

Impact Summary: Residential Tenancies Amendment Bill Supplementary Order Paper

Section 1: General information

Purpose
<p>The Ministry of Housing and Urban Development (HUD) is responsible for the analysis and advice set out in this Impact Summary. This analysis and advice has been produced for the purpose of informing final policy decisions by Cabinet.</p> <p>The proposal is to add provisions to the Residential Tenancies Amendment Bill (the RTA Bill). The RTA Bill amends the Residential Tenancies Act 1986 (the RTA) to modernise it. It appropriately balances the rights and obligations of tenants and landlords, including by increasing security of tenure for tenants and promoting good-faith relationships in the renting environment.</p> <p>The proposed changes to the RTA Bill are to provide protections to victims of family violence who need to exit a tenancy at short notice by:</p> <ul style="list-style-type: none">a. creating a process whereby a tenant can serve a family violence termination notice to their landlord on two days' notice;b. requiring the tenant to provide evidence of family violence to support the termination notice;c. minimising the impact on landlords and remaining co-tenants or other occupants of the premises;d. protecting the confidentiality of victims who have exited a tenancy under the proposed process. <p>Following agreement by Cabinet, the proposed changes will be given effect through a Supplementary Order Paper (SOP).</p>

Key Limitations or Constraints on Analysis
<p>Issues in scope of the proposal</p> <p>Some submitters on the RTA Bill raised concerns that tenants are not able to leave situations of family violence quickly and without financial liability. This issue was not in scope of the committee considerations, as it did not directly relate to proposals already in the Bill.</p> <p>The Government acknowledges that family violence, in all its forms, is unacceptable and takes a whole-of-government approach to preventing family violence from occurring and keeping victims, including children, safe from family violence.</p> <p>The Associate Minister for Housing (Public Housing) requested that provisions to support tenants, who are victims of family violence, be advanced through a parallel process to the select committee process. Introducing the provisions as an SOP to the RTA Bill enables protections for victims to be in place sooner than through a separate amendment Bill.</p> <p>The Minister asked officials to consider what protections are currently available to tenants in the following situations:</p>

1. a victim wishes to remain in a tenancy but needs to remove a perpetrator of family violence from that tenancy, and
2. a victim needs to exit a tenancy at short notice to protect themselves from a perpetrator of family violence.

Consideration was limited to tenants in residential rental properties who are victims of family violence. The proposal uses the meaning of family violence provided in the Family Violence Act 2018. This means the perpetrator of family violence would need to be in a current or former family relationship to the victim, but would not need to be a current or former tenant. The proposal does not provide a process for situations where the violence, or threat of violence, is inflicted by a person who the tenant is not in a family relationship with.

Family Violence Act 2018 provides the ability for a victim to have a perpetrator removed from tenancy

The first situation raised by the Minister is provided for in the Family Violence Act 2018 (the FVA). A tenant experiencing family violence can apply for a tenancy order (sections 121– 24) through the Family Court. If granted, the tenancy order terminates the tenancy of the respondent and vests the tenancy in the applicant ('the protected person'). Tenancy orders can be applied for on or after an application for a protection order. Protection order applications can be made without notice and a standard condition of an order is that the respondent is not to have contact with the protected person, unless the protected person consents.

Tenancy orders were previously available under the Domestic Violence Act 1995, but only applied for rarely. The FVA amended the tenancy order provisions to improve their effectiveness and to make them more accessible. These provisions came into force in July 2019. It is too early to evaluate the full impact of the amendments; however, the average number of applications filed has increased from just under 14 per month to just over 16 per month since July 2019.

Legislation does not provide for a victim to exit a tenancy quickly

There are no provisions in either the RTA or the FVA that specifically address the second situation raised by the Minister – where a tenant needs to exit a tenancy easily and safely to protect themselves from family violence. It is appropriate for there to be protections in place for tenants in both situations, so that a victim is empowered to choose whether staying in or leaving their tenancy is best for them.

Currently, a tenant would need to go through a court or tribunal hearing and would only be able to refer to general provisions in the RTA for leaving a tenancy. This is unlikely to be safe, timely, or cost-effective for a victim of family violence. Therefore, this analysis focuses on addressing that situation.

Evidence of the problem and limitations of available data

Family violence is a significant societal issue. Each year, family violence directly affects over half a million New Zealanders and is estimated to cost the country between \$4.1 and \$7 billion.¹

New Zealand has the highest reported rate of intimate partner violence (IPV) in the OECD. Women are 2.5 times more likely to experience IPV than men. Separation from a partner is a key risk factor for intimate partner violence. In the New Zealand Crime and Victims survey (2018), it was found that almost one in ten adults who had separated from a partner in the past year had experienced an offence by a family member. It was also found that one quarter of intimate partner offences relate to separation. Therefore, victims are more vulnerable when they seek to leave their partner, so must be supported to leave safely.

¹ Kahui, Shirilee and Suzanne Snively (2014), *Measuring the Economic Costs of Child Abuse and Intimate Partner Violence to New Zealand*, the Glenn Inquiry.

It is not known to what extent victims and perpetrators of family violence are renters compared to homeowners. However, people who are financially stressed are five times more likely to have experienced an offence by a family member in the past twelve months.² The obligations and liabilities agreed to through a tenancy agreement (such as being jointly and severally liable for rent for the term of their tenancy) may impose a financial barrier to leaving a situation of harm, particularly if the victim is also experiencing economic abuse.

In addition, victims who are in public housing, community housing, or an accessible property may have further trouble finding new accommodation that is an equivalent property and in a suitable area, because an appropriate property will need to be found.

Options considered and the criteria used

The options considered in this analysis are limited to the status quo and amending the RTA to allow victims of family violence to terminate a tenancy at short notice without financial liability related to either the 21 day termination notice for a periodic tenancy, or further payments for a fixed term tenancy.

The criteria used to assess the two options are: effective as a means of exit for a victim; limited costs for the landlord and any co-tenants; clear to understand and administer; and, has a proportionate impact on the victim and the landlord.

Time constraints and direction of Minister has ruled out looking at other options

The Minister has ruled out introducing other provisions through the RTA Bill that would assist victims of family violence due to the time constraints inherent to introducing a proposal as an SOP.

s 9(2)(f)(iv)

Some consideration was given to including options that would further minimise the financial impact on a landlord and any remaining co-tenants of a tenant serving a family violence termination notice:

- Differentiating between perpetrator and non-perpetrator co-tenants. Non-perpetrator co-tenants would be able to pay reduced rent for a period of up to two weeks, but perpetrator co-tenant would not.
- Providing a fund that landlords could access to compensate for rent lost due to a family violence termination notice. It could be distributed by Tenancy Services, for example.

However, feedback during agency consultation indicated that it would be operationally difficult to uphold a distinction between perpetrator and non-perpetrator co-tenants. The perpetrator may be unwilling or unable to carry more of the cost, or they may contest being the perpetrator. This could lead to disputes between the perpetrator and the landlord, or between co-tenants.

In relation to the second option, the cost of administering such a small fund (about \$540,000) would be relatively large and it would risk Tenancy Services being drawn into litigation by landlords.

² *New Zealand Crime and Victims Survey: Offences against New Zealand adults by family members* (2018): <https://www.justice.govt.nz/assets/Documents/Publications/9ZU3Q-NZCVS-topical-report-Offences-by-family-members-Cycle-1-2018.pdf>.

We acknowledge that landlords are likely to oppose aspects of the proposal that could result in a financial loss for them, including the reduction of rent for co-tenants. However, the risk of a family violence termination notice being served on any one landlord is remote (it is highly unlikely that more than 0.16% of landlords will receive a termination notice in any one year). The cost implications (about three weeks' rent and on-costs, or less if some tenants remain) are moderate. More details are provided in the impact analysis section below.

Assumptions

The proposal rests on the assumption that some victims will want to exit their tenancies and that they will do so if supported.

Although we acknowledge that some victims may prefer to stay in their homes and have the perpetrator removed, we consider it likely that other victims may want or need to leave the area to be in a place away from and/or unknown to the perpetrator. It is assumed that this want or need will outweigh other concerns the victim may have, such as fear of the perpetrator, no or few alternate housing options, and moving away from their place of employment, any children's school or schools, or social connections.

In addition, the proposal focuses on the financial barriers to leaving a tenancy. We note that victims of family violence who seek to leave a tenancy early risk ongoing rent payments or break lease fees and can face further moving costs (i.e. advance rent, new bond, new furniture or whiteware, movers' fees, etc.). This makes two assumptions:

- that some victims do not have the financial means to leave; and
- that removing financial barriers will be sufficient to enable or empower victims to leave.

Limitations on consultation and testing

It has not been possible to undertake a full consultation process with all stakeholders under the time constraints. Consultation has been undertaken with government agencies.

Limited consultation on the proposal was undertaken with representatives of the National Collective of Independent Women's Refuges, the New Zealand Property Investors Federation, and Community Law Centres o Aotearoa (CLCA).

The proposed changes will be subject to debate during the Committee of the Whole House stage of the legislative process.

Consultation on the types of evidence that will be prescribed to support a family violence termination notice will be undertaken once the RTA Bill is passed, as part of the process for making regulations prescribed by the Bill.

Responsible Manager (signature and date):

Naomi Stephen-Smith

Tenures and Housing Quality

Housing and Urban Settings

Ministry of Housing and Urban Development

To be completed by quality assurers:

Quality Assurance Reviewing Agency:

Joint panel from the Ministry of Housing and Urban Development and Ministry of Justice.

Quality Assurance Assessment:

This Regulatory Impact Assessment (RIA) meets the RIA quality assurance criteria.

Reviewer Comments and Recommendations:

The Treasury Regulatory Quality Team has determined that an Impact Summary with quality assurance undertaken by a joint panel with representatives from Ministry of Housing and Urban Development and Ministry of Justice is appropriate for the provisions relating to the family violence provisions.

The joint Ministry of Housing and Urban Development and Ministry of Justice Quality Assurance Panel (QA Panel) has reviewed the Impact Summary: Residential Tenancies Amendment Bill Supplementary Order Paper, prepared by Housing and Urban Development. The QA Panel considers that the information and analysis summarised in the RIA meets the quality assurance criteria.

The QA Panel notes that officials were constrained by time and did not have opportunity to consult all stakeholders on the proposal. The QA Panel considers that additional time and consultation could have allowed for and informed the development of further options, assessment of the expected effectiveness of the options and identification of all expected impacts of the proposal.

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

Current situation and regulatory framework

Family violence is a significant societal issue in New Zealand

Family violence is a complex societal issue in New Zealand that requires a whole-of-government response. It has a devastating impact on families and communities, with over half a million New Zealanders directly affected by family violence each year. Some groups are disproportionately affected, including women, people with disabilities, older people, and Māori, Pasifika, and ethnic populations.

Between 2009 and 2015, 194 people were killed as the result of family violence, with intimate partner violence making up almost half of these cases.³ In 2018, police investigated over 133,000 incidents of family violence, or about one every four minutes.⁴ Responding to family violence accounts for 41 percent of a frontline police officer's time.⁵ However, 76 percent of incidents are believed to be unreported.⁶

Inability to terminate tenancies means tenants remain in unsafe situations

Although a victim of family violence can apply for a tenancy order to have the tenancy of the respondent terminated while the victim remains in the tenancy, tenants who want to exit their tenancy to leave an abusive situation have no clear pathway to do so.

It is appropriate for both options to be available to tenants who are experiencing family violence as this recognises that some tenants will prefer to stay in their tenancy but remove the perpetrator, while others will prefer to leave and move to a location away from and/or unknown to the perpetrator.

Tenants experiencing family violence have no legal ability to exit a tenancy quickly and face financial penalties if they do

A tenant experiencing family violence may face significant barriers if they try to leave their tenancy at short notice. Neither the Residential Tenancies Act 1986 (the RTA) nor the Family Violence Act 2018 (the FVA) provide specific protections for tenants wanting to rapidly terminate their tenancy on grounds of family violence.

Section 50 of the RTA establishes the circumstances in which tenancies can be terminated. The shortest notice period available to tenants is two days, which applies where there are risks to health and safety (premises are destroyed or so seriously damaged as to be uninhabitable).

Currently, a tenant in a situation of family violence who is seeking to leave their tenancy early must adhere to the general termination conditions under the RTA:

- a. a periodic tenancy requires the tenant to provide a 21-day notice period, per section 51(2) (extended to 28-days under the RTA Bill);
- b. a fixed-term tenancy can only be changed or terminated in narrow circumstances; most commonly, this is if —

³ Family Violence Death View Committee: Fifth Report Data: January 2009 to December (2017): <https://nzfvc.org.nz/news/nzfvc-data-summaries-2017-family-violence-reports-reach-record-high>.

⁴ Long, Jessica. "Family harm investigations on the rise, police figures show." *Stuff*. 23 September 2019. <https://www.stuff.co.nz/national/115802337/family-harm-investigations-on-the-rise-police-figures-show>.

⁵ NZFVC Data Summaries 2017: <https://nzfvc.org.nz/news/nzfvc-data-summaries-2017-family-violence-reports-reach-record-high>.

⁶ New Zealand Crime and Safety Survey: 2014 (2015): <https://www.justice.govt.nz/assets/Documents/Publications/NZCASS-201602-Main-Findings-Report-Updated.pdf>.

- the landlord and all tenants agree, or if
- the Tenancy Tribunal is satisfied that, due to an unforeseen change in the tenant's circumstances, the tenant would suffer severe hardship.

The above processes take time and do not take into account the unique circumstances of family violence. In addition, even if the victim is able to have their tenancy terminated, they may still face financial obligations, such as break lease fees.

There are additional obstacles if the victim and the perpetrator of family violence are co-tenants. For example, the perpetrator would be involved in the decision with the landlord (and any other tenants) regarding whether the tenancy should be terminated early, or the perpetrator would be involved in the Tenancy Tribunal process. It is not reasonable for the victim to rely on the cooperation of the perpetrator to be able to exit their tenancy.

Tenancy Tribunal decisions take time and can be an unsafe forum for the tenant

Either the landlord or the tenant can decide to make an application to the Tenancy Tribunal. For example, a tenant may apply to have their fixed-term tenancy reduced or terminated, or to seek relief from break lease costs. However, these proceedings can take weeks or months and there is no assurance that the Tribunal will decide in favour of the victim of family violence.

There are few grounds for Tenancy Tribunal adjudicators to make consistent decisions in relation to circumstances of family violence. In past Tenancy Tribunal applications, the financial impact of broken leases has disproportionately fallen to the victim. Landlords have discretion as to who they pursue for rent and other costs, and this can include seeking costs from victims.

In addition, there is a disparity in the protections available to victims in proceedings at the Family Court, compared to proceedings at the Tenancy Tribunal. Victims in Tenancy Tribunal proceedings are less likely to be guaranteed privacy, supported to give evidence in alternate ways, or have separate waiting spaces to the perpetrator.

This disparity can affect how safe and supported the tenant feels and create potential for re-traumatisation. The tenant may struggle to communicate the extent of family violence or decide to not appear at the hearing, particularly if the perpetrator is party to the proceedings as a co-tenant, which will affect their ability to defend their case.

2.2 Who is affected and how?

Tenants who are victims of family violence are the primary group affected by the inability to leave their tenancy quickly and without financial repercussions.

The following submitters on the RTA Bill identified the RTA does not currently provide protections for tenants in this position and advocated for change: the Human Rights Commission, the National Collective of Independent Women's Refuges, Community Law Centres o Aotearoa, and other non-governmental organisations.

Tenants who are victims of family violence are currently liable for the duration of the notice period for periodic tenancies, must rely on the leniency of landlords (and any co-tenants) for fixed-term tenancies, or must be prepared to go to the Tenancy Tribunal. Even if a tenant applies to have the termination period reduced, they may not succeed and may still face financial repercussions.

Some tenants may defer plans to seek safety until, for example, their fixed-term lease expires. This could leave tenants in precarious situations, with the level of risk ranging from psychological distress, physical injury, and death, and other aspects of the tenant's wellbeing and livelihood may be impacted.

If the tenant has children, they may also be at risk if the tenant remains in an unsafe environment. Witnessing or experiencing family violence has notable negative impacts on the wellbeing of children.

If there are other co-tenants, who are not party to the family violence, they may be affected in several ways, including:

- if the victim leaves the premises for their safety, and does not continue to pay rent, the co-tenants may be pursued for this cost by the landlord;
- if the victim remains in the tenancy and family violence continues, the co-tenants may feel uncomfortable or unsafe, but may choose to themselves remain in the tenancy to support the victim.

If the victim leaves the premises for their safety, without their tenancy having been terminated, the landlord or a co-tenant may make an application to the Tenancy Tribunal regarding unpaid rent. This could place the Tenancy Tribunal in a position where they are sympathetic to the victim but without clear provisions in the RTA to guide their decision.

2.3 What are the objectives sought in relation to the identified problem?

The primary objective sought in relation to the identified problem is to provide tenants who are experiencing family violence with a clear legal ability to exit their tenancy quickly.

The further objectives are to:

- a. signal that family violence, in all its forms, is unacceptable, and that support for victims should extend to tenancies;
- b. provide a process that is both:
 - i. accessible for the victim, and
 - ii. sufficiently robust, so the involvement of the Tenancy Tribunal can be minimised;
- c. provide victims who leave their tenancies with relief from break-lease fees and ongoing rental payments;
- d. minimise financial losses on landlords and remaining co-tenants or other occupants;
- e. provide for the ongoing privacy and safety of the victim of family violence.

Section 3: Options identification

3.1 What options have been considered?

Due to the time constraints placed on the Bill and the scope of direction from the Minister, only two options have been identified and considered in the development of this proposal.

Option 1: Status quo

Do not make amendments to the RTA through the Bill.

Under the status quo, there are no specific provisions under either the RTA or the FTA that allow a tenancy to be terminated on short notice on the grounds of family violence.

If a tenant leaves the premises due to family violence, they remain liable for break lease fees (the cost to the landlord of securing another tenant) and rental payments either for the 21-day notice period (if a periodic tenancy) or the full term of a fixed term tenancy, which may be several months. A tenant can seek relief from these costs through a Tenancy Tribunal order, but may not get an order in their favour and it would not be immediate.

The outcomes of this situation can include financial disadvantage, re-traumatisation through the victim having to engage in a justice process (in this instance, the Tenancy Tribunal), or a decision by the victim to remain in an unsafe living arrangement.

Option 2: Include amendments in the RTA Bill to allow victims of family violence to terminate a tenancy early

Amend the RTA Bill to introduce a new right of termination, whereby a tenant who is a victim of family violence can serve a family violence termination notice to their landlord with a minimum of two days' notice.

The tenancy will terminate in its entirety if the victim is the sole tenant, but if there are any co-tenants the tenancy will continue for them.

The use of a family violence termination notice will relieve the tenant from liability for additional rent payable for the notice period under a periodic tenancy or any additional amount payable for the early termination of a fixed-term tenancy.

The family violence termination notice can be served in person or electronically, by the tenant. The notice must be accompanied by evidence that is relevant and independent. This could include, for example: a protection order (issued under the FVA), a declaration from a medical professional, or a declaration from another 'competent' person, such as an employee of an emergency or transitional housing provider.

A regulation-making power would be included in the RTA Bill to prescribe the form of evidence and the category of persons competent to make a declaration. Regulations may also need to be made for the detail required for the termination notice itself and the declaration made by a competent person. Regulations would be developed in consultation with stakeholders after the Bill has passed. It is expected that the regulations could be available close to the commencement of the Bill, which is six months from Royal assent.

The tenant will be required to notify any co-tenants that they have terminated the tenancy no later than two days after the termination date. This gives the victim time to depart the premises prior to notifying them, which is particularly important where the co-tenant is the perpetrator. The tenant will not be required to provide the remaining co-tenants with the accompanying evidence or personal information that would impact their privacy or safety.

To minimise the financial impact on any remaining co-tenants, who would otherwise be jointly and severally liable for rent payments to the amount payable on the tenancy agreement, there will be a reduced rent formula for a period of two weeks from the date of termination. This will be calculated by dividing the rental price by the number of tenants specified in the tenancy agreement, multiplied by the remaining tenants. There will also be the ability for remaining co-tenants who experience hardship as a result of a family

violence termination notice to apply to the Tenancy Tribunal for termination of their tenancy.

Landlords and those making declarations will be required to treat both the notice and the supporting evidence with confidentiality to protect the privacy and safety of the tenant, including from discrimination in the future. Any person who uses or discloses a family violence termination notice or supporting evidence for a purpose other than terminating a tenancy would be committing 'an unlawful act' and would be liable for maximum damages up to \$3000. This information would only be able to be disclosed if required by law. The landlord or other parties would be unable to disclose this information even, for example, if a tenant had agreed to any general disclosure provisions in their tenancy agreement at the start of their tenancy.

Further, where an application to the Tenancy Tribunal involved a family violence termination notice, the following provisions would apply for protecting the confidentiality of those party to the proceedings:

- The application would be heard in private, unlike other applications which are public by default;
- Name suppression would apply automatically to all parties to the proceedings;
- Evidence could be provided remotely, either by application or at the discretion of the Tribunal, to help protect vulnerable witnesses.

The jurisdiction of the Tenancy Tribunal would also be limited to determining whether the formal requirements of the family violence termination notice provisions were applied, so would be prevented from ruling whether family violence had occurred or not. However, where remaining co-tenants in the tenancy are involved, the Tribunal may adjudicate on disputes about rent payable between tenants and a landlord, or it may order the termination of a tenancy on application by a remaining co-tenant.

Provisions for the return or retention of a bond will remain unchanged, although the victim will not be liable for any damages to the premises that occur after the termination date stipulated on the termination notice. Leaving bond provisions unchanged may disadvantage tenants who exit tenancies suddenly due to family violence and the tenant may face issues getting their bond back. However, a victim experiencing hardship would be able to apply for existing support, such as emergency grants from the Ministry of Social Development.

The proposed changes broadly align with approaches taken in New South Wales, Australia and Alberta, Canada. Both jurisdictions have recently changed tenancy laws to enable victims of family violence to be removed from a tenancy with limited break lease fees or liability for further payments.

3.2 Which of these options is the proposed approach?

Criteria for analysis

The two options identified (above) were assessed against the following four criteria:

1. **Effective** – a tenant experiencing family violence should be able to leave their tenancy at short notice without financial repercussions or risk to their privacy or safety;
2. **Limit costs and impacts** – the process should limit the financial and other impacts on landlords and remaining co-tenants;
3. **Clear** – the process should be easy to understand for tenants and landlords and simple to administer;
4. **Proportionate** – there should be an appropriate distribution of impact on the victim and the landlord in relation to the risks of family violence.

The table on the next page assesses the options against criteria using the following key:

- ✘ does not meet criterion
- non-applicable or neutral in terms of meeting the criterion
- ✓ meets the criterion
- ✓✓ strongly meets the criterion

Criteria	Effective	Limit costs	Clear	Proportionate
Option 1 (status quo)	<p style="text-align: center;">✘</p> <p>Family violence is not a stated ground for a tenant exiting a tenancy early.</p> <p>The tenant may:</p> <ul style="list-style-type: none"> • remain in an abusive relationship and could expose their children to violence; • bear the financial impact of a broken tenancy, which could be considerable if there are months remaining on a fixed-term tenancy; • have to appeal to the understanding and leniency of their landlord and other co-tenants to exit the tenancy quickly; • have to appeal to the Tenancy Tribunal on ending their tenancy early and have to wait weeks or months for a decision, with no certainty of the outcome; • be required to communicate the extent of family violence in a Tenancy Tribunal hearing, which may be in front of the perpetrator, in order to have the tenancy reduced; 	<p style="text-align: center;">✓</p> <p>Landlords would be able to pursue costs (rent for the 28-days' notice for periodic tenancies and break-lease fees or ongoing rent for fixed-term tenancies) if a tenant leaves their tenancy early to seek safety.</p> <p>Co-tenants could pursue a tenant who has left the premises (but who is still on the tenancy) for outstanding rent.</p>	<p style="text-align: center;">✘</p> <p>Neither the Residential Tenancies Act (the RTA), nor the Family Violence Act (the FTA) provide legal grounds for a victim to exit a tenancy at short notice.</p> <p>The lack of explicit grounds in the RTA about family violence means:</p> <ul style="list-style-type: none"> • tenants may remain in an abusive relationship and could expose their children to violence; • outcomes for tenants seeking to leave fixed-term tenancies due to family violence are unclear and uncertain; and • Tenancy adjudicators make inconsistent decisions. 	<p style="text-align: center;">✘</p> <p>Landlords can terminate a tenancy for reasons related to family violence (damages, anti-social behaviour, etc.), but recourse is not available to the tenant experiencing the family violence.</p> <p>The tenant may remain in an unsafe environment, because they are unwilling to pursue leaving when the outcome is uncertain.</p> <p>If the tenant seeks to terminate their tenancy, they are reliant on the decision of the landlord or the Tenancy Tribunal, who can decide the extent of liability the tenant has for ongoing costs or break lease fees.</p> <p>Landlords can refuse to terminate a tenancy and can decide which tenant they pursue for costs.</p>

	<ul style="list-style-type: none"> • have no guarantee during Tenancy Tribunal proceedings that they will have their privacy protected. 			
Criteria	Effective	Limit costs	Clear	Proportionate
Option 2: include amendments in the RTA Bill to allow victims of family violence to terminate a tenancy early	<p style="text-align: center;">✓</p> <p>A tenant experiencing family violence would be able to serve a family violence termination notice to their landlord with two days' notice. This means that a tenant would:</p> <ul style="list-style-type: none"> • be able to exit a tenancy at short notice; and • not have liability for further rent-related payments or break lease fees; and • not be required to appear before a judicial body to argue their case, in the presence of the perpetrator; and • have their privacy protected. <p>The process is intended to be accessible for the victim, rather than prohibitive. However, some tenants may perceive the process as itself a barrier to leaving.</p>	<p style="text-align: center;">*</p> <p>Landlords could experience a loss of rent for about three weeks and carry the cost of finding another tenant.</p> <p>The proposal is limited to future rent liabilities. It does not bar a landlord from pursuing other costs, including rent arrears and damage to property. Provisions for the return or retention of a bond would remain unchanged.</p> <p>The impact on co-tenants is minimised through the amount of total rent payable being reduced for two weeks. This will encourage any co-tenants to remain in a tenancy, and will also provide some revenue for an affected landlord while a new tenant is being selected.</p> <p>However, the departure of one tenant at short notice could have</p>	<p style="text-align: center;">✓</p> <p>Providing a specified process and evidence required for a family violence termination notice under the RTA, including prescribing what constitutes acceptable evidence of family violence would give certainty and clarity to all parties (including tenants, landlords, Tenancy Tribunal, family violence agencies, etc.).</p> <p>However, the proposal will mean there are two different legal avenues for a tenant experiencing family violence, (one under the RTA and one under the FVA), depending on whether they need to leave the tenancy or have the perpetrator removed from the tenancy.</p> <p>Implementation would be critical for ensuring tenants are aware the new process, so that it can</p>	<p style="text-align: center;">✓✓</p> <p>Family violence would be a stated ground for a tenant exiting a tenancy early, in recognition of the risk and harm that family violence poses to the tenant.</p> <p>The proposed option goes no further than is necessary to ensure the tenant can leave the home without financial repercussions.</p> <p>The leaving tenant would be relieved of liability for ongoing rent payments and break lease fees.</p> <p>The landlord will experience a loss of rent and may face other costs, but would be able to pursue costs not covered by the proposal.</p> <p>The two-day minimum notice period provides the same notice as other situations in the RTA</p>

	<p>It may be difficult for some tenants to:</p> <ul style="list-style-type: none"> • be aware of or understand their right to termination • carry out all the necessary steps for the process • serve notice to the landlord, particularly if there is a poor relationship or if the landlord is known to them or the perpetrator personally • source and then feel comfortable disclosing the appropriate evidence. <p>The victim may struggle to have their bond returned, which could limit their ability to find new accommodation.</p> <p>The proposal could have the unintended consequence of increasing discrimination against people the landlord perceives to be a victim or survivor of family violence.</p> <p>Clear implementation and operation of the process would be critical to mitigating risks to the effectiveness of this proposal.</p> <p>s 9(2)(f)(iv)</p>	<p>financial or other impacts on any remaining co-tenants.</p> <p>If a new tenant is not found in the two-week period where rent is reduced, then co-tenants will be liable for the full amount of rent (unless otherwise agreed by the landlord).</p> <p>If rent is not currently evenly divided among tenants, then the proposed rent reduction formula could lead to an increase in rent for some co-tenants during the two-week period.</p> <p>Co-tenants who experience hardship will be able to apply to the Tenancy Tribunal for their tenancy to be terminated. However, leaving a tenancy will also impact co-tenants.</p> <p>All potential costs to landlords cannot be alleviated, unless a third-party carries the cost.</p>	<p>be easy to access. Tenants will need to understand how the proposed process compares to the process under the FVA.</p>	<p>where the premises is unsafe and there is a serious health and safety risk to the tenants.</p> <p>The tenant would be required to provide a relevant and independent source of evidence alongside the termination notice. This provides assurances to landlords that the family violence termination provisions will be invoked only in genuine circumstances.</p>
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Preferred option

Option two is preferred. It signals that family violence, in all its forms, is unacceptable and that the whole-of-government approach to addressing family violence should extend to victims who are tenants.

The option provides an effective pathway for a tenant to quickly leave an unsafe situation by providing tenants the ability to serve a family violence termination notice to their landlord with two days' notice. This will support tenants who are experiencing family violence, as well as any children for whom the tenant is responsible who are witness to or may also be victims of family violence.

The notice will be supported by evidence. The form of evidence will strike a balance between the need for the process to be accessible to victims and the need for the right of termination to be invoked only in genuine circumstances. By prescribing the evidential requirements in regulations, it enables comprehensive consultation with relevant agencies, including family violence non-governmental organisations, landlords, tenant groups, and medical practitioners. It will also enable the form of evidence to be amended over time (e.g. as other forms of relevant evidence become available), without requiring a full legislative process.

The victim is supported to leave their tenancy

The two-day notice period is consistent with other notice periods where there are risks to health and safety. This acknowledges the safety concerns of the victim of family violence, including that the threat of harm can increase when a victim seeks safety or attempts to leave the relationship.

By serving the notice on the landlord, victims will be relieved of liability for break lease fees or ongoing rent. This will lower the financial impact on the victim of leaving the tenancy, so will support the victim to find new accommodation.

To protect the privacy and safety of the tenant, landlords and those making declarations will be required to treat both the notice and the supporting evidence with confidentiality. This ensures the tenant will not be put at risk, nor stigmatised for leaving a tenancy early due to family violence.

Consistent with other judicial processes, these protections would also extend to Tenancy Tribunal applications, where, for example, a landlord challenged a family violence termination notice. Hearings would be held in private, name suppression would apply automatically to all parties, and evidence could be given remotely by vulnerable witnesses.

The impacts on others have been managed where possible

In shifting the cost away from the victim of family violence, it is inherent that some landlords will face increased costs. It is expected that this right of termination will be invoked rarely and that it will only affect a small number of landlords.

A tenant leaving a tenancy could also impact any remaining co-tenants. A reduced rent period of two weeks will assist remaining tenants to stay in the tenancy, while providing time to select a replacement tenant. This will also reduce the impact on the landlord as, where there are co-tenants, at least some rent will be received.

Creating a specified process will limit the role of the Tenancy Tribunal in decisions relating to family violence (in the event of a dispute). Applications will only be able to be made to

the Tenancy Tribunal on points of law. This will minimise the risk of the victim being re-traumatised through engaging in a judicial process. It will also provide clarity to all parties how family violence is to be treated in situations where a tenant wants to leave their tenancy.

Impacts could be mitigated further through implementation and s 9(2)(f)(iv)

Implementation will need to include a targeted education and training campaign prior to the commencement of the new provisions and regulations. This will assist in mitigating confusion about the different legal pathways for tenants in situations of family violence, as well as concerns of the tenant that the process is inaccessible or will not provide for their privacy. Landlords will need to be made aware of the imperative of keeping family violence termination notices confidential to ensure the safety of the victim.

s 9(2)(f)(iv)

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties	Comment:	Impact
Additional costs of proposed approach, compared to taking no action		
Regulated parties: landlords (and property managers)	<p>It is assumed that landlords will take an average of three weeks to find new tenants. The financial impact on a landlord is therefore estimated at a one-off cost of \$1545 (three weeks rent based on the February 2020 Trade Me Rental Price Index for a house), plus another \$200 of on-costs to find another tenant (advertising, credit checks etc). Note that this cost may be a cost brought forward or an additional cost to the landlord, but is treated as an additional cost in this analysis.</p> <p>Possible volumes of termination notices have been estimated from the nearest available proxy – tenancy orders issued per year by the Family Court (which remove a perpetrator). It is assumed that the highest plausible volume of tenancy terminations will occur at five times the rate of successful tenancy orders. About 70 Tenancy Orders are granted each year.</p> <p>It is further assumed that 150 of these terminations would have occurred and will occur even in the absence of termination notices through direct negotiations between tenants and landlords (or landlords not pursuing a claim through the Tenancy Tribunal) This suggests a marginal increase of up to 200 terminations per year should the family violence termination notice provisions be enacted.</p> <p>The impact has therefore been calculated at \$1745 (3 weeks rent + \$200 on-costs) x 200 tenancy terminations.</p> <p>The number of landlords estimated from April 2020 MBIE bond data is 123,532, which suggests that about 0.16% of landlords will be impacted by family violence tenancy terminations per year.</p> <p>The estimated cost impact on landlords is likely to be over-estimated because it does not account for the possible offset of losses to a landlord where co-tenants remain in the tenancy.</p>	\$349,000

Regulators: HUD / MBIE	Marginal cost of additional publications, communications and training courses/materials for declarants and Tenancy Tribunal Adjudicators from agency baselines. This would decrease to \$20,000 pa in ongoing costs.	\$120,000
Tenancy Tribunal and wider justice sector	There may be some additional claims by landlords regarding termination notices, and some from remaining co-tenants wishing to exit the tenancy on grounds of hardship, but it is also likely that fewer cases for termination on grounds of hardship will need to be put before the Tribunal, indicating no or little net change.	\$0.00
Wider government	Some additional costs could be incurred by agencies involved in grants, transitional housing and law enforcement. Corrections, for example, could need to rehouse a perpetrator on home detention because of impact on rental payments, but events leading to this will be rare.	Low
Co-tenants remaining in the tenancy	Co-tenants could be financially impacted by the departure of the victim, despite the proposed rent reduction formula. This risk is not currently quantifiable. Where it causes hardship, a co-tenant can apply to the Tenancy Tribunal to exit the tenancy. The impact is therefore assessed as low.	Low
Family Violence NGOs	Some tenants using termination notices could end up in emergency accommodation, additional to those who would have used these services prior to the introduction of these provisions. This impact is not currently quantifiable but is estimated as low.	Low
Total Monetised Cost		\$469,000 Approx.

Expected benefits of proposed approach, compared to taking no action		
Affected parties	Comment:	Impact
Regulated parties: tenants	<p>Savings to tenants who issue family violence termination notices – approx. \$1545 (three weeks rent) across 200 tenants.</p> <p>This assumes a sole tenancy. The amount will be lower, where co-tenants remain as the landlord will still receive a portion of rent. However, in all cases the victim would only be liable for two day’s rent (a full or part share with other tenants) unless they decided voluntarily to give more than the minimum notice period.</p> <p>Where break-lease fee provisions have been included in a tenancy agreement, these fees will also be waived. The overall impact of having these waived has not been included, as the number of tenancy agreements with these clauses is unknown.</p> <p>Victims experiencing family violence will be able to shift to safer environments more easily.</p>	<p>\$309,000</p> <p>High</p>
Wider public good	<p>Fewer police call outs and reduced use of other emergency services. No data are currently available to quantify this impact. While savings are likely, the amount is estimated as low.</p>	<p>Low</p>
Total monetised benefit		<p>\$309,000</p> <p>Approx.</p>
Non-monetised benefits		<p>High</p>

4.2 What other impacts is this approach likely to have?

By proposing to add provisions through an SOP to the RTA Bill, an effective pathway for victims to leave a tenancy can be available sooner. However, this has also imposed time constraints on the development of this proposal.

While it is possible that the proposal could have as yet unknown unintended consequences, the risk of these was raised with New South Wales officials, as a similar approach exists there. The most salient of these in this context was an unduly narrow definition of persons competent to provide evidence. This has been addressed by broadening the range of competent persons through regulation-making powers. The proposal discussed in this impact summary also includes regulation-making powers for defining competent persons.

The impacts of a victim serving a family violence termination notice will vary depending on the circumstances, including:

- the nature of the tenancy agreement
- whether there are other tenancy issues (such as rent arrears or damages)
- whether the perpetrator is a co-tenant or occupant.

Tenancy agreements are diverse and can be approached in varying ways by different landlords and property managers. Only listed tenants have the rights, obligations, and liabilities listed under the RTA. A tenant may seek to leave a tenancy agreement where:

- they are the sole tenant
- they are the head tenant (only tenant named on the lease), but there are other occupants
- there are one or more co-tenants
- there is a mix of co-tenants and other occupants.

This means that where the victim is the sole tenant, we can expect the other impacts of this approach to be minimal. However, where co-tenants and other occupants are involved, the impacts are likely to be more diffuse.

Impact on landlords

The timeframes for the Bill mean there has been limited opportunity to consult with landlords and property managers on the financial and operational effects that the proposed changes may have on their businesses.

The proposed changes may increase landlords' business risks and their costs. If a family violence termination notice is served on them by a tenant, rental income from the tenant will cease, which may be all or part of the rent for the tenancy depending on whether the victim was the sole tenant or not.

There may be other implications for landlords, such as the cost of finding a new tenant. However, in some cases this would only bring an existing cost forward.

The proposal takes a proportionate approach to addressing family violence and managing risks for the landlord. The risk of a family violence termination notice being served on a landlord is very small (< 0.16% a year), but the impact for victims who use this process will be significant.

Impact on co-tenants of the victim

The proposal may also affect any co-tenants. The reduction in rent for two-weeks will manage the financial impact of the victim leaving, but there may be circumstances where a remaining co-tenant still experiences hardship or wants to leave the tenancy themselves. For example,

- if the landlord does not or is unable to find a new tenant by the end of the two-week period of reduced rent;
- if the distribution of rent changes in response to the tenant leaving (i.e. if the victim and the perpetrator shared a room and paid more as a couple, then it may not be appropriate to find a new tenant, but could adjust the amounts each tenant pays); or
- if the perpetrator is also a co-tenant and makes the other co-tenant(s) feel uncomfortable or unsafe.

For this reason, we propose an ability for remaining co-tenants who experience hardship as a result of a family violence termination notice, to apply to the Tenancy Tribunal for termination of their tenancy.

Impact on renters

This proposal and other amendments in the Bill could have a cumulative effect on landlords' willingness to rent, which could lead to more stringent vetting of tenants. Despite the proposed additional privacy provisions relating to family violence termination notices, landlords may discriminate against people they perceive to be victims or survivors of family violence. Landlords may also increase the amount of rent charged.

Impact on Tenancy Tribunal

The Tenancy Tribunal will benefit from greater clarity regarding tenancy terminations involving circumstances of family violence. Although the proposal minimises the need for the Tenancy Tribunal to make assessments about the circumstances of family violence, a landlord or co-tenant may still take an application to the Tenancy Tribunal on a point of law. The Tenancy Tribunal may need some upskilling in dealing with cases that require sensitivity in this area, including the implementation and application of new provisions relating to private hearings, name suppression and remotely provided evidence.

Impact on wider government and services

For employees working at organisations who are able to provide a declaration notice

If more people leave their tenancies at short notice, and without suitable or affordable alternative accommodation, there could also be increased demand for emergency housing or social housing or housing assistance products managed by the Ministry of Social Development. We expect this impact to be low (200 or fewer additional people per year needing emergency or special housing provisions) and offset by reduced callouts and a reduced need for other emergency services (e.g. police, ambulances).

In addition, as the evidence accompanying the family violence can be a declaration from a 'competent' person, this may impact resourcing for medical professionals and employees at non-governmental organisations by adding another responsibility. Clear guidelines or a specific form for the declaration will mitigate this risk, which may be developed as part of regulations.

Wider impacts

However, by advancing this proposal as an amendment to the RTA, it is outside of the Family Violence Act and has less scope to support the long-term outcomes sought in relation to family violence. While the Family Court has the mandate to provide victims and children with safety programmes if requested and direct the perpetrator to a non-violence programme if a protection order is granted, the Tenancy Tribunal can only settle tenancy disputes. It may be difficult to link the victim and the perpetrator to ongoing support, which could limit the ability for the proposal to be an early intervention to stop and prevent family violence.

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

Submissions on the Residential Tenancies Amendment Bill

During consideration of the Residential Tenancies Amendment Bill (the RTA Bill) by the Social Services and Community Committee, some submitters raised concerns about the lack of protections in the RTA Bill for victims of family violence who need to exit tenancies quickly.

Issues raised included:

- The contractual nature of tenancy agreements, which makes it difficult for tenants to leave unsafe environments, because they are liable for ongoing rent (in fixed-term tenancies and the notice period in periodic tenancies).
- Where a victim and the perpetrator are both on the tenancy agreement, it is hard for the victim to leave to seek safely, because fixed-term tenancies can only be changed or terminated if the landlord and all the tenants agree. The landlord may also refuse.
- It is impractical for victims to seek a Tenancy Tribunal order to reduce their fixed-term tenancy term if the perpetrator is present as a party to the proceedings. The Tribunal is not mandated to deal with the safety needs of victims, decisions can take weeks leaving the tenant stuck in an unsafe environment, and the landlord may pursue the victim for rent and damage costs.
- There is a concern that the anti-social behaviour clause in the RTA Bill will be used against tenants subject to family violence because landlords may simply want to be rid of the matter and move the family on by issuing “anti-social behaviour” notices. This would leave the affected partner and their children even more vulnerable and will penalise them for having suffered family violence.

Submitters who argued the RTA Bill should be strengthened to protect victims of family violence included: Baywide Community Law Centre’s Housing Advocacy Service; Citizen’s Advice Bureau; Community Law Centres o Aotearoa; the Human Rights Commission; Hutt City Council; Manawatū Tenants’ Union; Renters United; and, the National Collective of Independent Women’s Refuges.

Submitters suggested a range of changes to the RTA Bill to address family violence issues. These suggestions were not addressed through the departmental report.

Targeted consultation on changes proposed for Supplementary Order Paper

Limited consultation on the proposal was undertaken with the following submitters on the Bill: the National Collective of Independent Women’s Refuges (NCIWR), the New Zealand Property Investors Federation (NZPIF), and Community Law Centres o Aotearoa (CLCA).

NCIWR were supportive of the proposal, but noted one of their biggest concerns was a landlord accidentally or deliberately disclosing the confidential information in the termination notice as to the family violence to the perpetrator or other co-tenants, thereby putting the victim and co-tenants at risk, and possibly incurring retaliatory damage to the rental property.

NZPIF were sympathetic to the issue being addressed by the proposal. They held concerns about the reliability of the evidence required for the family violence termination notice and the financial impact on landlords from the rent reduction and transaction costs of finding new tenants. They were also concerned that the proposal may result in ‘invisible discrimination’ on the part of landlords, in their selection of tenants they perceive to be ‘high risk’.

CLCA were supportive of the proposal and noted that, in their experience, women experiencing family violence are more likely to want to leave a rental premises to seek

safety than stay and have the perpetrator evicted, and they are reluctant to go through a stressful and difficult family court process (in order to get a tenancy order). Typically, CLCA clients are in one-year fixed term tenancies, and on-going rent obligations are a significant barrier to leaving the tenancy at short notice.

CLCA had two main comments and concerns with the proposal. Firstly, the list of competent people who can sign a declaration as to family violence needs to be wide (for example including different kinds of healthcare workers, Shakti and refuge workers). Secondly, the privacy of the victim needs to be better protected, including making it unlawful for a landlord to publish information as to a family violence termination notice on a landlord 'blacklist', and automatically anonymising all Tenancy Tribunal decisions as to family violence. CLCA did not consider the proposed Residential Tenancies Amendment Bill name suppression provisions would be sufficient to ensure all identifying details of a tenant-victim of family violence would be suppressed consistently in every case concerning family violence.

Further consultation will occur on the regulations

There will be more extensive consultation on key aspects of the proposal as part of drafting regulations. Regulations will prescribe the form of evidence and the category of persons competent to make a declaration. Regulations may also need to be made for the details required in the termination notice itself and for the declaration made by a competent person.

Not all the submitters' proposals have been addressed

Due to the limited scope of the provisions, the following aspects have not been addressed in the proposed approach:

- exempting victims from paying for property damage caused by violence against them
- preventing landlords from terminating the tenancies of victims of family violence due to abuse against them (e.g. on grounds of anti-social behaviour) and
- enabling victims to retrieve personal property from rental premises and have bond refunded easily.

The current reform of the RTA is focused on modernising tenancy laws, including improving security of tenure for tenants meeting obligations, supporting tenants' ability to assert legal rights, and enhancing mechanisms for enforcing the RTA. s 9(2)(f)(iv)

Consultation with New South Wales officials from Real Estate and Housing, NSW Government on domestic violence termination notice provisions

HUD officials spoke with counterparts in NSW about the recent changes to the NSW Residential Tenancies Act 2010 to allow tenants experiencing domestic violence to exit tenancies urgently. The NSW provisions (*Termination by tenant – circumstances of domestic violence*) have been in force since February 2019.

NSW officials advised they do not yet have detailed data about the way the provisions are working, as the changes are relatively recent, and their NSW Civil and Administrative Tribunal (NCAT) has limited jurisdiction over the provisions.

However, they advised that due to feedback from stakeholders, the definition of 'competent' person has been changed. Under the provisions, a competent person may sign a declaration as evidence of domestic violence, and the legislation originally defined 'competent person' as regulated 'a medical practitioner'. In response to feedback this definition was too narrow, it was recently amended to include people from other professions, including: a social worker, a child welfare worker, a domestic violence/sexual

assault NGO worker, a refuge or emergency accommodation NGO worker, an approved counsellor, and a person prescribed in regulations. This change has not been implemented yet.

Anecdotally, landlords and property managers have raised concerns with officials that because the domestic violence declarations are not open to review by NCAT, the domestic violence termination notices may be open to misuse by tenants.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?

Legislative change

The proposed changes will be given effect through amendment to the Residential Tenancies Amendment Bill (the RTA Bill) by Supplementary Order Paper. The RTA Bill is due to be reported back to Parliament by 13 July 2020.

Regulation development

If the SOP is agreed to and the RTA Bill is passed, HUD will develop regulations that prescribe:

- the evidence required for the purposes of a family violence termination notice
- who is competent to provide the evidence
- the detail required in the termination notice, including the declaration made by a competent person.

Development of the regulations will include consultation on the above components, and the resulting regulations will be submitted to Cabinet for approval. Once approved by Cabinet, the regulations will be given effect through notification in the New Zealand Gazette.

It is intended that the regulations will be available close to the commencement of the Bill, which is six months from the date of royal assent.

Implementation

HUD and MBIE are working to develop a legislative implementation plan to ensure operational policies, processes and systems are in place to give effect to the new requirements in the RTA Bill.

In order for the proposal to be effective, tenants must be aware that the new process exists, must find it easy to access and navigate, and must feel comfortable that they will not be stigmatised for terminating a tenancy due to family violence. This proposal will set a precedent for how landlords should treat family violence, which will support this behaviour change.

Information and education activity relating to the RTA will include information on the rights and responsibilities relating to the family violence termination provisions. This will target relevant stakeholder groups including government agencies, tenancy services, private landlords, public and community housing landlords, emergency housing providers, healthcare professionals, and other community groups who support victims of family violence.

Some training may also be required for those authorised to provide evidence in support of a family violence termination notice and possibly for Tenancy Tribunal adjudicators.

The Ministry of Justice would also need to implement procedural changes for Tenancy Tribunal hearings to ensure that private hearings and name suppression applied to applications involving family violence termination notices, as well as ensure that facilities were available for providing evidence remotely (e.g. via video conferencing).

HUD will engage with Ministry of Justice during implementation, particularly for those communications where a clear distinction needs to be made between the purposes and process in tenancy provisions under the Family Violence Act and those under the Residential Tenancies Act.

Operational oversight

Oversight of the operation of the regulations will be carried out by Tenancy Services in MBIE and the Tenancy Tribunal. The Tenancy Tribunal holds hearings to settle disputes between tenants and landlords and issues orders that are legally binding on the parties involved in

the dispute. The most common orders are for tenancies to end, money to be paid, or work to be done. MBIE can take proceedings to the Tribunal on behalf of any party where it is satisfied there is a cause for action, and it is in the public interest to do so.

The new arrangement will come into effect when the RTA Bill is enacted and the regulations are developed. The time required for developing the regulations will allow sufficient preparation time for parties delivering any service related to family violence termination notices (e.g. emergency housing services).

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

General system-level monitoring and evaluation of the RTA

HUD is the regulatory steward for the residential tenancy system and will monitor the implementation of the whole set of changes in the Residential Tenancy Amendment Bill (the RTA Bill), including the new family violence provisions. As part of this ongoing work, HUD policy officials are in regular contact with Tenancy Services within MBIE, which holds compliance and enforcement functions for the RTA, and with Justice Services within the Ministry of Justice, which administers the Tenancy Tribunal.

Specific monitoring and evaluation of the new family violence termination notices will require work across government, and consultation with rental advocacy groups and agencies who support victims of family violence

In order to gain an understanding of whether and how often the new family violence provisions are being used by tenants to leave unsafe living arrangements, and to assess how the new provisions in the RTA are operating in conjunction with the Tenancy Order mechanisms in the FVA, HUD will need to consult with:

- non-governmental organisations (such as women's refuges and community law centres);
- groups representing landlords, property managers and tenants;
- Kāinga Ora;
- Tenancy Services (in MBIE);
- the Joint Business Venture Unit (which works across government agencies to reduce family violence, sexual violence, and violence within whānau); and
- the Ministry of Justice (which administers the FVA).

Wide consultation is required because if the family violence termination notices are being used in the way they are intended, HUD and MBIE will not have visibility over them, as the notices will be confidential as between tenants and landlords.

To some extent, we will know if the termination notices are being invoked incorrectly and how often, by monitoring Tenancy Tribunal decisions in which they are being challenged by landlords, if orders are published. We may also consider other avenues, as appropriate e.g. MBIE Service Centre calls, the Family Violence information line.

7.2 When and how will the new arrangements be reviewed?

As noted in section 7.1, HUD will work across government and with key stakeholder groups to review the new termination provisions after implementation, once regulations are in place. This will enable the identification of any issues that prompt the need for policy work leading to further legislative or regulatory change to address gaps or operational issues.