

Please find below the Tenants' Union NSW's key recommendations to the *Boarding Houses Act 2012* review. We appreciate the extension granted by Fair Trading until 18 October 2018 for our full submission.

For more information or questions regards these recommendations prior to 18 October, please contact:

- **Jemima Mowbray**, Policy Officer on 8117 3723, email: jemima.mowbray@tenantsunion.org.au, or
- **Leo Patterson Ross**, Senior Policy Officer, Tenants' Union of NSW on 02 8117 3712, email on leo.patterson.ross@tenantsunion.org.au.

Introduction to Key Recommendations

An overarching recommendation is that the language of 'boarding houses', boarders and lodgers is no longer appropriate for the section of the rental market that are regulated by, or intended to be regulated by, the current *Boarding Houses Act 2012*. The regulatory environment must acknowledge that residents are increasingly using this sector as their principal place of residence for extended periods of time. New South Wales should therefore act to implement consumer protections that allow minimum standards for all persons renting their home.

We also note that many participants in this sector do not recognise or find meaningful this language, and that it causes confusion amongst the broader community. Our proposed recommendations address some structural issues in the current Act and seek to make regulation more efficient and effective.

Registration Scheme

1. Implement a Rental Accommodation Registration Act (RAR Act) - a registration and accreditation scheme which covers all providers of rental accommodation, bringing together existing (or planned) registration schemes for residential villages, boarding houses as currently defined by the *Boarding Houses Act 2012*, residential land lease communities and short-term rental agreements. Consideration should be given to registration of all providers of rental accommodation, including landlords under the *Residential Tenancies Act 2010* and aligning information with the registration scheme for community housing. Requirements of registration and accreditation will differ according to levels of service provided, and may be set by the RAR Act or by the legislation requiring the registration (as with the *Residential Land Lease Communities Act 2013* and the Retirement Villages Act).

2. Create a Rental Accommodation Registration Unit (RARU) within Fair Trading NSW to take up responsibility for managing the registers, enforcement actions regarding registration and accreditation.
3. Provide adequate resources and powers to either the RARU or local governments to:
 - investigate whether a property should be registered;
 - register unregistered registrable properties;
 - require a rental accommodation provider to pay the appropriate registration fee within a reasonable time frame following registration;
 - update listings in the Register which are inaccurate or out-of-date and,
 - receive the amount payable under applicable penalties (whether directly or indirectly).

Occupancy Principles and Dispute Resolution

4. Expand the coverage of occupancy principles to all rental accommodation not already covered by the Residential Tenancies, Residential (Land Lease) Communities or Retirement Villages Acts. These principles can be hosted in an existing piece of legislation or a new one with specific purpose.
5. Create standard form agreements for use in a range of key rental accommodation types, and mandate their use. If mandatory standard form agreements are not to be created via regulation, specific requirements for notice periods around evictions should be legislated.
6. Amend Occupancy Principle 6 to restrict occupancy rent increases to no more than once per year, and require any increase to be reasonable. This should also incorporate genuine considerations of affordability of rents where providers purport to deliver such an outcome.
7. The Act should prevent proprietors from evicting an occupant or otherwise recovering possession of an occupied room in a residential accommodation except with an express order of the NSW Civil and Administrative Tribunal (NCAT).
8. Security deposits, where collected, must be lodged with the Rental Bond Board or equivalent. The interest generated on these deposits should contribute to registration and accreditation scheme, advocacy and support, including community education, and dispute resolution functions. Alternatively, rental accommodation providers may be required to contribute to these costs directly.
9. The Act should require NCAT to consider all relevant circumstances when determining whether to make orders allowing eviction or other recovery of an occupied room from rental accommodation.
10. Ensure residents are able to apply to a dispute resolution service, and require operators use the service before eviction in instances where there is no immediate risk of

harm to the operator or other residents. Dispute resolution services between residents should especially be encouraged and utilised before evictions proceed.

Advocacy and Support

11. The NSW Government should provide ongoing resources for community education projects on rental accommodation and the occupancy principles.

12. The NSW Government should provide increased resources for advocacy programs to ensure residents of rental accommodation are able to access individual advice and representation around enforcing their rights.

13. The NSW Government should expand the Boarding Houses Outreach Project model to ensure viability in current service provision, and explore expansion to other locations in NSW.

For more information on our submission, please contact Leo Patterson Ross, Senior Policy Officer, Tenants' Union of NSW on 02 8117 3712 or by email on leo.patterson.ross@tenantsunion.org.au.