

30 November 2004

YACS Act Review
Department of Ageing Disability & Home Care (DADHC)
Level 5, 83 Clarence Street
SYDNEY NSW 2000
Attention: Mr John Tuchin

yacsact@dadhc.nsw.gov.au

Dear Mr Tuchin

Thank you for providing the Mental Health Co-ordinating Council (MHCC) with the opportunity to contribute to The Allen Consulting Group report, *Shared Accommodation for People with a Disability* (the Report). Our comments follow our initial submission to The Allen Consulting Group in which we supported the need for effective legislation to replace the current Youth and Community Services Act of 1973.

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 and a greater emphasis on the rights of residents.

General Comments

Since deinstitutionalisation boarding houses have basically become institutions with routines based around the needs of the organisation rather than the individual needs of residents. MHCC believes the care, safety and human rights of residents must be recognised and their needs must inform the development and implementation of appropriate legislation. An accreditation process and clear regulations and standards are required. Compliance with the Occupational Health and Safety Act should also be taken into consideration.

We would also like to draw your attention to The Legislative Council's Select Committee Final Report on the 2002 Inquiry into Mental Health Services of NSW. The report 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 funds the continuation and expansion of the Boarding House Reform Strategy



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body for mental health
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Boarding House Reform Strategy:

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)

Despite the Inquiry's recommendation regarding the Boarding House Reform Strategy, we are aware that the funding for the Rozelle Boarding House Team has decreased markedly over the past few years.

MHCC also supports the ongoing funding of Homecare for licensed boarding houses, a support service which is sorely needed yet suffering from reduced resources, including the de-funding of medical escorts which is now left to the Boarding House Team to undertake.

MHCC commends the Active Linking Initiative (ALI) which has for the past 4 years, under the Reform Strategy, been successfully addressing the social isolation of individuals living in licensed boarding houses. By utilising this linking service to recreational, educational and vocational activities many residents have made enormous personal gains and are now navigating their community independently and confidently.

Screening Tool (*Allen Report Recommendation 7 – 8*)

The Screening Tool is in theory a valuable means of evaluating the suitability of tenants to a licensed Boarding House on the basis that people with high needs should be referred to more suitable supported accommodation. **If this Tool is to be appropriate and successful it must not work to exclude but rather to assess and provide an alternative referral to more appropriate housing options where particular needs can be met.** . Currently, many people with high needs are either ending up in a boarding house or finding themselves at risk of homelessness due to a lack of housing options.

High level needs residents

The Allen Consulting Group Report assumes that residents of licensed boarding houses all have low level needs. However due to a shortage of housing options, people with high level needs are still being referred to boarding houses. Furthermore, the Tool was not applied to existing residents and screened residents continue to age, become frailer and needier or are prone to fluctuations in the need for support.

Lack of choice and need for advocacy

The Allen Report presumes that residents have the ability to choose between boarding houses. Many residents lack the initiative, assertiveness and knowledge to make informed decisions nor have the money and resources required to relocate. Currently, people with disabilities are placed in a facility without sufficient checking for appropriateness. We support organisations such as the Coalition for Appropriate Supported Accommodation for People with Disabilities (CASA) who stress the need for the active intervention of advocates.

Many boarding houses do not even have a phone for residents to contact an advocate. There have also been reported cases of assault but the residents are not in a position to report the assault and be taken seriously. Protection is required for residents as well as funding for advocacy to ensure such protection. Furthermore, it is important that there be an identified system to provide that advocacy.

Access to residents

MHCC strongly disagrees with the statement (*Allen Report page 78*) that guaranteed access should only be extended to service providers in rare situations. We stress the importance of service providers having open access to people with disabilities in licensed boarding houses, with client consent - unless the client is believed to be at risk. However, a least restrictive approach to service provision does not mean that service providers can opt out of ensuring adequate quality of life to residents. As an overarching principle, we would promote an agreement for boarding house owners to work in partnership with service providers.

We also believe that family / guardians and advocates must also be guaranteed access to residents. However, care must be taken that residents with disabilities have the right to determine the level of access of family / guardians and advocates that they choose and importantly, the licensed boarding house provider should not be able to speak on their behalf.

Protection of Residents Tenancy Rights

Government regulation of boarding-style accommodation is the only effective way of adequately addressing the problems faced by boarders and lodgers. 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

MHCC supports CASA's comment (*Allen Report pg 84*) that there should be a cap on fees for residents of licensed boarding houses. We suggest that **85% of the pension be the cap on fees** as per the precedent of Residential Aged Care for vulnerable people.

MHCC agrees with the recommendations of the Office of the Protective Commissioner (*Allen Report pg 86*) regarding **transparency of client money records and the provision of personal spending** money for resident use. It is imperative that residents have access to personal money so that they can buy personal goods and access community resources and recreational options.

Tenancy Agreement

We support Recommendation 6 of the Allen Report that each resident should have a tenancy agreement. People living permanently in boarding houses are considered to be at a tertiary level of homelessness due to the conditions within which they live.

“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 change rooms when/if a reshuffle occurs after any resident changes, either through exit or intake of new residents.” (MH Inquiry, 2002, p133)

Number of beds per room

Furthermore, people with disabilities in boarding houses should be offered the same protection as those in other supported accommodation. Therefore the shared accommodation service should make the same provisions as the *Disability Services Act*. 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.

MHCC stresses the importance of providing a 'quality of life' for residents and this includes the number of beds per room being restricted to two, privacy and security of possessions, personal clothing and the opportunity of personal care plans. We recommend that residents should have a right of access to individual rooms when possible and preferred, and the maximum be two people per room.

Prevention of closures:

MHCC believes that the closure of boarding houses is not due to the introduction of regulatory measures. 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)

The conditions for boarding house proprietors do need to be improved in order to encourage them to continue providing boarding house accommodation. 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. 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.

The need for specific regulation

MHCC is greatly concerned by information reported under the Ombudsman Act: *Investigation of the monitoring and enforcement of licensing conditions for residential centres for handicapped persons*, which found that DADHC could not ensure the care and safety of residents of licensed boarding houses under the current legislation. MHCC believes that residents will remain vulnerable to abuse and neglect for as long as DADHC cannot ensure compliance with any licensing conditions or regulations.

(Allen Report Section 3.2)

Furthermore, the Allen Report presumption that local government adequately regulates licensed boarding houses is inaccurate. We believe there is a critical need for DADHC to take the responsibility of a regulatory body. Local councils cannot adequately ensure the safety and care of residents of licensed boarding houses and are not required to make regular inspections of fire, food and general physical standards of the building. The role of DADHC clearly needs to be clarified and strengthened by new legislation.

Criminal record checks

MHCC supports the precedent that all new and existing staff undergo criminal record checks but stress that this alone is not adequate protection for residents. The Decision Tree (*Allen Report pg 74*) does not take into account unreported criminal acts. It must be factored that vulnerable residents with a disability and history of institutionalization often lack the assertiveness to protest against a violation of their rights. There is also a fear by many residents that they may be threatened with eviction if they were to report incidents or complain. An increase of Community Visitors is one way to address this issue.

Accreditation system

We support an accreditation system for licensed boarding houses (*Allen Report Recommendation 11*) which ensures training and staff competence and that this system be managed by an outside third party group.

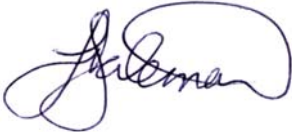
Supervision

In regard to supervision we believe that a resident's level of need should inform supervisory requirements and that suitable system of care be employed. Residents with high and medium needs require 24-hour care and supervision.

In conclusion, MHCC recommends a regulatory and compliance structure be developed with appropriate legislation for licensed boarding houses which ensures the care, safety and quality of life for residents.

If you would like to clarify any points in this submission, please do not hesitate to contact Stephanie Maraz on (02) 9555 8388. Thank you for considering this feedback.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Jenna Bateman', with a large, stylized flourish at the end.

Jenna Bateman
Executive Officer
Mental Health Co-ordinating Council