

Community Law **Waikato**

Te Tari Ture aa-Hapori o Waikato

Part of the National Community Law Movement



Our mission is to provide free legal help to
those who cannot otherwise access it.

WORK & INCOME EMERGENCY HOUSING

2025



Emergency housing and the Law

When you are entitled to emergency housing

The law entitles you to emergency housing if you:

1. Are a New Zealand citizen, resident, or permanent resident and New Zealand is your permanent home; **and**
2. You and your whaanau have nowhere adequate to stay (now or in the next week); **and**
3. You and your whaanau cannot afford to pay for somewhere adequate to stay.



Please note

- MSD can now request information from you to further determine eligibility.
- MSD will enforce a non-entitlement of 13 weeks if you fail to meet your responsibilities 3 times.
- New changes to emergency housing: If you do not meet your obligations, MSD may still make an EH grant if:
 - You or your children are experiencing an unforeseen crisis beyond your control,
 - The you or your children will be at risk of harm within the next 7 days

Fast Track Policy

MSD now has a fast-track process for the following people: The fast-track policy applies to households in the following circumstances:

- the household has a child at risk of rheumatic fever.
- the household has a child or young person in the custody of Oranga Tamariki or is in an approved permanent care arrangement,
- the household has at least 1 dependent child and has been staying in emergency housing for 12 continuous weeks or more.

When W&I can decline emergency housing

W&I can decline emergency housing only in four limited circumstances. These are:

1. You do not meet the residence requirements. The law **does not** give W&I discretion to waive these criteria.
2. If W&I think you have somewhere else to stay (now or in the next week) that is adequate.
3. If W&I believe that you have made yourself homeless without a good reason. If W&I decline you for this reason they must also know that declining you will not cause serious hardship, a risk to your life or welfare, or worsen your situation.
4. If W&I think you have enough money to afford to pay for somewhere adequate to stay (now or within the next week).

Please note

W&I must carefully consider and investigate your situation before declining you. You should always point out to W&I why declining you would cause a risk to your welfare, place you in serious hardship, and worsen your situation.

Our lawyers and advocates help for free with benefit issues in the greater Waikato. Call us (free) on 0800 529 482, email reception@clwaikato.org.nz. We will be happy to see how we can help.

Shared rooms or shared facilities

There is **no law** that says you are entitled to a private room.

Emergency housing only has to be "adequate" (basically clean and comfortable compared to sleeping rough) .

Tell W&I straight away if you genuinely need a private room e.g. due to age, gender, health (including mental health) or work hours. It helps to have supporting evidence. W&I will try its best to find you a private room.

Help with extra costs in emergency housing.

Several payments can help with the extra cost that comes with being in emergency housing. These are:

1. Food grants: including W&I using discretion to pay more than the normal maximum in a six month period.
2. Assistance with additional costs such as storage. This could be with a non-recoverable Special Needs Grant or the cost included in your Temporary Additional Support.
3. Non-recoverable Flexible Funding for people with children to meet education, health, or wellbeing needs (this package expired in November 2023).
4. An advance if no other option is available.

Paying part of the cost of your emergency housing

After seven nights, the law says that you must pay some of the cost of your emergency housing (if you're not already paying). This is called an Emergency Housing Contribution.

- You'll pay about 25% of your income (after tax).
- If you have a partner, they'll also pay about 25% of their income (after tax).

Your income may include payments from W&I, wages, salary or other income, or Family Tax Credits.

If the cost of your emergency housing is LESS than 25% of your income (after tax), then you will pay the lesser amount.



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Your (limited) rights in emergency housing

Most Emergency housing providers have to follow MSD supplier standards. But, the standards are optional so not all suppliers meet those standards. The MSD supplier standards are:

1. Services provided are of a reasonable standard
2. Access to suitable facilities and services
3. Equal services at reasonable cost
4. Suitable sized accommodation
5. Accommodating accessibility needs
6. Ability to lock the room
7. Check in information
8. Treat the client with respect
9. Repairs and maintenance
10. Fair process to resolve issues

Where providers and households haven't been able to sort disputes about accommodation between themselves, they are able to make a complaint to MSD who will try to resolve the complaint.

IMPORTANT: In emergency housing, you do not have the rights of a tenant, so there is not a minimum period of notice you must get before being told to leave and you cannot take any problems to the Tenancy Tribunal.

If you have a dispute with the emergency housing supplier (a common example is responsibility for damage) you may be able to apply to the Disputes Tribunal. Contact us for advice about this.

Where you are staying must be of acceptable quality and reasonably "fit for purpose" (this means OK for the average person). Speak to the manager if you think it is not. If this does not fix the problem, you could ask W&I to move you, but be aware they might not be able to find you somewhere else.

The emergency housing supplier cannot treat you worse than other people 'just because' you are there for emergency housing. But they can decide the rules about who can visit you, or if you are allowed alcohol on the premises.

The supplier must stick to any promises they made about the place you are staying (e.g. laundry or cookware). The law requires these to be of acceptable quality and reasonably fit for purpose. E.g. if there is a washing machine available to use it must work properly, if there is a fridge then it must be able to keep your food cold.

How to respond to common problems

Below is a list of things W&I may say to justify why you are not entitled. For each, there is a suggestion of what you can say (as long as it is true). Be firm but polite.



If this does not fix the problem, politely insist on talking to a manager. If you do not like what the manager decides, you should accept the decision and then apply for a review.

What if W&I declines you?

Reviews

If Work and Income (W&I) decline you, or make a decision that you don't agree with, you don't have to just accept it. W&I can't punish you for using your rights and if you win your case they must change the decision so we strongly encourage this. There are steps that you can take to try and have the decision changed.



You must apply within three months of being told the decision, but if a good reason stopped you (e.g. not being told the decision or being sick) a late application may be accepted. To apply, write what the decision was, why you think it's wrong (if you can) and send it to W&I:

1. On a "review of decision" form or a note and hand it in at any of their offices. Get a date stamped copy.
2. Email helpline_workandincome@msd.govt.nz (the "_" is an underscore). Keep a copy of the email.
3. Use the online form at www.msd.govt.nz/feedback.

Appeals

If you are not happy with the review outcome, you have the right to continue (appeal) to the Social Security Appeal Authority. The Authority is entirely independent of W&I. You must apply within sixty working days of W&I telling you to review the outcome unless a good reason means you could not. To apply, use the form at www.justice.govt.nz or email ssaa@justice.govt.nz.

Community Law often helps people to prepare for reviews and appeals and represents them in the process. Please contact us straight away to see how we can help you.



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