



BRIEFING

Freedom camping – ensuring alignment with the Homelessness Action Plan and proposed approach to reviewing local authority guidance

Date:	18 November 2021	Priority:	High
Security classification:	In Confidence	Tracking number:	2122-1610

Action sought		
	Action sought	Deadline
Hon Dr Megan Woods Minister of Housing	Agree the approach to reviewing the guidance available to local authorities.	25 November 2021
Hon Stuart Nash Minister of Tourism	Agree to forward this briefing to the Minister of Social Development, Minister of Finance and the Associate Ministers of Housing.	

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Saskia Vervoorn	Manager, Tourism Policy, MBIE	04 901 8357	Privacy of natural persons	✓
Jeremy Steele	Manager, Housing Needs and Responses, HUD	04 832 2471	Privacy of natural persons	✓
Fraser Pearce	Senior Policy Advisor, Tourism Policy, MBIE	04 897 5174	Privacy of natural persons	-
Kelila Perry	Policy Advisor, Housing Needs and Responses, HUD	04 832 2555	Privacy of natural persons	-

The following departments/agencies have been consulted
Ministry of Social Development, Kainga Ora, Local Government New Zealand, Crown Law

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments

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Purpose

To seek your agreement to the approach for reviewing the guidance available to local authorities on how they can ensure those experiencing homelessness are supported and do not receive infringements under the Freedom Camping Act 2011.

Recommended action

The Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Housing and Urban Development (HUD) recommends that you:

- a **Note** that the Cabinet Economic Development Committee (DEV) asked MBIE and HUD to report back to Ministers on the areas of alignment between the Aotearoa New Zealand Homelessness Action Plan and the proposed freedom camping changes
Noted
- b **Note** that DEV also directed MBIE and HUD, with the support of other agencies, to ensure there is appropriate guidance to support freedom camping enforcement authorities to continue applying discretion to avoid infringing people experiencing homelessness and to provide information on suitable supports
Noted
- c **Note** there is alignment between the Aotearoa New Zealand Homelessness Action Plan and the proposed freedom camping changes
Noted
- d **Note** Local Government New Zealand (LGNZ) has previously published advice on how local authorities should apply the Freedom Camping Act 2011, including how to support those experiencing homelessness, and that LGNZ intends on updating this advice before the freedom camping changes are enacted, with support from MBIE and HUD where appropriate
Noted
- e **Agree** that MBIE and HUD review the guidance available for freedom camping in May/June 2022, to align with Select Committee processes
Agree/Disagree

- f **Forward** this briefing to the Minister of Social Development, Minister of Finance and the Associate Ministers of Housing (Hon Poto Williams and Hon Marama Davidson) for their information.

Agreed



Saskia Vervoorn,
Manager, Tourism Policy
Labour, Science and Enterprise, MBIE

17 / 11 / 2021



Jeremy Steele,
Manager, Housing Needs and Responses,
Housing Supply, Response and Partnerships, HUD

17 / 11 / 2021

Hon Dr Megan Woods,
Minister of Housing

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Hon Stuart Nash
Minister of Tourism

21 / 11 / 21

Background

1. On Wednesday 27 October, Cabinet Economic Development Committee (DEV) agreed to the suite of freedom camping proposals put forward by the Minister of Tourism, Hon Stuart Nash, to ensure New Zealand has a sustainable freedom camping system [DEV-21-MIN-0219 refers]. All the proposals in the document were agreed to.
2. DEV also directed the Ministry of Business, Innovation and Employment (MBIE) and the Ministry of Housing and Urban Development (HUD), in consultation with the Ministry of Social Development (MSD), the Crown Law Office and other agencies as appropriate, to:
 - a. ensure appropriate alignment with the Aotearoa New Zealand Homelessness Action Plan
 - b. ensure there is appropriate guidance to support freedom camping enforcement authorities to continue applying discretion to avoid infringing people experiencing homelessness, and to provide information on suitable supports
 - c. report back to relevant Ministers on these matters.

Discussion

Background information on the Homelessness Action Plan

3. The Aotearoa New Zealand Homeless Action Plan (the action plan) is a cross-agency led approach to deliver on the vision that 'homelessness is prevented where possible, or is rare, brief and non-reoccurring'. Homelessness is a complex social issue driven by a range of factors, and the action plan sets out a framework for communities, Māori, iwi, providers, and central and local government to take joined-up, locally tailored action to prevent and reduce homelessness. It is guided by the kaupapa Māori principles found in Te Maihi o Te Whare Māori: Māori and Iwi Housing Innovation (MAIHI) framework. This is an approach for addressing Māori housing across all needs and aspirations, which supports the delivery of holistic, strengths-based approaches.
4. We recognise that a number of people rely on living in vehicles because of a lack of suitable housing options.

The objectives of the action plan and the freedom camping proposals are aligned

5. The action plan aims to ensure that people at risk of or experiencing homelessness are given the necessary supports to prevent and reduce homelessness. Ensuring alignment of freedom camping proposals with the action plan will be dependent on appropriate guidance being provided to local enforcement authorities that ensure people experiencing homelessness will not be penalised or further stigmatised and are able to access services that will meet their needs. This could include providing information on available local and government supports.
6. As agreed by DEV on 27 October 2021, providing adequate guidance will support local enforcement authorities to engage sensitively and appropriately with people experiencing homelessness and focus on addressing their needs. In comparison, including an exemption in the Freedom Camping Act 2011 may cause further harm and stigmatisation by requiring people to prove that they are experiencing homelessness to avoid penalty. This approach does not reflect the complex nature and drivers of homelessness, and that it is experienced by individuals, families and whānau in diverse ways.

7. The current advice produced by Local Government New Zealand (LGNZ) supports the discretionary model currently employed by local authorities.¹ In particular, the guidance states:

Good practice is for the freedom camping bylaw not to act as an instrument of dealing with homelessness. Social issues in a city or district cannot be sustainably managed in the first instance by a council bylaw.

Good practice is to approach homelessness as a joined-up agency approach (Collective Impact) with the parties listed below. In the Nelson case study following, good practice was also for a contract for services with a provider (Salvation Army) to do assessments of homeless people that enforcement officers may come across in the course of their duty, and to pathway them to care.

Don't treat homeless like freedom campers... don't treat homeless with disrespect.

8. The existing guidance also provides other examples of good practice. It also includes a list of government agencies and not-for-profits that councils can work with on referral pathways.

Agencies recommend reviewing the existing guidance in May/June 2022

9. To mitigate any potential harm, Cabinet directed relevant agencies to ensure there is appropriate guidance to support freedom camping enforcement authorities to continue applying discretion to avoid infringing people experiencing homelessness and to provide information on suitable supports.
10. We consider that the most appropriate time to review the existing guidance is in May or June 2022. The primary objectives of the review will be to ensure the guidance supports the objectives of the action plan, and helps local authorities appropriately engage with and support people experiencing homelessness. The timing may also align with Select Committee processes and consideration of the Self-Contained Vehicles Bill.
11. We have discussed this timeframe and approach with LGNZ, who agrees that a review of the guidance, including the timing of such a review, is appropriate. LGNZ has also advised that it will also need to undertake a review of the broader freedom camping guidance, given the scope of the proposed changes.
12. HUD and MBIE, with the support of MSD and Kainga Ora, will also look to engage Homeless Sector Services (made up of Community Housing Aotearoa and Te Matapihi) and other providers of homelessness services across Aotearoa to test any impacts of freedom camping regulations on people experiencing homelessness. This could also provide valuable input on whether those experiencing homelessness are being negatively impacted by the current discretionary model, and whether additional guidance or support is needed. We could also engage these homelessness organisations when reviewing the the existing guidance.

Crown Law Advice

13. Professional legal privilege
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

¹ Local Government New Zealand published its *Good practice guide for freedom camping* in April 2018 <https://www.lgnz.co.nz/assets/Uploads/c9f26c9f6e/45954-LGNZ-Freedom-Camping-good-Practice-Guide-WEB.pdf>

² Article 11 of the ICESR is the *Right to an adequate standard of living*. It specifically focuses on the right to food, right to housing and right to clothing. See <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> for further information.

Professional legal privilege

14. Officials will provide further advice on this topic to you during the drafting process of the Bill, which is expected to take up to three months.

Next steps

15. Officials will ensure that the communications material prepared to support your announcement in the week commencing 29 November 2021 addresses possible questions arising about the impact of the reforms on those experiencing homelessness.
16. MBIE, with the support of HUD, Professional legal privilege
17. MBIE and HUD will work with MSD, Kainga Ora, Local Government New Zealand and the Crown Law Office (if appropriate) to review the existing guidance in May/June 2022.