

29/7/2003

The Boarding House Review Team  
The Allen Consulting Group  
3<sup>rd</sup> Floor, 19 Pitt Street  
Sydney NSW 2000  
{ HYPERLINK "mailto:boardinghouse@allenconsult.com.au" }



Dear Boarding House Review Team,

Thank you for providing the Mental Health Co-ordinating Council (MHCC) with the opportunity to contribute to the Review of the Youth and Community Services Act 1973, in relation to the examination of need for reform in the licensing arrangements associated with the licensing of boarding houses. MHCC is the state peak body for non-government organisations (NGOs) working for mental health throughout NSW. MHCC represents the views and interests of over 130 NGOs in the formation of policy and acts as a liaison between the government and non-government sectors. Our member organisations specialise in the provision of services and support for people with a disability due to mental illness.

MHCC strongly supports the continued provision of licensed boarding houses enhanced by best practice in the provision of support services and a greater emphasis on the rights of residents.

### **General Comments**

The Legislative Council's Select Committee Final Report on the Inquiry into Mental Health Services of NSW made recommendations in Chapter 7 "Housing and Homelessness" in relation to housing for people with a mental illness. Two recommendations were made specifically in relation to Boarding houses:

#### **Recommendation 45**

That NSW Health, the NSW Department of Community Services, the NSW Department of Ageing, Disability and Home Care and the NSW Department of Housing, cooperate to conduct an assertive outreach campaign that includes raising the awareness of boarding house residents and landlords about residents' rights to health care, mental health care, legal services and other services relevant to their needs.

#### **Recommendation 46**

That the NSW Government fund the continuation and expansion of the Boarding House Reform Strategy.

Other issues of note identified in the Inquiry include:

- "There is grossly insufficient accommodation to meet current needs" p.124

*Working For  
Mental Health*

Mental Health  
Co-ordinating Council

PO Box 668  
Rozelle, NSW 2039

Phone: (02) 9555 8388  
Fax: (02) 9810 8145  
Email: { HYPERLINK  
mailto:info@mhcc.org.au }  
Website: www.mhcc.org.au

- “Supported accommodation providers are consistently unable to obtain necessary services from mental health teams”. Pointing to “a lack of case management services” and heavy workloads of staff in these services, which is leading to staff dissatisfaction and burnout.
- People living in Boarding Houses permanently are considered to be at a tertiary level of homelessness due to the conditions within which they live. Their accommodation is not self-contained, they lack private facilities and are not protected by lease agreements. “UnitingCare commented on the quality of life of those living in boarding houses: While the residents of boarding houses are not living in mental hospitals, they still largely have an institutionalised life. They lack privacy, because they might share rooms with from 1 to 6 people. They might have to move rooms when/if a reshuffle occurs after any resident changes, either through exit or intake of new residents.” (MH Inquiry, 2002, p133)

The following documents offer insight into housing requirements of people with a mental illness:

“*Housing and accommodation support for people with mental health problems and disorders*” by the NSW Health Department, 2002, which highlights many of issues relating to the housing needs of people with mental health disorders:

- The provision of stable housing is essential for health reasons for people with mental health problems:
  - “Unfortunately, many people with mental health problems are unable to afford stable housing or make choices about the type of housing and the location in which they live. People with mental health problems and mental disorders frequently experience difficulties in accessing housing and experience disruption to tenancies and reduced capacity to maintain housing due to illness. The provision of public housing is the role of the Department of Housing. However, the fundamental need for people to be housed to maintain health highlights the responsibility for NSW Health to work in close partnership with public, non-government and private housing providers to ensure access to safe, secure and affordable housing for people with mental health problems and disorders.” p.3
- There is a shortage of housing for people with a mental illness:
  - “The Human Rights and Equal Opportunity Commission (HREOC) found that people affected by mental illness face a critical shortage of appropriate affordable housing and that lack of suitable supported accommodation was considered to be the single largest obstacle to recovery and effective rehabilitation. Furthermore, Burdekin identified that Government housing programs for people with disabilities exclude many people with mental illness due to inflexible criteria and poor coordination between departments and agencies. Waiting lists for social housing in NSW are long and priority waiting lists are highly competitive. Alternatively, the private rental market is both expensive and competitive.” P.3
- People with a mental illness require adequate access to a range of services, and this choice must be actively provided for people with a mental illness:
  - “People with psychiatric related disability require nondiscriminatory access to disability support services and a range of other social services.” p.4
  - “Effective strategies must result in the availability of a range of accommodation options, methods to access housing and accommodation support services, and criteria to identify appropriate options for meeting individuals’ needs at different life stages. Appropriate

clinical care, rehabilitation, disability support and tenancy support are essential for the successful achievement of these outcomes.” P.4

- The use of support level categories would be a useful means through which to determine the funding of NGO disability support services, in conjunction with the existing Boarding House Reform Strategy, that could assist to decrease the burden of boarding house owners and improve the quality of care for residents:

“Accommodation support levels have yet to be defined comprehensively or used in a standardized manner in NSW. Support level categories have been adapted from the literature.” p.6

“The Boarding House Reform Strategy funds extra support for residents who remain in licensed boarding houses and the relocation of residents with high needs that cannot be met in boarding houses. The Reform Strategy will significantly improve the quality of life and services provided to boarding house residents.” p.8.

“The role of NGOs in NSW has increased since the National Inquiry into the Rights of People with a Mental Illness. NGOs now provide a broader spectrum of services in the mental health sector. These services include housing, accommodation support and other residential services.” p.9

“*A long Road to Recovery*” by Robinson (2001): Homelessness is linked closely with mental illness, substance abuse, poor employment prospects, inability to secure and maintain permanent housing.

“*Down and Out in Sydney*”: which states that homeless people are comparable to the population of a psychiatric ward in make up. That is, 75% have a mental illness, 23% of males and 46% of females have schizophrenia, 33% have depression, 93% have experienced trauma, and 36% have a drug or alcohol use disorder. “*Down and Out in Sydney*” also identifies risk factors for homelessness, such as, low socio-economic status, poor education, poverty, an inadequate safety net and poor availability of low cost housing.

“*Homelessness and mental illness: Mapping the way home*” By Susan Parker, Lucy Limbers and Emma McKeon on behalf of the Mental Health Coordinating Council April 2002:

“Boarding houses have proven to be a common choice for many people with a mental disorder and other disabilities as either long-term accommodation options or as temporary exit points from psychiatric facilities...[and also people exiting prison]

...There has been substantial criticism of this style of accommodation on a number of grounds. First, some suggest the boarding house serves only the function of housing, and ignores the many other supports necessary for full integration of people living with a mental illness back into the community. Rather than acting as a temporary halfway house, the boarding house style is little able to foster or encourage people to reach independence but rather settle in for the long-term. However, this ignores the fact that for some, boarding houses provide a balance of independent living, with the opportunity for supervised care of varying degrees. For many people with a mental disorder, independent living is and will remain unfeasible.”

“Other criticism stems from the difficulty in regulating quality of care, accommodation and tenancy in the boarding house sector. Where licensing laws are enforced, their requirements can cause massive shifts in the availability of accommodation.

The Central Sydney Area Health Service’s Boarding House project grew from recognition that boarding houses could work as an appropriate model of supported accommodation for people with mental illness and other disabilities, provided that sufficient monitoring and assistance was provided to boarding house residents and operators. The Boarding House project works to improve the health of residents by facilitating access to health and other community services, monitoring the standard of accommodation and care in boarding houses, and providing support to boarding house operators. Staff provide primary and psychiatric care but with an emphasis on community development and collaborative care. Projects are continually evaluated and adapted to meet the needs voiced by residents and operators in a changing industry.”

The achievements of the “Boarding House project demonstrate the essential role that cross-agency and cross-sectoral partnerships play in creating effective programs and services. Not only is the service multi-faceted in the types of programs it delivers, but its approach to *working with* rather than *working for* people [has been successful]. Where autocratic licensing and regulation failed, collaboration and support between the service, the industry and its residents was able to achieve far more positive results.”

### **Expansion of the Boarding House Reform Strategy:**

The Rozelle Boarding house team have reported having difficulty in maintaining staff levels and have recently spent large periods significantly understaffed. Thus, the clinical support services available to the boarding house staff and residents have been put under enormous strain. Any additional strain on the current boarding house system could well lead to putting large numbers of boarding house residents at risk of homelessness.

“The Public Guardian commented favourably regarding [the Boarding House Reform Strategy’s] effect on services to boarding houses:

The Government’s Boarding House Reform Strategy has significantly opened the boarding house sector to mental health and other services. NSW Health and the NSW Department of Ageing, Disability and Home Care (DADHC) have worked in close partnership to increase the access that people in boarding houses have to appropriate mental health and other services. It will be important that this continues.” (MH Inquiry, 2002, p135)

### **The Disability Services Act 1993**

*Housing and Accommodation Support for People with Mental Health Problems and Disorders – NSW Government Action Plan, 2002*, states:

“*The Disability Services Act 1993* (Commonwealth) and the related Disability Service Standards provide principles and guidelines for the development of appropriate accommodation support services. Section 8 of the *Act* identifies that services shall be provided in accordance with the *Act* when a service is provided predominantly for persons with a disability that is attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments;

is permanent or likely to be permanent; and results in a substantially reduced capacity of the person for communication, learning or mobility; and the need for ongoing support services.”

### **Protection of Residents Tenancy Rights**

Boarding house residents lack protection under the NSW tenancy Act 1986:

“Shelter NSW, CASA [Coalition for Appropriate Supported Accommodation for people with disabilities] and NSWCAAG [NSW Consumer Advisory Group for Mental Health] also pointed to the lack of legislative protection for tenants of boarding houses. Boarding houses are not covered by the *NSW Residential Tenancies Act 1986*. As a result boarders and lodgers are not classified as ‘tenants’ and regardless of whether or not boarding houses are licensed, tenants have no access to the rights afforded to ordinary tenants. CASA stated that Victoria, South Australia and Queensland resolved this problem when they introduced boarders and rooming house legislation.” (MH Inquiry, 2002, p.134)

Boarders and Lodgers: A Legal Perspective, published on the NSW parliament website states clearly the legal rights needed for boarders and Lodgers:

“What rights do boarders and lodgers need?”

All residents living in boarding houses are vulnerable because the law as it stands does not protect their legal rights. In addition, many of these residents possess attributes such as a disability, which make them even more vulnerable to abuse.

Boarders need the following basic rights as a minimum standard:

- Accommodation is provided and maintained at a standard that is fit for habitation
- Protection from arbitrary and unfair eviction
- Right to challenge unfair tariff increases
- Access to an impartial, inexpensive and quick means of dispute resolution

What is the best way to give boarders and lodgers these rights?

Government regulation of boarding-style accommodation is the only effective way of adequately addressing the problems faced by boarders and lodgers. This assessment is based on the following:

- a recognition that there is an imbalance [of power] between boarders and lodgers and owners/operators which requires intervention
- a recognition that a substantial proportion of boarders and lodgers are aged, poor or have a physical or intellectual disability or mental illness and are therefore vulnerable in their dealings with owners/operators
- a recognition that there is no rationale for denying boarders and lodgers in New South Wales similar legal protection to tenants
- the benefits arising out of the establishment of minimum or uniform standards for boarding agreements across New South Wales
- the need to clarify and simplify the legal relationship between boarders and lodgers and owner/operators in New South Wales
- the cost advantages to both boarders and lodgers and owner/operators arising out of the establishment of uniform or minimum standards of operation
- the evidence that suggests the introduction of a form of regulation will not greatly reduce or remove the profitability of the industry

- the evidence that suggests that the introduction of a form of regulation will not cause owner/operators to leave the industry
- the benefits associated with the introduction of a fast and cost effective avenue for review of agreements and disputes

Any regulation should have the following objectives:

- create a legislative scheme which gives boarder/lodgers legally enforceable rights in relation to their dealings with owner/operators
- regulate the industry in a way which gives additional protection to boarders/lodgers
- introduce minimum standards for the industry
- introduce a scheme which simplifies and clarifies the legal relationship between owner/operators and boarder/lodgers and promotes understanding of these rights throughout the industry
- introduce a system for independent review and enforcement of the rights of both parties which is timely and cost effective
- create standard agreements which reduce the cost and stress of individual bargaining between the parties
- reduce the number and nature of disputes between owner/operators and boarder/lodgers”

#### **Prevention of closures:**

Low cost housing options need to be supported in order to maintain the well-being of the residents and also to save on the additional costs of increased hospital admissions and use of emergency shelter facilities:

“The Salvation Army advised that there was a closure of unlicensed boarding houses and other group homes due partly to the lack of community mental health support. ... these closures have increased the likelihood of mentally ill people needing to seek accommodation in crisis centres. ... sufficient funding should be allocated for the provision of adequate services to tenants and landlords so that those people whose mental illness does not require high levels of care, can be sustained in low cost accommodation options. We understand that the lack of adequately trained staff in these services can be addressed by the allocation of sufficient funding. This should include adequate provision and training of staff.”  
(MH Inquiry, 2002, pp.134-135)

As the availability of affordable housing decreases, the significance of protecting the levels of boarding house beds available for people with a disability increases. With a stagnation in the supply of public housing stock and people not moving out of public housing, the availability of affordable housing for people with a mental illness is becoming increasingly difficult to find. This affordable housing is required near their social networks and in places well serviced by public transport, and community supports.

Considerable concessions have been made to enable the viability of boarding houses to date. They are excluded from adhering to the Disability Services Act and regulations, as it was felt that adherence may force many boarding houses to close. The Act requires that people are accommodated with one person per room, but in the past there have been 4-6 people per room in order to make the boarding houses financially viable.

Even with the current concessions boarding houses do not make for a profitable business. For example, a boarding house that took \$2,400 per week whilst supporting people with a disability now takes \$4,000 per week after being converted to attract students and backpackers. The increased profit is also accompanied by much less scrutiny and less work for the owner. The extra work and scrutiny includes visits from Health services, Councils, General Practitioners, HACC services, and ALI (Active Linking Initiative). The current environment provides great incentives for people to get out of the boarding house business and cater for students and backpackers. Thus putting people with a disability at increased risk of loss of accommodation and disruption of treatment and support networks. The conditions for boarding house proprietors need to be improved in order to encourage them to continue providing boarding house accommodation.

## Specific comments

- A separation of licensing body and funding of support providers is required.
- There is a need to raise the awareness of boarding house residents and landlords of residents' rights.
- Regulation of boarding houses needs to be accompanied with adequate funding for support services for people with psychiatric and other disabilities. It is suggested that the NSW government fund the continuation and expansion of the Boarding House Reform Strategy.
- Subsidies or other financial support relating to the improvement of conditions for residents of boarding houses would be helpful in keeping boarding houses open and operating at acceptable standards.
- Boarding Houses are not providing appropriate services to people with a mental illness due to inadequate financial, practical and clinical support they receive from external sources. Other forms of support are required for Boarding House operators. Such support agreements need to be incorporated into the Licensing agreements: such support may include staff training and NSW Health minimum service agreements.
- An alternative method of supporting licensed boarding houses, which is in line with the NSW Government Action plan for Housing and Accommodation support for people with a mental illness, is to increase the funding for the Non-Government Organisations to provide adequate disability support services to people with a disability.
- NGO workers salary awards are significantly lower than those in government agencies. This impacts negatively upon the building of services in the NGO sector, and the recruitment and retention of staff. This issue needs to be rectified.
- Current threats to Boarding house business viability need to be addressed in order to prevent adverse effects to disabled residents. Rising real estate values in Sydney and more profitable alternative uses of the properties are two financial viability threats that need to be considered. It is important that any strategies devised to assist boarding house viability do not involve a drop in the standard of accommodation.
- There is insufficient housing for people with a mental illness and thus any boarding house closures put these people at a high risk of increased homelessness and disruption of treatment and support networks.
- Any changes that threaten the standard of living and health status of boarding house residents would be considered unacceptable.

In conclusion, there are currently multiple inadequacies impacting upon the viability of licensed boarding houses. These include: the level of funding; staff salary and conditions, training and

development; service provision; and legislative protection for boarding house residents with disabilities. These inadequacies need to be addressed as part of the overall review of licensing arrangements.

If you would like to clarify any points in this submission, please do not hesitate to contact Rodney Angelo on (02) 9555 8388.

Thank you for considering this feedback.

Yours sincerely,

Jenna Bateman  
Executive Officer  
Mental Health Co-ordinating Council

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