest that a person is additionally unsuitable to be in the position of managing residential property if they have engaged in unlawful discrimination as defined by the Human Rights Act 1993.

We suggest adding criteria to section 18(1) to prohibit people who have had a complaint of discrimination upheld by the Human Rights Review Tribunal within the 10 years preceding the person's license application.

Defining discrimination as unsatisfactory conduct

Section 56 defines a range of behaviours which would be considered unsatisfactory conduct by a residential property manager. These are broadly defined and while they could be interpreted to include discrimination

³ Greaves, L., Fleming, T., Roy, R., Fenaughty, J., Sutcliffe, K., & Clark, T. (2021). *A Youth19 Brief: Rainbow Rangatahi Māori*. The Youth19 Research Group, Victoria University of Wellington and The University of Auckland, New Zealand.

⁴ Stats NZ Tatauranga Aotearoa (2021) *LGBT+ population of Aotearoa: Year ended June 2020*. Retrieved from: <https://www.stats.govt.nz/reports/lgbt-plus-population-of-aotearoa-year-ended-june-2020>

⁵ Te Ora, E. (2021). *'Not heterosexual' renters twice as likely to have tenancies ended, says new research*. Retrieved from Stuff: <https://www.stuff.co.nz/pou-tiaki/124291516/not-heterosexual-renters-twice-as-likely-to-have-tenancies-ended-says-new-research>

⁶ Veale, J., Byrne, J., Tan, K. K., Guy, S., Yee, A., Nopera, T. M. L., & Bentham, R. (2019). *Counting Ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand*. Transgender Health Research Lab.

⁷ Te Kāhui Tika Tangata Human Rights Commission (2023) *Right to a Decent Home*. Retrieved from: <https://tikatangata.org.nz/human-rights-in-aotearoa/right-to-housing>

such as racism, homophobia or transphobia, the Bill's support for human rights could be strengthened by specifically referring to discrimination as a type of unsatisfactory behaviour.

We suggest adding an additional point: delivers residential property management services in a way that discriminates against people based on the prohibited grounds of discrimination defined in section 21 of the Human Rights Act 1993.

Understanding of human rights on complaints panels

Section 60 defines the characteristics of a panel who can assess complaints against residential property managers. Given that complaints may relate to property managers acting in ways that discriminate against someone based on factors such as their rainbow identity, ethnicity or disability, we suggest that it is crucial to have people available to hear complaints who are knowledgeable in human rights perspectives and discrimination.

We suggest adding additional criteria to section 60(3):

- human rights, in particular the rights of rainbow people, disabled people and people who may experience racism;
- te Tiriti o Waitangi/the Treaty of Waitangi;

These suggested criteria are adapted from section 11(1) of the recent Integrity Sport and Recreation Act 2023.

Community consultation on practice rules

Section 109 defines requirements for the Authority to consult affected parties on any proposed rules, and section 110 defines requirements for the Minister to approve rules. We suggest that such consultation processes should always include population groups who are likely to experience discrimination in housing.

Adapted from the Integrity Sport and Recreation Act 2023, we suggest adding an additional requirement to section 109 that the agency "must establish effective means of seeking the views of Māori and other relevant stakeholders, including Pacific peoples, disabled people and rainbow people."

We further suggest adding to section 110(2) following clause (d): " the extent to which the Authority has considered Pacific, disabled and rainbow perspectives in the development of the practice rules."

Definition of rainbow people

We suggest that the Bill adopt the definition of rainbow people introduced in the Integrity Sport and Recreation Act 2023: "rainbow people means people whose sexual orientation, gender identity, gender expression, or variations of sex characteristics differ from majority binary norms, for example, people who are takatāpui, lesbian, gay, bisexual, intersex, transgender, queer, non-binary, and fa'afafine".