



Submission
of the
**New Zealand Union of Students’
Associations**
on the
**Inquiry into Student
Accommodation**

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To	Education and Workforce Select Committee
From	New Zealand Union of Students' Associations (NZUSA)
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1. Introduction

- 1.1. Thank you for the opportunity to make a written submission to the Education and Workforce Select Committee Inquiry into Student Accommodation.
- 1.2. Our submission focuses on the eleven Terms of Reference (ToR) that guide this Inquiry.
- 1.3. Firstly, we would like to acknowledge all of the members of the Education and Workforce Select Committee for their work in making this Inquiry happen. We are thankful for the cross-party support. We would like to especially acknowledge the work of Chlöe Swarbrick in initiating this inquiry and for her support on this issue. We would also like to commend Jan Tinetti, Dr Shane Reti, Nikki Kaye and Nicola Willis for their support and advocacy when the issues within student accommodation came to light during alert Levels 3 and 4 of the Covid-19 lockdown.
- 1.4. We would also like to acknowledge the hundreds of students who have bravely spoken out against injustices they have experienced in student accommodation, both during the Covid-19 lockdown and long before. It is because of these students that this Inquiry was made possible.
- 1.5. In summary, we believe that the system for student accommodation in Aotearoa New Zealand is broken. The lack of regulation and protection for students means that the system has become out of control. It has moved away from its core purpose which is to provide safe, healthy and warm accommodation for students when they are undertaking tertiary study. While tertiary education organisations will argue that the current system is fit for purpose, recent events are a reflection that this is not the case. This includes the tragic death of Mason Pendrous at Sonada Village at the University of Canterbury in 2019; the requirement for students to continue to be charged for student accommodation they were unable to access during the Levels 3 and Level 4 Covid-19 lockdown at the majority of our universities and many of our polytechnics and; the allegations of rape and sexual assault at Knox College at the University of Otago.

2. Background

- 2.1. The New Zealand Union of Students' Associations (NZUSA) is the national voice of students in tertiary education. We are proudly owned by students' associations from

universities and polytechnics (collectively referred to in this submission as “TEOs”) around the country. Our vision is for a barrier-free tertiary education for all people in Aotearoa New Zealand.

- 2.2. As part of our work, we are committed to building strong independent student voice within TEOs. We strongly believe in the role of student voice in producing co-created successful learning outcomes in tertiary education.
- 2.3. Student accommodation plays an enormous part in achieving our vision for a barrier free tertiary education. For many students, student accommodation provides the gateway for them to be able to access education, whether they be first-year students moving away from home for the first time, post graduate students in self-catered accommodation, or international students wanting a home during their time in Aotearoa New Zealand. We believe that all accommodation, including student accommodation, should be warm, healthy, affordable and safe. Most importantly, student accommodation should be treated as a students’ home for the duration of the time they live there.
- 2.4. For years, NZUSA has been addressing issues that arise within student accommodation. This includes highlighting systemic issues within student accommodation facilities that we have addressed in our research - ‘[Income and Expenditure](#)’, ‘[In Our Own Words Report](#)’ and ‘[Kei Te Pai](#)’. We have also publicly spoken out on issues from the high cost of student accommodation,¹ the lack of pastoral care for students within student accommodation², and toxic cultures within student accommodation that have been left unchecked.
- 2.5. Our members and partners are:
 - Albany Students’ Association (ASA)
 - Association of Students at Universal College of Learning (AS@U)
 - Auckland University Students’ Association (AUSA)
 - Lincoln University Students’ Association (LUSA)
 - Massey University Distance Students’ Association (M@D)
 - Massey University Students’ Association (MUSA)
 - Massey Wellington Students’ Association (MAWSA)
 - Otago University Students’ Association (OUSA)
 - Student Connection Weltec and Whitireia
 - Students’ Association at Wintec (SAWIT)
 - Tairā Pasifika (TP)
 - Te Mana Ākonga (TMĀ)
 - Unitec Student Council (USC)
 - Victoria University of Wellington Students’ Association (VUWSA)
 - Younited Students’ Association at Eastern Institute of Technology

¹ <https://www.rnz.co.nz/national/programmes/first-up/audio/2018735632/students-feeling-the-squeeze-as-university-halls-put-prices-up>

² <https://www.rnz.co.nz/news/national/399636/students-call-for-minimum-hostel-standards-after-death-at-canterbury-university-residence>

3. Definition of Student Accommodation

- 3.1. The current definition of student accommodation is set out in s 5B of the Residential Tenancies Act 1986 (RTA) and is referred to in the Education (Pastoral Care) Amendment Act 2019. Put simply, student accommodation is defined as accommodation provided exclusively for students by a tertiary education provider, or by a third party that holds an agreement with a tertiary education provider to provide such accommodation.
- 3.2. The definition of student accommodation is extremely broad. The Terms of Reference of this Inquiry highlight the vast range of options and models that can be classified as student accommodation. Table 1 below provides examples of the various forms of student accommodation in Aotearoa New Zealand.

Table 1: Forms of Student Accommodation

Model	Example
Wholly-owned and operated by a TEO.	Student Village at Eastern Institute of Technology. O'Rorke Hall at the University of Auckland.
Owned by a TEO, managed by an external provider.	Te Pā Taurira at Otago Polytechnic. Everton Hall at Victoria University of Wellington
Wholly-owned and managed by an external provider, but advertised as student accommodation within a TEO.	Sonada Hall at the University of Canterbury Knox College at the University of Otago
Wholly-owned and managed by an external provider, completely separate to a TEO.	Empire Apartments in Auckland City

- 3.3. Student accommodation, as defined in the RTA is only required to meet a brief list of criteria, to be classified as such. The criteria outline in s 5B are vague, and do not provide a clear distinction between of what student accommodation is, and how it is distinct from other forms of accommodation.
- 3.4. Section 5B(1) codifies the exclusion of student accommodation from the RTA and gives tertiary education providers an exceedingly wide scope to own or operate any form of accommodation or size of premises that falls within the definition.
- 3.5. Due to this wide scope, providers are able to replicate accommodation arrangements that are analogous to standard tenancy arrangements while avoiding landlord obligations under the RTA. Further, students miss out on the protection the RTA provides regular tenants, even though their lived experiences of student accommodation may be identical to typical tenancy relationships.

- 3.6. Section 5B(2) requires accommodation providers to provide services to students that are “over and above the services that a landlord must provide”. We agree that students deserve a greater level of support than a standard relationship between a landlord and tenant, but this section is effectively meaningless without a clear set of expectations outlining how student accommodation providers are expected to go ‘over and above’.
- 3.7. Section 5B(3) requires accommodation providers to develop house rules that aim to create an environment that fosters personal development and encourage a sense of community and association with fellow students. This section also lacks detail and clear expectations, allowing providers to do the bare minimum.
- 3.8. We believe that the definition of student accommodation needs to be redefined. Rather than be an exclusionary category of the RTA, student accommodation requires its own legal framework that clearly sets out the obligations and expectations of student accommodation providers, and the protections and rights of students.
- 3.9. This definition must include the purpose of student accommodation as an underlying principle, that purpose being to provide housing arrangements for tertiary students that foster community, support their academic pursuits, and uphold their safety and wellbeing.

RECOMMENDATIONS

We recommend that Parliament develops a clear and accessible definition and legal framework for student accommodation that legislates the obligations and expectations of providers, and the rights and protections of students. This would not require student accommodation being redefined for the purposes of the RTA, but that a legal framework for student accommodation is developed instead of it being an exclusionary category of the RTA.

We recommend that Parliament ensure that students are provided with the relevant legal definition of student accommodation and are made aware of their rights and protections within this legal framework.

4. Regulations and Rights for Residents, and Transparent Decision Making of Student Accommodation and Providers

- 4.1. As outlined above, because student accommodation is currently exempt from the RTA (with the exception of a small handful of provisions in s 5B) students in this accommodation are not afforded the rights granted to regular tenants. Owners and managers of student accommodation, despite fulfilling the role of a landlord, are currently exempt from responsibilities that we require of other landlords. This lack of government oversight for student accommodation means that residents have few legal rights as tenants and are at the mercy of their accommodation provider and/or TEO.

- 4.2. Key issues faced by residents in student accommodation that stem from the lack of regulation and rights are the high accommodation fees (unregulated with regards to market rent), additional administrative fees, the inability for residents to take a claim to the Tenancy Tribunal, discrimination, lack of conflict resolution or complaints processes, and lack of compliance with the healthy homes standards.
- 4.3. We recognise that some areas of the RTA are inappropriate for student accommodation, such as assignment and subletting in s 44, restrictions on the landlord's right of entry in s 48, and automatic renewals for fixed-term tenancies in s 60.
- 4.4. We recognise, however, that the RTA contains a vast number of provisions that are applicable in practice to student accommodation and are necessary to ensure that residents have fair rights. We also recognise that the legal rights and responsibilities of residents need to be made transparent to them by their accommodation provider prior to signing a contract, alongside any additional house rules.
- 4.5. We believe that student accommodation should have its own regulatory framework within the RTA, which should contain rights and responsibilities for residents and providers equivalent to those delegated to tenants and landlords in Part 2.
- 4.6. This regulatory framework should allow residents in and providers of student accommodation to apply to the Tenancy Tribunal over disputes and breaches of the RTA, and for the Tribunal to make rulings on cases involving student accommodation.
- 4.7. As residents in student accommodation are eligible to be there because they are in tertiary study, it is not fair to lock them into the full duration of the tenancy like a regular fixed-term tenancy in case their study arrangements change throughout the calendar year.
- 4.8. We believe that residential agreements for student accommodation should be considered as a form of fixed-term individual tenancy, with provisions for students to exit the agreement early, provided that sufficient notice is given.
- 4.9. This suggested arrangement is not unfair on accommodation providers, as they operate hundreds of students at a time on one site, and they can weather the departure of a small handful of students throughout the year, provided that they have sufficient time to replace them.
- 4.10. We believe that residents in student accommodation should be protected from exorbitant rents, just as tenants in ss25 and 26 of the RTA are, as the Tenancy Tribunal has the power to order a rent reduction if the current rate substantially exceeds the market rate.
- 4.11. However, the market rate for student accommodation rent is already exceedingly high, and while it should be higher than the market rate in the regular rental market because

the services offered are greater, market rates are a reflection of average pricing across the sector, not of a fair assessment of the cost of accommodation.

- 4.12. Also, student accommodation is designed so that every student pays the same and gets the same services and room space, and so a successful application to the Tenancy Tribunal to reduce an exorbitant rent by an individual student would not solve the issue for the hundreds of other students living on the same site.
- 4.13. We believe that rent regulation in the student accommodation sector should therefore be done at the provider-level, with accommodation providers required to have their rent levels scrutinised by the Tenancy Tribunal, or another government body, before the rent is advertised to prospective residents.
- 4.14. We believe that a regulatory framework for student accommodation must require the provider to meet the healthy homes standards, to prevent discrimination in the selection of and provision of services for residents, and to provide housing security for residents by preventing unfair terminations.
- 4.15. We recognise that there are times when the behaviour of a resident in student accommodation can negatively impact other students' wellbeing, and believe that while a restorative justice approach should be taken in many cases, any legal framework should allow the accommodation provider to terminate the contract of a resident if their impact on other students' wellbeing marks a case of serious misconduct, such as sexual assault, other forms of physical violence, or ongoing bullying.

RECOMMENDATIONS

We recommend that student accommodation be included within the Residential Tenancies Act 1986, with the main benefit being that students in student accommodation would have access to the Tenancy Tribunal.

We recommend that Parliament create specific rules to govern student accommodation that mitigates the power imbalance between students and tertiary providers, as outlined in [4.8], [4.10] and [4.13 – 4.14].

5. Informing the Development and Refinement of a Permanent Pastoral Care Code

- 5.1. In response to the tragic death of Mason Pendrous at the University of Canterbury, NZUSA publicly stated the need for there to be "minimum standards" for student accommodation.³ As a result of Parliament acting quickly to implement the Education (Pastoral Care) Amendment Act 2019, NZUSA was fortunate to be invited to work alongside other stakeholders in the development of the Interim Code of Practice.

³ https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12271555

- 5.2. Despite very limited student representation, NZUSA alongside our Te Tiriti partners, Te Mana Ākonga (National Māori Students' Association), we worked to ensure that student voices were enshrined into the development of the Interim Code, with the intention that this code would have been able to include some of the recommendations (i.e. the inclusion of student accommodation within the RTA).
- 5.3. We believe that if the Interim Code of Practice had included these recommendations, then it would have been in a far stronger position to support students and student accommodation providers alike during the Covid-19 lockdown. Instead, the Interim Code of Practice was unable to provide any certainty or support during the most acute period of need for pastoral care support.
- 5.4. Whilst NZUSA continues to support and see the benefit of the Interim Code of Practice, with all due respect to the government agencies who sought to ensure that student voice was included in the design of the Interim Code of Practice, student voice is only meaningful if students are able to see the benefit and impact of student voice itself.
- 5.5. We therefore encourage Parliament to prioritise the needs of students (substantive considerations) and the inclusion of student voices (procedural considerations) in the development of the Permanent Pastoral Code of Practice, as it has already done in cl 3.1 of the Terms of Reference for this Inquiry.

RECOMMENDATIONS

We recommend that the outcomes of this Inquiry are used to inform the development and refinement of the Permanent Code of Practice, given that the Interim Code of Practice has failed to provide students in student accommodation with any support during the Covid-19 lockdown.

We recommend that the Permanent Code of Practice priorities and focuses on supporting the wellbeing of students, including students in student accommodation.

6. Employment relationships and expectations, especially of Residential Assistants (RAs)

- 6.1. Residential Assistants (RAs) are employees of the TEO or accommodation provider, who are also residents in lieu of the student accommodation being their place of living. As a general rule, RAs are also students at the TEO. There are limited instances of RAs being recent graduates or students of another TEO.
- 6.2. This makes their role a unique crossover of a staff member, with employment rights and responsibilities, and a resident, who should have tenancy rights, which means that their circumstances cannot be effectively governed solely by employment law or solely by tenancy law.

- 6.3. We recognise that RAs across the country struggle with issues such as being overworked, an expectation to work additional hours without compensation, a lack of training in areas such as mental health, disclosures, conflict, and sexual assault, high accommodation costs, and poor support for their own wellbeing or situations that they have to deal with.⁴
- 6.4. A lack of support for RAs has a flow-on effect to residents and student accommodation culture, meaning that students do not receive the required care when it is needed, or that the care they receive is sub-standard.
- 6.5. The Interim Code of Practice, while recognising that student accommodation requires better oversight to ensure that residents receive necessary support, does not address this concern, and so is insufficient to respond to the welfare issue that has plagued student accommodation in recent years.
- 6.6. As is common in many sectors with casualised employment practices, RAs are often expected to work beyond their contracted hours without sufficient compensation or notice, or are expected to be on call outside of their contracted hours without being compensated for these periods of time that they cannot use to engage in other activities or employment.⁵
- 6.7. These practices are commonplace because an urgent need to respond to a crisis cannot realistically be turned down by a person employed to provide welfare, and RAs put their residents' needs ahead of their own in the line of duty.
- 6.8. We recognise that the line between being "on the clock" and "off the clock" can be blurry for RAs, as their place of residence and personal leisure is the same as their place of employment. Essentially this means that the role of an RA is 24/7 – extending well beyond their contracted or rostered hours. This is an area that we strongly hope the Inquiry will look into and make recommendations on.
- 6.9. Furthermore, RAs are required to live onsite at student accommodation, yet are required to pay for their rooms, which typically absorbs most, if not all, of their pay check.⁶
- 6.10. We believe that the live-in employment status and rights of RAs, a situation which is almost unique across the country's workforce, should be specifically defined within a legal framework that recognises the unique needs and circumstances of RAs.
- 6.11. We believe that this framework needs to clearly define employment rights for RAs around casual and on-call work, including provision to allow RAs to report and claim

⁴ <https://thespinoff.co.nz/society/22-07-2018/overworked-and-underpaid-the-nightmare-lives-of-university-hostel-assistants/>

⁵ <https://www.critic.co.nz/features/article/8329/nightmare-lives-of-ras-2-the-revenge->

⁶ <https://www.critic.co.nz/features/article/8329/nightmare-lives-of-ras-2-the-revenge->

hours worked above their contract without delegation from their line manager in exceptional circumstances.

- 6.12. RA employment contracts often prevent them from working another job as they need RAs to be on call while they are “off the clock”, however the pay is usually too low for RAs to live off on its own, particularly if they are not eligible for student allowance.
- 6.13. We believe that RAs should be paid to be on call and clearly rostered for this standby accordingly, sufficiently ahead of time, as is the requirement in other professions such as nursing, and that RAs should not be prevented from pursuing other interests outside of their rostered hours.
- 6.14. We believe that RAs should not be charged an accommodation fee, as their residence is a required part of the job and therefore should be provided by the employer, in the same way that an office space, uniform, or equipment is provided by employers.
- 6.15. The job of an RA is similar in many ways to that of a youth worker or carer. These jobs require extensive training and support pathways, yet providers expect their RAs to perform their job with minimal levels of training or support.⁷
- 6.16. We encourage this Inquiry to refer to the relevant findings from the Employment Relations Authority, including their finding in the case of Sharon Lukiau-Ngaamo v The Nelson College Board of Trustees [2019].⁸ In this case, the Authority took three factors into consideration when determining whether Ms Lukiau-Ngaamo (Housemaster of a boarding house) should be paid for her overnight work hours: the constraints placed on her freedom; the nature and extent of the responsibilities placed on her and; the benefit of the employer of having her perform their role.
- 6.17. Although this Inquiry focuses on tertiary student accommodation, there are similarities between the roles and responsibilities of RAs and Ms Lukiau-Ngaamo’s job working in secondary school accommodation (refer to [37] – [39]). RAs sit at the coalface of pastoral care within student accommodation, and are responsible for supporting students at all times of the day and night with a wide range of needs and issues including the over-consumption or adverse reaction to drugs and alcohol, transporting students to emergency services, support students in emergencies and responding to acute student incidents.
- 6.18. The Authority determined that Ms Lukiau-Ngaamo as the Housemaster, who was staying at work overnight, must be paid for that overnight work. The same logic and rationale must also apply to RAs. We believe that the Inquiry should explore the parallels between this determination and the situation with RAs in student accommodation.

⁷ <https://www.debatemag.com/post/another-shambles>

⁸ https://www.employment.govt.nz/assets/elawpdf/2019/d530eaeba1/2019_NZERA_484.pdf

- 6.19. We also believe that, in line with other professions that deliver a duty of care to people, RAs and their managers should be required to undergo sufficient training, and re-training where necessary, in the areas of Te Tiriti, mental health support, crisis management, sexual violence, conflict resolution, de-escalation, disability support, discrimination against marginalised communities, support pathways, and caring for vulnerable people.

RECOMMENDATIONS

We recommend that tertiary institutions be required to provide consistent, adequate, and ongoing training and support for Residential Assistants, to equip them to carry out their role effectively.

We recommend that residential assistants be afforded the same support mechanisms in student accommodation as residents are.

We recommend that residential assistants be paid a fair wage that reflects the demands of the role and the hours required to carry it out, including fair pay for hours that they are on call for, this includes overnight.

We recommend that live-in staff student accommodation should not be charged an accommodation fee.

7. Governance, Accountability, and Conflict Resolution

- 7.1. Student accommodation is more than just a service provided to student residents; it is provision of housing, a fundamental human right, and those that utilise it to exercise their right to housing should have a say in how it is run.
- 7.2. Currently, student accommodation is either governed by a TEO or by a private entity, either a business or a non-profit organisation, and while some of these providers have formal resident representation at some level of management or governance, this is not standard practice across the sector.
- 7.3. We believe that student accommodation should be required to have formal representation from residents and RAs in its governance processes, to ensure that the voices of the most important stakeholders are heard around the table.
- 7.4. Conflicts and incidents are frequent in student accommodation, in part because residents cohabit premises in such large numbers. Student accommodation has too often demonstrated that it does not have sufficient processes for handling such scenarios in a satisfactory manner, and this needs to be addressed by government legislation.

- 7.5. We believe that student accommodation should be required to have robust conflict resolution processes that all staff, including RAs, are trained in, that meets a series of criteria set down by legislation, and that allows for an independent review if the matter is not resolved satisfactorily.
- 7.6. Conflict resolution processes should be required to be transparent to residents, protect the safety and privacy of complainants, demonstrate that they have taken steps to eliminate discrimination and bias, and uphold the welfare of residents and staff through all stages.

RECOMMENDATIONS

We recommend that contracts for student accommodation are required to provide clear guidelines for complaints procedures and conflict resolution that meet established criteria.

We recommend that student accommodation providers are required to provide clear information to residents and staff about their policies and their governance structure, and to provide resident and RA representation in their governance structure.

8. Cultural Competency and Pastoral Care

- 8.1. Student accommodation, as a home and place of safety for residents and staff, should be a space that is free from discrimination and harassment, and a place that is equitably accessible to all who call it home or who work there. Student accommodation must also recognise and provide for the diverse range of cultural, physical, and social needs of residents.
- 8.2. Section 57 of the Human Rights Act 1993 prohibits discrimination within an educational establishments, and as student accommodation is by its legal definition accommodation that is owned by or allowed to operate by way of an arrangement with a TEO, this prohibition should carry through into student accommodation.
- 8.3. Regardless, no individual or group should be allowed to be discriminated against in their own home, and this should be reinforced in the regulatory framework for student accommodation.
- 8.4. As the national voice for tertiary students in Aotearoa New Zealand, NZUSA has been made aware of various reports of discrimination by staff and/or management against

⁹ <http://www.legislation.govt.nz/act/public/1993/0082/latest/whole.html#DLM304636>

residents over the years, highlighting a widespread cultural issue that needs to be addressed.

- 8.5. To ensure cultural competency in the management of student accommodation and the response to incidents, providers of student accommodation need to establish procedures and effective staff training around how to unlearn institutional discrimination, support students from marginalised groups and how to understand their specific needs.
- 8.6. As incidents of discrimination can and do happen even with the most rigorous training established, student accommodation should be required to have a clear and transparent complaints process for residents and staff to follow, that appropriately responds to the nature of the complaint and the needs of the complainant.
- 8.7. Investigation into a complaint of discrimination on the grounds of race, ethnic identity, nationality, religion, disability, or queerness needs to involve representation from the respective community or communities, to ensure that the marginalised perspective is taken seriously.

RECOMMENDATIONS

We recommend that staff at halls of residence and other tertiary-provider-owned accommodation are required to undergo cultural competency and discrimination training.

9. Privatised, Contracted Out and Commercialised? For-Profit or For-Education?

- 9.1. The structure and purpose of student accommodation impacts how services are provided to residents, how much they are charged, and the quality of their experience. With this in mind, examining the purpose of student accommodation is crucial to solving many of its woes.
- 9.2. Student accommodation is predominately marketed an accommodation service that provides additional support and services for students, such as tutoring, catering, proximity to campus, social activities, and welfare provision, particularly for young first-year students;; it is advertised as a student-centric service.
- 9.3. However, most student accommodation is designed to create a profit, whether it is for the TEO, private landlords, and/or third-party accommodation providers, and so this is the bottom line when it comes to decisions that impact residents and staff.
- 9.4. It is also worth noting that there are several non-profit examples of student accommodation in New Zealand that have demonstrated a high commitment to resident welfare and needs, particularly during the COVID-19 pandemic.

- 9.5. Accommodation fees in student accommodation soar above what students in the rental market, in part because of this profit-seeking, causing students additional stress and forcing them to work more paid hours to make ends meet, to the detriment of their studies.¹⁰
- 9.6. We believe that student accommodation should be required to put the needs of residents, including RAs, at the forefront of its decision-making, and that if this isn't happening in practice, then the legislation around this requirement needs to be strengthened; this should be included in the legal definition of student accommodation.
- 9.7. We believe that student accommodation should not be available for private profiteering, or even for TEOs to make a profit, as this practice has seen students been bled dry financially while being provided services that do not deliver the level of support they have been led to believe exists.
- 9.8. Student accommodation is defined by s 5B as premises "used to provide accommodation exclusively for students of 1 or more tertiary education providers", and is either run by a TEO or a third party who is in an arrangement with a TEO, and so TEOs should be held accountable for and take responsibility for what happens in their student accommodation, even if some of their services are contracted out to third parties.
- 9.9. We believe that there is no place in student accommodation for private investment or profit-seeking, even by TEOs, and that the laws governing student accommodation should reflect this by abolishing this practice.

RECOMMENDATIONS

We recommend that halls of residence and other tertiary-provider-owned accommodation are required to operate under a non-profit model.

We recommend that halls of residence and other tertiary-provider-owned accommodation are required to prioritise student and staff wellbeing over financial interests.

10. Safety and Wellbeing Standards for Staff and Students

- 10.1. As both a workplace and a place of residence, student accommodation needs to put the safety and wellbeing of residents, staff, and staff residents at the forefront of its priorities, and should not be allowed to operate if it cannot deliver adequate safety and wellbeing standards for these people.

¹⁰ <https://www.stuff.co.nz/dominion-post/news/116971403/19000-a-year-to-live-at-victoria-university-hall-as-fees-soar>

- 10.2. Safety and wellbeing in student accommodation means having adequate training and support for RAs, establishing clear pathways for handling incidents, having welfare plans and check-ups where necessary, adequate security for residents, and having premises that meet the healthy homes standards.
- 10.3. The prevalence of student concerns around how student accommodation providers have handled safety and wellbeing issues in recent years highlights how poorly the sector is set up to prioritise the welfare of staff and residents.¹¹
- 10.4. Of particular concern to NZUSA is the prevalent culture of sexual violence in student accommodation¹², which urgently needs to be addressed by robust policies and procedures that are followed properly and hold perpetrators accountable for their actions.
- 10.5. For years, NZUSA has spoken publicly on this issue and called for better provision of services and regulation in the student accommodation sector, as media reports and resident complaints have continued to build up around welfare issues, and now is the opportunity to solve many of these issues.

RECOMMENDATIONS

We recommend that halls of residence and other tertiary-provider-owned accommodation are legally required to demonstrate that they have adequate measures in place to support and prioritise the wellbeing of staff and students.

11. Parliament Oversight of Student Accommodation

- 11.1. At present, Parliament has little oversight of student accommodation due to there being no regulatory framework that addresses student accommodation as a sector of rental housing or place of residence.
- 11.2. This lack of oversight has allowed the sector to run unchecked on tertiary campuses across Aotearoa New Zealand to the detriment of residents, with private interests doubling down on it as an investment opportunity with few regulations.
- 11.3. We have reached a point where the lack of oversight has brought so many issues to light, as NZUSA has addressed in the public arena over the years and in particular this year, that Parliament can no longer in good conscience choose to ignore it.
- 11.4. We believe that student accommodation needs to be clearly defined in legislation and have its own regulatory framework developed, that sits within the RTA, similar to the framework that exists for standard tenancies.

¹¹ <https://www.stuff.co.nz/national/education/116692198/waikato-university-student-calls-for-more-oversight-of-halls-of-residence>

¹² <https://www.stuff.co.nz/national/113090659/a-third-of-women-university-students-report-being-sexually-assaulted-what-do-we-owe-them>

- 11.5. Student accommodation is for residents and is paid for by residents, and so it should be accountable to residents. Currently, with little to no regulation, it is run in the interests of private investors and TEOs. Developing parliamentary oversight will hold student accommodation to account better through democratic processes.

RECOMMENDATIONS

We recommend that Parliament develops a robust regulatory framework to govern student accommodation so that Parliament strengthens their oversight over the sector.

12. Response of TEOs During Covid-19 Lockdown

- 12.1. During Levels 3 and 4 of the COVID-19 lockdown period, many residents in student accommodation departed their premises temporarily and under urgency, given the short notice of the lockdown period. Students were provided with little to no information, before making the decision to stay or go, to inform their 'choice'. This meant that students were not aware of whether they would continue to be charged or not during the lockdown period.
- 12.2. The response of TEOs and other student accommodation providers to departed students during this period varied from waiving all of their accommodation fees to continuing to charge full fees while blocking returning access to the premises. This happened at a time when tertiary students were vulnerable with regards to their incomes, their study plans, and their health, and had little to no guidance or support around changes thrust upon them.¹³
- 12.3. We believe that student accommodation should be designed to put resident and staff welfare at the forefront of its priorities, yet charging students for facilities that they could not access and often could not afford demonstrated a prioritisation of monetary values, often profit-seeking, and a lack of regard for the wellbeing of residents.
- 12.4. During this time, residents who departed their premises temporarily often received poor communication from their TEO and/or accommodation provider regarding services, payments, and issues raised, and were dismissed or ignored when they tried to challenge the approach taken by the provider.¹⁴
- 12.5. Decisions by residents to depart their premises during lockdown were made in a hasty timeframe, between the announcement of lockdown and the start of lockdown, and once the student was gone, they could not come back until Level Two. They were under pressure from families and providers, they were not made aware of the level of necessary support they would receive from their accommodation provider during lockdown, they were inundated by public health messaging about the need to social

¹³ <https://www.tvnz.co.nz/one-news/new-zealand/call-investigation-into-students-being-made-pay-empty-accommodation-many-move-back-in>

¹⁴ <https://www.debatemag.com/post/another-shambles>

distance, which is impossible in a fully-housed hall of residence, and many had underlying health or disability concerns that prevented them from being able to stay without severely compromising their health. For these reasons, we do not believe that residents who departed made a free and informed decision to forgo the services that they were paying for.

- 12.6. International students in student accommodation suffered further due to poor communication from providers, as many of them were plagued with misinformation and fear around their ability to stay in the country and whether or not their only place of residence would even be open for them to live in.
- 12.7. We believe that it is wholly unacceptable that thousands of residents across Aotearoa New Zealand were charged for rooms that they could not use, and that because of the lack of transparency and autonomy around the decisions made, they should not have been bound by the financial obligations of their contracts during this time.
- 12.8. The COVID-19 experience demonstrates that a regulatory framework for student accommodation must include provisions that protect residents in the event of a pandemic or any other civil emergency, or it must require that student accommodation contracts have such a system in place.

RECOMMENDATIONS

We recommend that resident contracts for student accommodation are covered by consumer protection laws, or are otherwise protected in the case of civil emergencies.

We recommend that all student accommodation residents who were charged fees for the duration of the lockdown period while not living on-site be refunded these fees in full.

We recommend that the response of all halls of residence and other tertiary-provider-owned accommodation to the COVID-19 pandemic is fully and independently investigated.

13. Proposed Accommodation Response for Returning International Students

- 13.1. The question of how international students, who may return to Aotearoa New Zealand if pandemic border restrictions are eased for them, are to be housed and cared for has been of high concern to TEOs in recent months.
- 13.2. The potential for high loss of revenue has motivated TEOs to explore the possibility of using existing student accommodation (where domestic and international students are currently living) as quarantine facilities. For example, students at Uni Lodge Whitaker in Auckland (student accommodation provided by the University of Auckland) were

contacted in late May to ask if they'd be willing to consider relocating to another room or hall in the second semester in order to free up a block of housing for returning international students.

- 13.3. The willingness of accommodation providers to shift students around to meet their financial goals demonstrates a profound lack of awareness and regulation around the role that student accommodation plays in providing a home for residents for the duration of their contract. The exclusion of student accommodation from the RTA further entrenches the lack of acknowledgement that it is a legitimate form of housing that should come with accompanying rights for residents.
- 13.4. If international students are to return to Aotearoa New Zealand while the country is still in Level 1 or higher, then TEOs and other accommodation providers need to ensure that their response and provision of services for these students priorities the individual and collective welfare of the student residents.

RECOMMENDATIONS

We recommend that any plan to house or support international students in halls of residence and other tertiary-provider-owned accommodation is required to prioritise the wellbeing of international students above all other considerations.

14. Conclusion

- 14.1. Student accommodation is currently treated by legislation, by providers, and by wider society as being merely a service provider or a business venture. In reality, student accommodation is and should be seen as the provision of housing, a human right and need, to members of our society. How we think about, approach, and regulate the sector impacts how this housing is provided and how supported and cared for residents are.
- 14.2. The negative experiences of residents during COVID-19, as well as those in recent years around other welfare issues, have demonstrated the need for Parliament to take responsibility for student accommodation and those that live and work there, and this inquiry has presented a unique opportunity to do this work.
- 14.3. We would like to again thank the Education and Workforce Select Committee for undertaking the Inquiry into Student Accommodation. We are hopeful that this Inquiry will bring about urgent and important change to student accommodation, in line with the recommendations we have outlined in this submission.

OVERALL RECOMMENDATIONS:

- **We recommend that Parliament develops a clear and accessible definition and legal framework for student accommodation that legislates the obligations and expectations of providers, and the rights and protections of students. This would not require student accommodation being redefined for the purposes of the RTA, but that a legal framework for student accommodation is developed instead of it being an exclusionary category of the RTA.**
- **We recommend that Parliament ensure that students are provided with the relevant legal definition of student accommodation and are made aware of their rights and protections within this legal framework.**
- **We recommend that student accommodation be included within the Residential Tenancies Act 1986, with the main benefit being that students in student accommodation would have access to the Tenancy Tribunal.**
- **We recommend that Parliament create specific rules to govern student accommodation that mitigates the power imbalance between students and tertiary providers, as outlined in [4.8], [4.10] and [4.13 – 4.14].**
- **We recommend that the outcomes of this Inquiry are used to inform the development and refinement of the Permanent Code of Practice, given that the Interim Code of Practice has failed to provide students in student accommodation with any support during the Covid-19 lockdown.**
- **We recommend that the Permanent Code of Practice priorities and focuses on supporting the wellbeing of students, including students in student accommodation.**
- **We recommend that tertiary institutions be required to provide consistent, adequate, and ongoing training and support for Residential Assistants, to equip them to carry out their role effectively.**
- **We recommend that residential assistants be afforded the same support mechanisms in student accommodation as residents are.**
- **We recommend that residential assistants be paid a fair wage that reflects the demands of the role and the hours required to carry it out, including fair pay for hours that they are on call for, this includes overnight.**
- **We recommend that live-in staff student accommodation should not be charged an accommodation fee.**

- **We recommend that contracts for student accommodation are required to provide clear guidelines for complaints procedures and conflict resolution that meet established criteria.**
- **We recommend that student accommodation providers are required to provide clear information to residents and staff about their policies and their governance structure, and to provide resident and RA representation in their governance structure.**
- **We recommend that staff at halls of residence and other tertiary-provider-owned accommodation are required to undergo cultural competency and discrimination training.**
- **We recommend that halls of residence and other tertiary-provider-owned accommodation are required to operate under a non-profit model.**
- **We recommend that halls of residence and other tertiary-provider-owned accommodation are required to prioritise student and staff wellbeing over financial interests.**
- **We recommend that halls of residence and other tertiary-provider-owned accommodation are legally required to demonstrate that they have adequate measures in place to support and prioritise the wellbeing of staff and students.**
- **We recommend that Parliament develops a robust regulatory framework to govern student accommodation so that Parliament strengthens their oversight over the sector.**
- **We recommend that resident contracts for student accommodation are covered by consumer protection laws, or are otherwise protected in the case of civil emergencies.**
- **We recommend that all student accommodation residents who were charged fees for the duration of the lockdown period while not living on-site be refunded these fees in full.**
- **We recommend that the response of all halls of residence and other tertiary-provider-owned accommodation to the COVID-19 pandemic is fully and independently investigated.**
- **We recommend that any plan to house or support international students in halls of residence and other tertiary-provider-owned accommodation is required to prioritise the wellbeing of international students above all other considerations.**