

Boarding Houses Fact Sheet

What is a boarding house?

The *Boarding Houses Act 2012* (NSW) (**Boarding Houses Act**), identifies boarding premises as premises which:

- are wholly or partly a boarding house, rooming or common lodgings house, hostel or let in lodgings, and
- provide boarders or lodgers with a principal place of residence, and
- may have shared facilities (such as a communal living room, bathroom, kitchen or laundry) or services that are provided to boarders or lodgers by or on behalf of the proprietor, or both, and
- have rooms (some or all of which may have private kitchen and bathroom facilities) that accommodate one or more boarders or lodgers. Boarding houses do not include backpackers' accommodation, group homes, hotels or motels, seniors housing or serviced apartments.

Any such premises in which beds are provided for fee or reward for use by **5 or more** residents (not counting any residents who are proprietors or managers of the premises or relatives of the proprietors or managers) is a **general boarding house**.

General boarding houses do not include 'assisted boarding houses' (which are not discussed in this fact sheet), hotels, motels, bed and breakfast accommodation, backpackers' hostels, serviced apartments or certain other premises in which people may live communally, such as hospitals. General boarding houses must be registered under the Boarding House Act and comply with its provisions.

Regulation and operation of boarding houses

Boarding houses must have the required **development consent** under the *Environmental Planning and Assessment Act 1979* (NSW) and/or a previous approval under the *Local Government Act 1993* (NSW). To obtain development consent, boarding houses must comply with the provisions of the applicable Local Environmental Plan and must usually comply with the provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

All boarding houses must be operated in accordance with the **Boarding Houses Act**, Boarding Houses Regulation 2013 (NSW) (**Boarding Houses Regulation**) the *Local Government Act 1993* (NSW) (**LG Act**) and the Local Government (General) Regulation 2005 (NSW) (LG Regulation).

All persons living in boarding houses, including managers, owners and boarders, must adhere to legislative requirements and any Plan of Management in place at the premises. Boarders in registered boarding houses must have an "Occupancy Agreement" with the manager or owner. A Residential Tenancy Agreement (**Lease**) under the *Residential Tenancies Act 2010* (NSW) is not required.

Inspections of boarding houses

Council's Development Compliance Officers carry out inspections of registered boarding houses and suspected unauthorised boarding houses to ensure legislative compliance.

Monetary Penalties

If Council determines that a boarding house is unauthorised or there have been unauthorised works (for example, to create extra rooms) Council may issue a fine (Penalty Notice) to the owner of the premises. Fines may also be issued where Council has required work to be undertaken to remedy the breach or the owner is has failed to comply with a required time frame.

Share houses

A 'share house' is usually made up of a group of unrelated people who share a rented dwelling. In shared rented houses a Lease is in place under the *Residential Tenancies Act 2010* (NSW), but not all tenants are necessarily on the Lease. Council is supportive of appropriate shared housing, however Council is aware that unauthorised boarding houses may sometimes operate under the pretence of being share houses.

How to report a suspected unauthorised boarding house?

If you suspect that a building is unlawfully operating as a boarding house you may request Council to investigate on 9330 6400. You are required to provide your contact details. This information is kept confidential.

