



**Family &  
Community Services**  
Ageing, Disability & Home Care

# Assisted Boarding Houses Authorisation and Monitoring Manual



# Document approval

The Assisted Boarding Houses Authorisation and Monitoring Manual has been endorsed and approved by:

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# Part 1: Introduction

Ageing, Disability and Home Care (ADHC), Department of Family and Community Services (FACS) is responsible for administering the *Boarding Houses Act 2012* (the BH Act) and the *Boarding Houses Regulation 2013* (the BH Regulation).

Prior to the introduction of the BH Act and BH Regulation, the operation of licensed boarding houses was governed by the *Youth and Community Services Act 1973* and the *Youth and Community Services Regulation 2010*.

This manual provides direction and advice to FACS staff for the licensing and monitoring of authorised Assisted Boarding Houses (formerly known as Licensed Residential Centres).

For each of the Modules in this Manual, the relevant section of the BH Act or BH Regulation is listed on the right hand side of the page. When referencing the BH Act, “s76” denotes the section of the Act. When referencing the BH Regulation, “cl10” denotes clause 10 of the Regulation, and “Sch1 Std7” denotes the schedule and the standard of the Regulation.

The procedures contained in this document are for general use and may require adjustment where there are special circumstances. Variations to the procedures are only permitted with the approval of the Delegated Officer.

The BH Act can be found in full on the Legislation NSW website at:

<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+74+2012+cd+0+N>

and the BH Regulation at:

<http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+332+2013+cd+0+N>.

A list of major stakeholders is at **Appendix 1**.

## Applicability

This Manual applies to Boarding House Compliance Officers and any other enforcement officers appointed under section 66 of the Boarding Houses Act 2012. It also applies to management endorsement of enforcement officer actions as delegated in the procedure tables in each of the Modules.

## Review

This Manual will be reviewed on a quarterly basis initially to make any identified improvements or correct any errors based on feedback received. Urgent amendments will occur on an as-needs basis. The form to provide suggestions or feedback on this Manual is at **Appendix 2**.

## Boarding House Reform Program

As the lead agency responsible for implementing and administering the Boarding House Reform Program (BHRP), FACS also:

- implements the aims of the BHRP
- administers funds under the BHRP
- delivers case work services to residents
- works closely with Licensees/Approved Managers, residents, their families, advocates and local service providers
- facilitates access to other types of accommodation support where appropriate
- facilitates and monitors the link between Assisted Boarding House residents, Licensees/Approved Managers and Boarding House Reform Program service providers to ensure residents have access to these services.

## Module 1 Terms and definitions

Ageing, Disability and Home Care (ADHC)	Ageing, Disability and Home Care, Department of Family and Community Services.	
Approved Manager	<p>A person appointed by the operator to act as the manager of the Assisted Boarding House under the terms of the Licence if the operator is a corporation or an individual who is not acting as the manager of the Assisted Boarding House.</p> <p>The Approved Manager must be authorised by both the operator and FACS to act as the manager of the Assisted Boarding House.</p>	BH Act s59-65
<p>Assisted Boarding House (ABH)</p> <p>(See also Boarding Premises and Person with Additional Needs)</p>	<p>(a) A boarding premises that provides beds, for a fee or reward, for use by two or more residents who are persons with additional needs (not counting any persons with additional needs who reside there with their competent relatives).</p> <p>(b) A boarding premises that is declared to be an assisted boarding house by a notice in force under section 39 of the BH Act.</p> <p>Section 37 of the BH Act defines in detail what does not constitute an Assisted Boarding House.</p> <p>Note that for the purposes of this policy document the term Assisted Boarding House is used to denote Authorised Assisted Boarding Houses, that is Assisted Boarding Houses licensed by FACS under Division 2 of the BH Act.</p> <p>Assisted Boarding Houses that are not licenced by FACS are in breach of the BH Act and are called Unauthorised Assisted Boarding Houses in this policy document.</p>	<p>BH Act s37, 39</p> <p>BH Reg Sch1</p>
Authorised Assisted Boarding House	An Assisted Boarding House that is currently licensed by FACS (see also Assisted Boarding House).	BH Act s42-65
Authorised Operator	<p>Authorised operator of an Assisted Boarding House means:</p> <p>(a) if the boarding house is an authorised boarding house—the licensee, and</p> <p>(b) if an interim permit is in force with respect to the</p>	<p>BH Act s44-52</p> <p>BH Act</p>

	boarding house—the interim permit holder.	s45-58
Authorised Service Provider	A person who is authorised by the Delegated Officer to provide services to residents of Assisted Boarding Houses. Section 77 of the Act only allows for individuals to be authorised, but these will often be employees of organisations funded to provide support services.	BH Act s77
BH Act	The <i>Boarding Houses Act 2012</i> .	
BH Regulation	The <i>Boarding Houses Regulation 2013</i> .	
Boarding Premises  (See also Assisted Boarding House and General Boarding House)	Boarding premises are premises (or a complex of premises) that:  (a) are wholly or partly a boarding house, rooming or common lodgings house, hostel or let in lodgings, and  (b) provide boarders or lodgers with a principal place of residence, and  (c) 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  (d) have rooms (some or all of which may have private kitchen and bathroom facilities) that accommodate one or more boarders or lodgers.  Boarding premises that fit within the definition of a General Boarding House or an Assisted Boarding House are required to be registered with NSW Fair Trading.	BH Act s5
Boarding House Compliance Officer	The name FACS uses to describe the enforcement officers appointed by the Director-General under section 66 of the BH Act. The term Boarding House Compliance Officer is used throughout this Manual and is taken to have the same meaning as “enforcement officer”.	BH Act s66-68
Boarding House Licence	A licence granted by FACS for an authorised Assisted Boarding House under sections 44-53 of the BH Act.	BH Act s44-53
Client Information System (CIS)	FACS’ system for recording client-related information.	



Contemporaneous Notes	Notes that are made at the time something is occurring that represent an accurate record of the event, and that can be used as evidence in a court of law. These may include notes made in a Contemporaneous Notebook or file notes.
Delegated Officer	The person identified in the FACS/ADHC Delegations Manual as having authority for specific functions. The Delegations Manual is available on the FACS Intranet. See also <b>Delegations</b> .
Delegations	<p>The various levels of financial expenditure and functions delegated by the Minister to FACS officers, as outlined in the Delegations Manual (on the FACS Intranet).</p> <p>The BH Act requires that certain tasks and functions are undertaken by the Director-General of FACS. However, the Director-General has the authority to delegate some of these responsibilities to specific staff members (see <b>Delegated Officers</b>) in FACS.</p> <p>The FACS Delegations Schedules set out who can perform particular functions across the Department. Schedule A sets out the list of categories of delegated officers, and Schedule T lists which officers have powers under each section of the BH Act. The Schedules are at: <a href="http://intranet2.facs.nsw.gov.au/internal_services2/delegations/delegations_instruments_and_schedules">http://intranet2.facs.nsw.gov.au/internal_services2/delegations/delegations_instruments_and_schedules</a>.</p>
Director-General	The Director-General of the Department of Family and Community Services
Enforcement Officer	An enforcement officer means a person appointed under section 66 of the BH Act – see Boarding House Compliance Officers.
FACS	Department of Family and Community Services. ADHC is the division in FACS responsible for the authorisation and monitoring to Assisted Boarding Houses.
General Boarding House (See also Assisted Boarding House and Boarding)	<p>Boarding premises that provide beds, for a fee or reward, for use by five or more residents (not counting any residents who are proprietors or managers of the premises or relatives of the proprietors or managers).</p> <p>Some boarding premises which might otherwise fit within</p>

BH Act  
s66

Premises)	<p>this definition are excluded from the Act, including</p> <ul style="list-style-type: none"> <li>■ hotels, motels, B&amp;Bs</li> <li>■ backpackers hostels</li> <li>■ serviced apartments for tourists or visitors</li> <li>■ accommodation for workers in connection with their employment</li> <li>■ premises subject to a residential tenancy agreement covered by the Residential Parks Act, or an occupation agreement covered by the Holiday Parks (Long-term Casual Occupation) Act</li> <li>■ social housing as defined in the Residential Tenancies Act</li> <li>■ accommodation, including crisis accommodation, provided or funded by the Commonwealth or State Governments.</li> </ul>	
Interim Permit	A Permit that is in force having been issued under sections 54-58 of the BH Act authorising a person to operate an Assisted Boarding House on a short-term basis.	BH Act s54-58
Licence	A licence for an Assisted Boarding House that is in force having been granted under Part 4 of the BH Act.	BH Act s34-91
Licensee	The person who holds a boarding house licence.	
Manager	The person responsible for the day to day running of the boarding house. This may be the Licensee or the Approved Manager.	
Person with additional needs	<p>A person who has any one or more of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) an age related frailty</li> <li>(ii) a mental illness within the meaning of the Mental Health Act 2007</li> <li>(iii) a disability (however arising and whether or not of a chronic episodic nature) that is attributable to an intellectual, psychiatric, sensory, physical or like impairment or to a combination of such impairments</li> </ul> <p>and the condition is permanent or likely to be permanent, and the condition results in the need for care or support services (whether or not of an ongoing nature) involving assistance with, or supervision of, daily tasks and personal</p>	BH Act s36

	care such as (but not limited to) showering or bathing, the preparation of meals and the management of medication.	
Pre-existing Authorised Assisted Boarding House	<p>An Assisted Boarding House that has a boarding house authorisation which has been converted from a licence for a residential centre for handicapped persons issued under the <i>Youth and Community Services Act 1973</i> (YCS Act).</p> <p>In other words, a licensed residential centre becomes a pre-existing, authorised Assisted Boarding House if it has a current Licence on the day immediately before the YCS Act is repealed.</p>	BH Act Sch2 Std5
Premises	Refers to the property or properties being used as a General or Assisted Boarding House.	BH Act s4
Proprietor	An owner of the premises, or – in the case of premises that are leased – a tenant or sub-tenant who is entitled to immediate possession of the premises.	BH Act s4
Registrable Boarding House (See also Boarding Premises, Assisted Boarding House, and General Boarding House)	<p>Boarding premises that fit within the definition of a General Boarding House or an Assisted Boarding House and are therefore required under the Act to be registered with NSW Fair Trading.</p> <p>Boarding House registration requirements are outlined in <b>Appendix 3</b>.</p>	BH Act s5
Relative	<p>A relative is defined as:</p> <p>(a) another person who is the spouse or de facto partner of the person</p> <p>(b) another person who is a parent, step-parent, son, daughter, step-son, step-daughter, grandparent, grandchild, brother, sister, step-brother, step-sister, uncle, aunt, niece or nephew (whether by blood, marriage, affinity or adoption) of the person</p> <p>(c) another person who is a guardian of the person</p> <p>(d) another person in whose care or custody the person has been placed in accordance with the provisions of the Adoption Act 2000</p> <p>(e) in the case of an Aboriginal person or a Torres Strait</p>	BH Act s4

	Islander— another person who is, or has been, part of the extended family or kin of the person according to the Indigenous kinship system of the person's culture.
Staff member	<p>A person who:</p> <p>(a) is 16 years old or older, and</p> <p>(b) provides, or is reasonably expected to provide, care or support services to residents of the boarding house (whether as an employee, contractor or volunteer) under the control or direction of the authorised operator or approved manager, and</p> <p>(c) has, or is reasonably likely to have, access to residents in need of such care or services</p> <p>(d) and includes the approved manager of the boarding house or any resident providing, or reasonably expected to provide, such care or other services to other residents (whether in exchange for accommodation or otherwise).</p>
TRIM Context	FACS' internal electronic records management system.
Unauthorised Assisted Boarding House	Boarding premises that fit within the definition of an Assisted Boarding House, but are not covered by a current licence or interim permit.

BH Act  
s35

BH  
Reg  
Sch1  
Std1-4

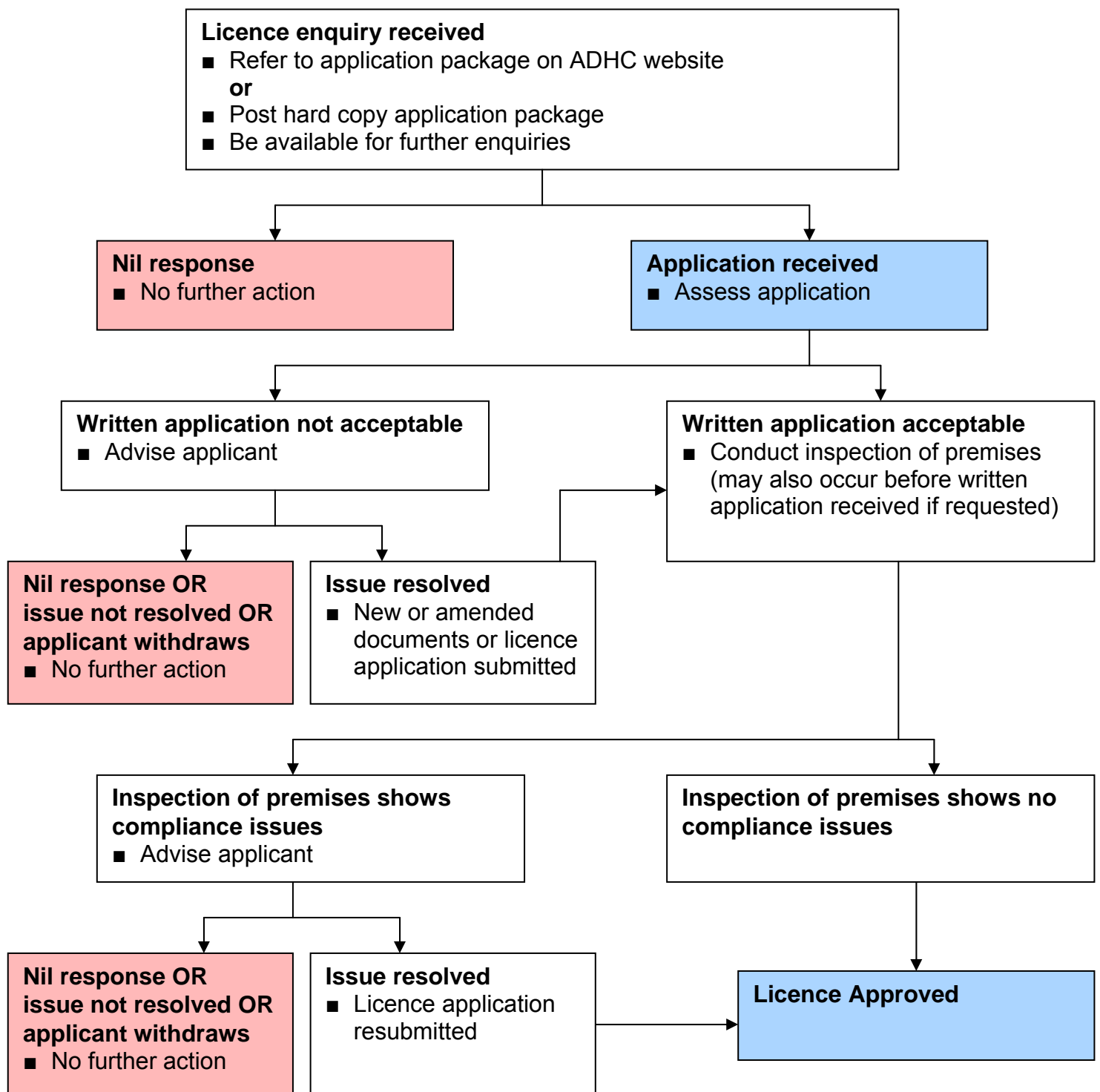
# Part 2: Authorising Assisted Boarding Houses

## Module 2 Introduction

Under the BH Act, boarding houses that support two or more people with additional needs are required to be authorised by FACS. This can be done by either granting a Licence or an Interim Permit. BH Act s41

**Part 4 Division 2** of the BH Act *Authorisation of assisted boarding houses* details licensing requirements and the authorisation of Approved Managers for Assisted Boarding Houses.

The flow chart on the next page outlines the Licence application process.



**If you advise the applicant of issues and they proceed with the application, seek advice from FACS legal officers.**

## Module 3 Licence enquiries

### Purpose

To provide direction and advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to respond to enquiries for a Licence to operate an Assisted Boarding House.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	9	Notification of particulars about registrable boarding house
BH Act	16	Requirement to inspect certain registered boarding houses within 12 months of registration
BH Act	41-43	Requirement for assisted boarding houses to be authorised
BH Act	44(2)	Licence Applications
BH Reg	Schedule 1	Standards of Assisted Boarding Houses

### Related Modules

Module 4	Licence Applications
Modules 24-27	Unauthorised Assisted Boarding Houses

### Background

This module applies when a person:

- is currently the proprietor of a registrable boarding house that has two or more residents with additional needs and wants to obtain a Licence to operate an Assisted Boarding House
- wants to establish a new Assisted Boarding House
- wants to purchase an existing Assisted Boarding House

BH Act  
s44(2)

- wants to become a substitute Licensee in the event of the death of a Licensee.

ADHC can accept Licence applications from:

- an individual,
- a corporation or a body politic;
- a trustee; or
- members of an unincorporated body.

The BH Act and BH Regulation set out a range of standards and conditions common to all Assisted Boarding Houses. An overview of these, referenced to the appropriate sections of the BH Act and BH Regulation, is listed in **Appendix 4**.

There is no fee to apply for a Licence to become an Assisted Boarding House. However, all registrable boarding houses – including authorised and unauthorised Assisted Boarding Houses – must register with the NSW Fair Trading Boarding Houses Register which requires a \$100 fee. Further details of the registration process are at **Appendix 3**.

## Procedure

Process	Forms or Templates	Delegation
1. Let the enquirer know the information about the licensing process, and that they will need to comply with the BH Act and BH Reg.		Boarding House Compliance Officer
2. Either: a. refer enquirer to the information and Licence Application Package on the ADHC website or b. send the enquirer the cover letter outlining the process and dates for lodgment and a Licence Application Package.	Licence Application ( <b>Appendix 5</b> )	Boarding House Compliance Officer
3. Be available to provide assistance and advice to applicant on the process		Boarding House Compliance Officer



## Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 4 Licence applications

### Purpose

To provide direction and advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on handling applications for a Licence to operate an Assisted Boarding House.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	41-43	Requirement for assisted boarding houses to be authorised
BH Act	44-47	Licence Applications
BH Act	53	Display of licence
BH Act	87	Applications for reviews by the Administrative Decisions Tribunal
BH Reg	8	Additional probity checks for licence applications
BH Reg	9	Additional grounds for refusing authorisations and manager approvals
BH Reg	Schedule 1	Standards for authorised boarding houses

### Related Modules

Module 3	Licence enquiries
Modules 24-27	Unauthorised Assisted Boarding Houses

## Background

There are two stages to assessing Licence Applications:

1. written application
2. physical inspection including consideration of the floor plan of the premises and site plan showing its location in relation to site boundaries and adjoining streets.

The written application form can be obtained from the ADHC website. The application process begins once a completed written application has been received from a potential Licensee, or someone acting on behalf of a potential Licensee. Note that the application form only allows one proposed Licensee.

The Compliance Officer can recommend that an Assisted Boarding House Licence not be granted on the basis of a non-compliance with the written application or physical inspection or both.

When the written application is received, the Compliance Officer needs to assess whether:

- the premises comply or may be able to comply with the physical standards set by the BH Regulation and BH Act
- the proposed Licensee, their close associates and the proposed Approved Manager are suitable to be licensed to operate an Assisted Boarding House.

BH  
Reg  
Sch1

BH Act  
s45,  
s46

The Boarding House Compliance Officer can make whatever investigations and inquiries in relation to the application as they consider necessary.

BH Act  
s45

The suitability of the premises to operate as an Assisted Boarding House should include a consideration of whether the local council has permitted or is likely to permit the premises to operate as a boarding house.

The suitability of the proposed operators of the Assisted Boarding House includes probity checks.

When considering an application for a Licence to operate an Assisted Boarding House, under section 45 of the BH Act the Director-General must carry out such investigations and inquiries as they consider necessary.

The following probity checks must be undertaken as part of the Licence application process:

BH Act  
s45

Obtain National Police Checks (criminal record checks) for:

- the applicant for the Licence
- the proposed approved manager

- any other proposed staff members
- if the applicant is a corporation or unincorporated body – of any person involved in the control or management, e.g. CEO, director, management committee member, majority shareholder
- any close associates as required by the Director-General - ‘close associates’ is defined in section 38 of the BH Act and could include directors or officeholders of the company, as well as any people who hold a share in the capital of the business or an entitlement to receive income, rent or other benefit from the business, includes the landlord / owner of the land.

BH Act  
s38

National Police Checks can be obtained by the applicant themselves from the National Police Checking Service operated by the NSW Police Force <https://npcoapr.police.nsw.gov.au/asp/dataentry/Introduction.aspx> , or by contacting the local police station in person. The cost is \$52 as at June 2013.

As part of the Licence Application the applicant is required to fill out a Financial Capacity form. ADHC will then conduct a search of the National Personal Insolvency Index in relation to the Proposed Licensee, Proposed Manager and all named close associates.

BH Act  
s45(2)  
(e)

Check any previous enforcement action taken under the BH Act or the former Youth and Community Services Act 1973 as against the applicant and the applicant’s close associates.

BH  
Reg  
cl8(a)

As part of the Licence Application the applicant is required to fill out a Referee Check form for both the Proposed Licensee and the Proposed Manager.

BH  
Reg  
cl8(b)

The Director-General or Delegated Officer must refuse to grant a boarding house Licence if any of the proposed Licensee, proposed manager, proposed staff member, or close associate have been convicted of a serious criminal offence.

BH Act  
s46(3)

The Director-General or Delegated Officer may refuse to grant the Licence on any grounds, including:

BH Act  
s46(1)  
and (2)

- the proposed Licensee, proposed manager or close associate is/are not suitable people to be involved in the operation of a boarding house
- the applicant does not have or is unlikely to have the financial capacity to operate the proposed boarding house
- a previous application for authorisation by the applicant was refused
- a previous authorisation was cancelled, revoked or suspended
- the Director-General is satisfied the applicant would not be able to comply with any of the conditions set out in Part 3 Division 4 of the Regulation (which includes the standards in Schedule 1 of the

BH  
Reg  
cl9

Regulation).

Where the Boarding House Compliance Officer intends to refuse an application, opportunities should be provided to the applicant to provide further information to clarify relevant issues.

If a decision about a License is not made by FACS within 60 days after the License application was made, the authorisation is taken to have been refused. BH Act s87(2)

The Director-General or Delegated Officer may impose conditions on the granting of a Licence at the time of the authorisation or any time after authorisation. BH Act s43

Conditions can be for any reason considered “appropriate or necessary”, and can include conditions relating to:

- standards for the services provided to the residents, e.g. their welfare, education, social activities, personal protection and meals
- standards for accommodation provided to residents, e.g. bedrooms, bathrooms and other rooms.

The Director-General or Delegated Officer may vary a Licence, or a condition of the Licence, at any time after it has been granted. They must give notice of this variation. BH Act s47

Applicants have the right to apply to the Administrative Decisions Tribunal to contest the following decisions in relation to issuing a Licence: BH Act s87

- refusal to grant a Licence
- imposition of a condition on the Licence
- variation of a condition on the Licence.

Under the *Administrative Decisions Tribunal Act 1997 (NSW)*, FACS must advise the applicant in writing of the relevant decision and must also advise the applicant of the right to apply for an internal review within 28 days of the decision.

Details of the internal review process are set out in Part 2 of the *Administrative Decisions Tribunal Act 1997 (NSW)*. Boarding House Compliance Officers should contact FACS legal officers for advice on conducting the internal review. Particular attention must be paid to relevant time limitations.

The outcome of the internal review must be communicated to the person seeking the review within 21 days of their request for review. The letter or notice from FACS advising of the outcome of the review should include advice that the person has the right under section 87 of the BH Act to apply to the Administrative Decisions Tribunal for an external review of FACS’ decision, and that an application to the Tribunal must be made within 28 days of

receiving notice of the decision.

## Procedure

Process	Forms or Templates	Delegation
1. ADHC receives the completed application package (see <b>Module 3</b> ).		
2. Send letter of acknowledgement within 10 days of receiving the application.	Application Received Letter Template ( <b>Appendix 6</b> )	Boarding House Compliance Officer
3. Conduct an initial assessment of the application and contact the applicant if they have not provided all the required information.	List of Conditions, Standards and Penalties Relating to Assisted Boarding Houses ( <b>Appendix 4</b> )	Boarding House Compliance Officer
4. Make a recommendation within 40 days of receiving the application by assessing it against the Licence Application Checklist. This includes: <ul style="list-style-type: none"> <li>a. probity checks of the applicant, their associates, the proposed approved manager and other staff</li> <li>b. on-site inspection of premises</li> <li>c. checking council permissions.</li> </ul> <p>Note that this time period can be extended if an inquiry under s45 of the BH Act is received.</p>	Licence Application Checklist ( <b>Appendix 7</b> )	Boarding House Compliance Officer
5. Boarding House Compliance Officer will seek approval to: <ul style="list-style-type: none"> <li>a. issue the Licence – consider whether there are to be individual conditions</li> </ul>	ADHC submission template	Delegated Officer Boarding House Compliance Officer

attached OR b. refuse the Licence.			BH Act s46(5)
6. If the Licence is refused, the Boarding House Compliance Officer will send a letter which must: a. state reasons allowed by section 46(5) of the BH Act b. give information about the right of appeal to the Administrative Decisions Tribunal c. be prepared with advice from FACS legal officers.	Licence Refused Letter Template <b>(Appendix 8)</b>  FACS Legal Request Form (FACS Intranet)	Boarding House Compliance Officer	
7. If a Licence is approved, prepare a Licence and send it with a cover letter notifying the Licensee of their requirement to display the Licence in a conspicuous place.	Assisted Boarding House Licence Template <b>(Appendix 9)</b>  Licence Issued Letter Template <b>(Appendix 10)</b>	Boarding House Compliance Officer	
8. Where a Licence is issued and there is no local ADHC Boarding House Caseworker, investigate funding for supports for residents.	Arranging ADHC Funded Supports for Residents <b>(Appendix 11)</b>	Boarding House Compliance Officer	

## Record Keeping Requirements

- All documents, including Licence, submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 5 Issuing an Interim Permit

### Purpose

To provide direction and advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to issue an Interim Permit for an Assisted Boarding House.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	41-43	Requirement for assisted boarding houses to be authorised
BH Act	54-56	Interim permits
BH Act	87	Applications for reviews by the Administrative Decisions Tribunal
BH Reg	30	Display of interim permit

### Related Modules

Module 4	Licence applications
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### Background

Interim permits can only be issued to a person or persons in certain circumstances such as:

- where there is an application for a boarding house Licence for the premises pending the final determination as to whether the Licence should be granted
- where there is an application to be the replacement Licensee where the Licence was suspended because of the death of the previous Licensee
- to enable the premises to continue to be used as an Assisted Boarding House despite the surrender, suspension or cancellation of the boarding house Licence for the premises
- to enable an Assisted Boarding House to continue to be operated during the absence of the Licensee for the boarding house (whether because of illness or otherwise)

BH Act  
s54



- in such other circumstances as may be prescribed by the regulations.

Interim permits can only be issued for the following fixed periods:

- for a maximum of three months at a time while the Delegated Officer is considering a new application or an application for replacement Licensee
- for a maximum of six months at a time for all other cases.

Interim permits can be extended by the Delegated Officer, but only up to a total period of two years. In the case of an Interim Permit that is issued for three months for a new applicant or replacement Licensee, the permit may only be extended for a total of six months.

BH Act  
s55

For Interim Permits that are not issued as part of a Licence Application process, the following probity checks that need to be undertaken:

BH Act  
s45

Obtain National Police Checks (criminal record checks) for:

- the applicant for the Interim Permit
- the proposed approved manager
- any other proposed staff members
- if the applicant is a corporation or unincorporated body – of any person involved in the control or management, including, but not limited to: CEO, director, management committee member, majority shareholder
- any close associates as required by the Director-General - ‘close associates’ is defined in section 38 of the BH Act and could include directors or officeholders of the company, as well as any people who hold a share in the capital of the business or an entitlement to receive income, rent or other benefit from the business, includes the landlord / owner of the land.

BH Act  
s38

National Police Checks can be obtained by the applicant themselves from the National Police Checking Service operated by the NSW Police Force <https://npcoapr.police.nsw.gov.au/aspx/dataentry/Introduction.aspx> , or by contacting the local police station in person. The cost is \$52 as at June 2013.

The applicant is required to fill out a Financial Capacity form. ADHC will then conduct a search of the National Personal Insolvency Index in relation to the Proposed Licensee, Proposed Manager and all named close associates.

BH Act  
s45(2)  
(e)

Check any previous enforcement action taken under the BH Act or the former *Youth and Community Services Act 1973* as against the applicant and the applicant’s close associates.

BH  
Reg  
cl8(a)

Undertake reference checks as nominated on the Referee Check form for both the Proposed Licensee and the Proposed Manager.

BH  
Reg

	cl8(b)
The Director-General can refuse to grant an interim permit if they are of the opinion the permit-holder is not a suitable person.	BH Reg cl9(2)
If a decision about an interim permit is not made by FACS within 60 days after the application was made, the authorisation is taken to have been refused.	BH Act s87(2)
The Director-General or Delegated Officer may impose conditions on the granting of an interim permit at the time of the authorisation or any time after authorisation.	BH Act s43
Conditions can be for any reason considered “appropriate or necessary”, and can include conditions relating to: <ul style="list-style-type: none"> <li>■ standards for the services provided to the residents, e.g. their welfare, education, social activities, personal protection and meals</li> <li>■ standards for accommodation provided to residents, e.g. bedrooms, bathrooms and other rooms.</li> </ul>	
The Director-General or Delegated Officer may vary an interim permit, or a condition of the interim permit, at any time after it has been granted. They must give notice of this variation.	BH Act s47
Applicants have the right to apply to the Administrative Decisions Tribunal to contest the following decisions in relation to issuing an interim permit: <ul style="list-style-type: none"> <li>■ refusal to grant an interim permit</li> <li>■ imposition of a condition on the interim permit</li> <li>■ variation of a condition on the interim permit.</li> </ul>	BH Act s87
Under the <i>Administrative Decisions Tribunal Act 1997 (NSW)</i> , FACS must advise the applicant in writing of the relevant decision and must also advise the applicant of the right to apply for an internal review within 28 days of the decision.	
Details of the internal review process are set out in Part 2 of the <i>Administrative Decisions Tribunal Act 1997 (NSW)</i> . Boarding House Compliance Officers should contact FACS legal officers for advice on conducting the internal review. Particular attention must be paid to relevant time limitations.	
The outcome of the internal review must be communicated to the person seeking the review within 21 days of their request for review. The letter or notice from FACS advising of the outcome of the review should include advice that the person has the right under section 87 of the BH Act to apply to the Administrative Decisions Tribunal for an external review of FACS’ decision, and that an application to the Tribunal must be made within 28 days of	

receiving notice of the decision.

## Procedure

Process	Forms or Templates	Delegation
1. Seek advice from FACS Legal Officers. a. Develop the conditions of the permit in conjunction with FACS Legal Officers.	FACS Legal Request Form (FACS Intranet)	
2. Seek approval to issue the Interim Permit and notify the applicant in writing.	ADHC submission template	Delegated Officer
3. Provide the applicant with the Interim Permit, with a cover letter setting out that the permit must be displayed in a conspicuous position (as per clause 30 of the Regulation).	Interim Permit Template and Letter ( <b>Appendix 12</b> )	
4. Monitor the permit as per <b>Module 15</b> while it is in force.		Boarding House Compliance Officer
5. Repeat procedure from step 1 to renew Interim Permit if appropriate.		

BH  
Reg  
cl30

## Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.
- Any other record keeping requirements listed in **Module 15**.

## Module 6 Revoking an Interim Permit

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to revoke an Interim Permit for an Assisted Boarding House.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	57	Revocation of Interim Permit
BH Act	87	Applications for reviews by the Administrative Decisions Tribunal
BH Reg	10	Additional ground for revocation of interim permit

### Related Modules

Module 5	Issuing an Interim Permit
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### Background

The Delegated Officer may revoke an Interim Permit in the following circumstances:

BH Act  
s57

- if a condition of the permit has been contravened
- if any provision of the BH Act or BH Regulation has been contravened
- any other grounds that FACS considers sufficient.

BH  
Reg  
cl10

The Interim Permit holder must surrender the permit to the Director-General within 28 days after the permit is revoked, or penalties may follow.

Applicants have the right to apply to the Administrative Decisions Tribunal to review a decision to revoke an Interim Permit.

BH Act  
s87

Under the *Administrative Decisions Tribunal Act 1997 (NSW)*, FACS must advise the applicant in writing of the relevant decision and must also advise the applicant of the right to apply for an internal review within 28 days of the decision.

Details of the internal review process are set out in Part 2 of the *Administrative Decisions Tribunal Act 1997 (NSW)*. Boarding House Compliance Officers should contact FACS legal officers for advice on conducting the internal review. Particular attention must be paid to relevant time limitations.

The outcome of the internal review must be communicated to the person seeking the review within 21 days of their request for review. The letter or notice from FACS advising of the outcome of the review should include advice that the person has the right under section 87 of the BH Act to apply to the Administrative Decisions Tribunal for an external review of FACS' decision, and that an application to the Tribunal must be made within 28 days of receiving notice of the decision.

## Procedure

Process	Forms or Templates	Delegation
1. Issue a Notice to Revoke an Interim Permit. a. Advise the Permit Holder that they have the right to request an internal review within 28 days. b. Request that the Interim Permit be returned to ADHC within 28 days.	Notice to Revoke an Interim Permit ( <b>Appendix 13</b> )  ADHC submission template	Delegated Officer
2. Check that the Interim Permit has been returned and is no longer being displayed at the premises.		Boarding House Compliance Officer
3. If there is an internal appeal lodged, seek advice from FACS legal officers.	FACS Legal Request Form (FACS Intranet)	

## Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 7 Suspending or cancelling a Licence

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to suspend or cancel a Licence for an Assisted Boarding House.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	49	Suspension or cancellation of licences
BH Act	87	Applications for reviews by the Administrative Decisions Tribunal
BH Act	54(3)(c)	When interim permits may be granted

### Related Modules

Module 5	Issuing an Interim Permit
Module 8	Surrender of a Licence or Interim Permit

### Background

The suspension or cancellation of a Licence (as opposed to voluntary surrender of a Licence) is a rare occurrence and can only be undertaken with advice from FACS legal officers.

The Director-General may, by Notice served on the Licensee, suspend an Assisted Boarding House Licence - for a maximum period of six months – or cancel the Licence in certain circumstances, such as:

BH Act  
s49

- if the Licensee or any close associate of the Licensee is no longer a suitable person to be involved in the management or operation of the licensed boarding house
- if the continued use of the Assisted Boarding House would constitute an unacceptable risk to the safety, welfare or wellbeing of any person with additional needs or other persons residing at the premises

- if the Licensee has contravened any provision of the BH Act or the BH Regulation (whether or not the Licensee has been convicted of an offence for the contravention)
- if a condition of the Licence has been contravened.

If any condition is specified in the Notice to Suspend a Licence, and it is not met during the suspension period, then the Licence may be cancelled. BH Act s49(3)

When a Licence is cancelled, the Licensee must surrender the Licence within 28 days. Failure to do so may incur a penalty (see **Appendix 4**). BH Act s49(4)

Licensees have the right to apply to the Administrative Decisions Tribunal to review a decision to suspend or cancel a Licence. BH Act s87

Under the *Administrative Decisions Tribunal Act 1997 (NSW)*, FACS must advise the applicant in writing of the decision to suspend or cancel a Licence and must also advise the applicant of the right to apply for an internal review within 28 days of the decision.

Details of the internal review process are set out in Part 2 of the *Administrative Decisions Tribunal Act 1997 (NSW)*. Boarding House Compliance Officers should contact FACS legal officers for advice on conducting the internal review. Particular attention must be paid to the time limitations for conducting the review.

The outcome of the internal review must be communicated to the person seeking the review within 21 days of their request for review. The letter or notice from FACS advising of the outcome of the review should include advice that the person has the right under section 87 of the BH Act to apply to the Administrative Decisions Tribunal for an external review of FACS' decision, and that an application to the Tribunal must be made within 28 days of receiving notice of the decision.

The suspension of a Licence will require the issuing of an Interim Permit to another person in order for the Assisted Boarding House to remain in operation.

The cancellation of a Licence may result in the need to make alternative accommodation arrangements for residents.

## Procedure

1. Seek approval as to whether suspension or cancellation is appropriate, and if suspension,	ADHC submission	Boarding House Compliance Officer

<p>what conditions should be attached.</p> <ol style="list-style-type: none"> <li>Seek advice from FACS legal officers particularly relating to conditions.</li> <li>If suspension is being considered, identify an appropriate person who can hold an Interim Permit and (if the suspended Licensee was also the manager) a person who can be authorised to act as a manager.</li> </ol>	<p>template</p> <p>FACS Legal Request Form (FACS Intranet)</p>	Delegated Officer
<p>2. If suspension is appropriate, prepare and send a Notice to Suspend a Licence which lists the conditions and notes the holder of the Interim Permit – refer to <b>Module 5</b>.</p>	<p>Notice to Suspend a Licence Template (<b>Appendix 14</b>)</p>	Boarding House Compliance Officer
<p>3. If conditions of the suspension are not met, or suspension not considered appropriate, prepare a Notice to Cancel a Licence</p> <ol style="list-style-type: none"> <li>Seek advice from FACS legal officers.</li> <li>Inform Licensee they must surrender the Licence within 28 days after its cancellation.</li> </ol>	<p>Notice to Cancel a Licence Template (<b>Appendix 15</b>)</p> <p>ADHC submission template</p> <p>FACS Legal Request Form (FACS Intranet)</p>	<p>Boarding House Compliance Officer</p> <p>Delegated Officer</p>
<p>4. Refer to Resident Relocation Protocol.</p>	<p>Resident Relocation Protocol (<b>Appendix 16</b>)</p>	Boarding House Compliance Officer
<p>5. Ensure Licence has been returned / is not being displayed on the premises</p>		



## Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 8 Surrender of a Licence or Interim Permit

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to handle the surrender of a Licence for an Assisted Boarding House.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	50	Surrender of licence
BH Act	58	Surrender of interim permit
BH Act	54(3)(c)	When interim permits may be granted

### Related Modules

Module 5	Issuing an Interim Permit
Module 7	Suspending or cancelling a Licence

### Background

Licensees can surrender their Licence if they no longer wish to operate an Assisted Boarding House. Historically this is the reason most licenses cease to be in force, and in most cases this is due to retirement. BH Act S50(2)

Interim Permit holders may also surrender an Interim Permit if they no longer wish to operate an Assisted Boarding House. BH Act S58(2)

Boarding House Compliance Officers should negotiate an acceptable date for the cessation of the Licence or Interim Permit to ensure that residents are not placed at risk of homelessness.

It is an offence for the Licensee not to surrender the Licence or Interim Permit to the Director-General within 28 days of cessation of trading (Licence surrendered to a Boarding House Compliance Officer will constitute compliance). BH Act S50(2) S58(2)

In some circumstances when a Licence is surrendered, an Interim Permit may be granted to enable the Assisted Boarding House to continue to operate on a short term basis, for example while the residents are being relocated.

## Procedure

Process	Forms or Templates	Delegation	
1. Check that Licensee has properly completed Surrender of Licence, Interim Permit or Manager Approval Form.	Surrender of Licence, Interim Permit or Manager Approval Form ( <b>Appendix 17</b> )		
2. Consider whether an Interim Permit is required in the short-term (see <b>Module 5</b> )			
3. Arrange alternative accommodation and supports for residents.	Resident Relocation Protocol ( <b>Appendix 16</b> )		
4. Check that the Licence or Interim Permit has been returned to ADHC (should be within 28 days)			

## Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 9 Approved Managers – Authorisations, Suspensions and Revocations

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to authorise Approved Managers for Assisted Boarding Houses, and how to suspend or revoke authorisation.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	59-65	Approval of managers of assisted boarding houses
BH Act	87	Applications for reviews by the Administrative Decisions Tribunal

### Related Modules

Module 4	Licence Applications
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### Background

The appointment of the Approved Manager of the Assisted Boarding House must be approved by the Director-General or Delegated Officer. BH Act s60

The Approved Manager for a new Assisted Boarding House will be authorised during the application process.

A new Approved Manager must also be authorised when a previously authorised Approved Manager is away for a period of time or has left.

If the Licensee wants to change the Approved Manager for the premises, they need to submit an Application for Change of Approved Manager.

An Assisted Boarding House will be in breach of the BH Act if they appoint a new Approved Manager without this application being approved by the Delegated Officer. BH Act s63

If an Approved Manager leaves an Assisted Boarding House and there is no other Approved Manager at the premises while an application for a new Approved Manager has been submitted to the Director-General, a Boarding

House Compliance Officer should monitor the Assisted Boarding House to ensure that the BH Act and BH Regulation are being complied with during this time.

For Approved Manager applications, you need to undertake a number of probity checks.

BH Act  
s45

You will need to obtain a National Police Check (criminal record check) for the proposed Approved Manager.

National Police Checks can be obtained by the applicant themselves from the National Police Checking Service operated by the NSW Police Force <https://npcoapr.police.nsw.gov.au/asp/dataentry/Introduction.aspx> , or by contacting the local police station in person. The cost is \$52 as at June 2013.

BH Act  
s38

You will also need to check any previous enforcement action taken under the BH Act or the former *Youth and Community Services Act 1973* as against the applicant and the applicant's close associates.

BH  
Reg  
cl8(a)

Undertake reference checks as nominated on the Referee Check form for the Proposed Manager.

BH  
Reg  
cl8(b)

The Director-General can refuse to grant a manager approval if:

- they are of the opinion that the applicant is not a suitable person to be involved in the management of an assisted boarding house
- a previous application was refused, or a previous approval was cancelled, revoked or suspended.

BH Act  
s61(2)  
(b)

BH  
Reg  
cl9(3)

If a decision about a manager approval is not made by FACS within 60 days after the application was made, the approval is taken to have been refused.

BH Act  
s87(2)

The Director-General or Delegated Officer may impose conditions on the granting of a manager approval at the time of the approval or any time after approval.

BH Act  
s63

Conditions can be for any reason considered "appropriate or necessary".

An approved manager who contravenes the condition of an approval may face legal proceedings (see **Appendix 4**).

The Director-General or Delegated Officer may vary a manager approval, or a condition of the approval, at any time after it has been granted. They must give notice of this variation.

BH Act  
s64

The Director-General or Delegated Officer may suspend or revoke authorisation for an Approved Manager if they believe the person is no longer a suitable person to be a manager, or has contravened the BH Act, BH Regulation or conditions of approval.

BH Act  
s65

A notice must be served on the Approved Manager stating the reasons why the authorisation is being suspended or revoked. Suspensions can be for no more than six months. Conditions can be attached to the suspension that, if not met, will be followed by revocation. An Approved Manager whose authorisation is revoked must surrender the approval to FACS within 28 days using the Surrender of Licence, Interim Permit or Manager Approval Form (**Appendix 17**), or penalties may follow.

Applicants have the right to apply to the Administrative Decisions Tribunal to contest the following decisions in relation to manager approvals:

BH Act  
s87

- refusal to grant a manager approval
- imposition of a condition on the manager approval
- variation of a condition on the manager approval
- suspension or cancellation of a manager approval.

Under the *Administrative Decisions Tribunal Act 1997 (NSW)*, FACS must advise the applicant in writing of the relevant decision and must also advise the applicant of the right to apply for an internal review within 28 days of the decision.

Details of the internal review process are set out in Part 2 of the *Administrative Decisions Tribunal Act 1997 (NSW)*. Boarding House Compliance Officers should contact FACS legal officers for advice on conducting the internal review. Particular attention must be paid to relevant time limitations.

The outcome of the internal review must be communicated to the person seeking the review within 21 days of their request for review. The letter or notice from FACS advising of the outcome of the review should include advice that the person has the right under section 87 of the BH Act to apply to the Administrative Decisions Tribunal for an external review of FACS' decision, and that an application to the Tribunal must be made within 28 days of receiving notice of the decision.

## Procedure

Process	Forms or Templates	Delegation
1. ADHC receives completed Approved Manager Authorisation Form	Approved Manager Authorisation	Boarding House Compliance Officer

	Form ( <b>Appendix 18</b> )	
2. Contact applicant (phone or e-mail) if they have not provided all the required information.		Boarding House Compliance Officer
3. Assess the application for Approved Manager a. Contact nominated referees b. Conduct probity checks	Approved Manager Application Checklist ( <b>Appendix 19</b> )	Boarding House Compliance Officer
4. Seek approval to: a. authorise the Approved Manager (with any conditions if necessary). OR b. refuse the Approved Manager's application (seek advice from FACS legal officers first).	ADHC submission template  FACS Legal Request Form (FACS Intranet)	Delegated Officer
5. If you do not authorise the Approved Manager, notify the applicant in writing of the grounds for refusal, and advise them that they have 28 days to provide a written response. a. Seek further advice from FACS legal officers b. Seek approval to authorise or refuse the Licensed Manager's application.	ADHC submission template  FACS Legal Request Form (FACS Intranet)	Delegated Officer
6. If FACS has identified that authorisation for an Approved Manager needs to be suspended or revoked (for example in the context of undertaking monitoring or compliance action), seek advice from FACS legal officers.	FACS Legal Request Form (FACS Intranet)  Surrender of Licence, Interim Permit or Manager Approval Form ( <b>Appendix 17</b> )	Boarding House Compliance Officer

## Record Keeping Requirements

- All documents, including Approved Manager Authorisation Form, submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.



## Module 10 Authorising Service Providers

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to authorise Service Providers for Assisted Boarding Houses.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	77	Powers of entry by authorised service providers without consent or warrant

### Background

Service providers offer a range of services to residents of Assisted Boarding Houses, including:

- support services, such as:
  - services funded under the Active Linking Initiative
  - services funded under the Primary and Secondary Health Care program
  - services funded under the Community Care program, specifically personal care and community transport
  - services funded by Health NSW under the Boarding House Housing and Accommodation Support Initiative (BHASI)
- financial services including the Public Trustee and Guardian and financial counsellors
- legal services, such as those provided by Legal Aid NSW, Aboriginal Legal Services or Community Legal Centre solicitors
- advocacy services such as those provided by People with Disabilities Australia or tenants advocacy services.

Service providers will need to meet with or contact residents with additional needs to provide these services. As with any other form of housing, service providers should contact the Approved Manager or other appropriate staff member to gain access to the premises to provide these services.

If a service provider experiences difficulty gaining access to the Assisted Boarding House to provide services, eg if the Approved Manager or staff

BH Act

refuse entry at the arranged time, the service provider can contact ADHC to seek formal authorisation of relevant staff members as Authorised Service Providers under section 77 of the BH Act. s77

It is a condition of the boarding house authorisation that the Licensee or Approved Manager permit an authorised service provider to enter and confer with residents of the boarding house provided they comply with the powers of entry granted to them under section 77 of the BH Act. BH Act s77

This means that if a Licensee or Approved Manager refuse an authorised service provider access to residents, they may be committing an offence and be liable to a penalty (see **Appendix 4**).

Formal authorisation gives an Authorised Service Provider the right to enter and provide relevant information or advice to residents about support services, even where the manager or licensee refuse consent to enter.

Authorised Service Providers are individual people, not organisations.

Service providers that wish to seek authorisation so they can access Assisted Boarding Houses without consent need to fill out a Service Provider Authorisation Form (**Appendix 20A**).

The form must contain the names of individual staff employed by the organisation who are seeking to enter an authorised assisted boarding house to provide services.

The organisation will need to confirm that they have conducted probity checks on the listed staff as required under their own staffing policies and procedures.

The Director-General or Delegated Officer will sign the authorisation. Each authorisation is only valid for 12 months. It is the Authorised Service Provider's responsibility to request a new authorisation when the 12 months has expired. A new authority should only be needed if the service provider continues to experience problems gaining consent to meet with residents.

FACS will keep a central record of Authorised Service Providers that Boarding House Compliance Officers can refer to. Staff at Assisted Boarding Houses may also contact FACS to check if a person seeking access to the premises is currently an Authorised Service Provider.

If an Authorised Service Provider is relying on section 77 of the BH Act for entry, they must give the Licensee or Approved Manager at least 24 hours notice of their intention to enter the boarding house, and must produce their authorisation instrument, which is the signed copy of the Service Provider Authorisation Form (**Appendix 20A**), for inspection on demand. Failure to do so may be considered an offence (see **Appendix 4**). BH Act s77

## Procedure

Process	Forms or Templates	Delegation
1. Provide relevant service organisations/individuals with advice about the service provider authorisation process and where to obtain the authorisation form.	Service Provider Authorisation Information Letter Template ( <b>Appendix 20B</b> )  Service Provider Authorisation Form ( <b>Appendix 20A</b> )	Boarding House Compliance Officer
2. If a service provider fills out a Service Provider Authorisation Form, prepare a submission to the Delegated Officer to accompany the form and seek authorisation of the listed person/s.	ADHC Submission Template	Boarding House Compliance Officer Delegated Officer
3. Return a copy of the signed form to the service provider with a cover letter referring them to section 77 on the back of the form, and advising that each person named in the form should carry a copy of the form with them when they enter an Assisted Boarding House.		Boarding House Compliance Officer
4. Keep a record of all authorisations including their expiry dates.		Boarding House Compliance Officer

BH Act  
s77

## Record Keeping Requirements

- All documents, including approved or declined submissions are to be uploaded into the relevant TRIM folder.
- Update the database of authorisations.

## Module 11      Death of a Licensee

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on what to do if a Licensee dies.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	48(2)(b) & (3)	Appointment of substitute licensee
BH Act	51(5)	Duration of Licence
BH Act	54(3)(b)	When interim permits may be granted

### Related Modules

Module 4	Licence Applications
Module 5	Issuing an Interim Permit

### Background

If the Licensee of an Assisted Boarding House dies, the Licence is taken to be suspended for the period of 28 days after the death or such further period as the Director-General may allow. BH Act s51(5)

The Director-General may, on his/her own initiative or on the application of the person concerned, appoint a person as a substitute Licensee. The appointment can be for a fixed period specified by the Director-General. BH Act s48(2)(b) & s48(3)

While the application to be appointed as a substitute Licensee is being considered, an Interim Permit can be issued to the applicant. BH Act s54(3)(b)

## Procedure

Process	Forms or Templates	Delegation
1. When a Licensee dies, the Boarding House Compliance Officer should consult with the Licensee's family, associates, Approved Manager and staff to determine if there is any person willing to be a substitute Licensee.		Boarding House Compliance Officer
2. If no application for a Licence or for an Interim Permit has been received within 28 days of the Licensee's death, the Director-General should make a determination as to whether to extend the suspension period (for example if there is a likelihood of locating an alternative Licensee) or whether the Assisted Boarding House should be closed.	ADHC submission template	Boarding House Compliance Officer Delegated Officer
3. If a substitute Licensee is found, refer to <b>Module 5</b> and <b>Module 4</b> .		Boarding House Compliance Officer
4. If no substitute Licensee can be found within the period of suspension (28 days or as extended by the Director-General), the Boarding House Compliance Officer should notify the Manager, staff and family of the deceased Licensee informing them that the Assisted Boarding House is no longer authorised to operate.		Boarding House Compliance Officer
5. Arrange alternative accommodation and supports for residents.	Resident Relocation Protocol ( <b>Appendix 16</b> )	

## Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

# Part 3: Monitoring Assisted Boarding Houses

## Module 12 Compliance and monitoring framework

**Part 4, Division 3** of the BH Act *Compliance and enforcement* deals with the way in which FACS can monitor and enforce compliance of Assisted Boarding Houses with the BH Act.

The Director-General can appoint enforcement officers to monitor authorised Assisted Boarding Houses for compliance with the BH Act and BH Regulation. BH Act  
S66

FACS has created a number of staff positions titled Boarding House Compliance Officers. However FACS can also appoint other staff members as “enforcement officers” for the purposes of the BH Act.

Enforcement officers who are not Boarding House Compliance Officers are to exercise their enforcement officer powers under the direction of and with reference to the line manager of the Boarding House Compliance Officers, and refer any urgent issues to that line manager for direction.

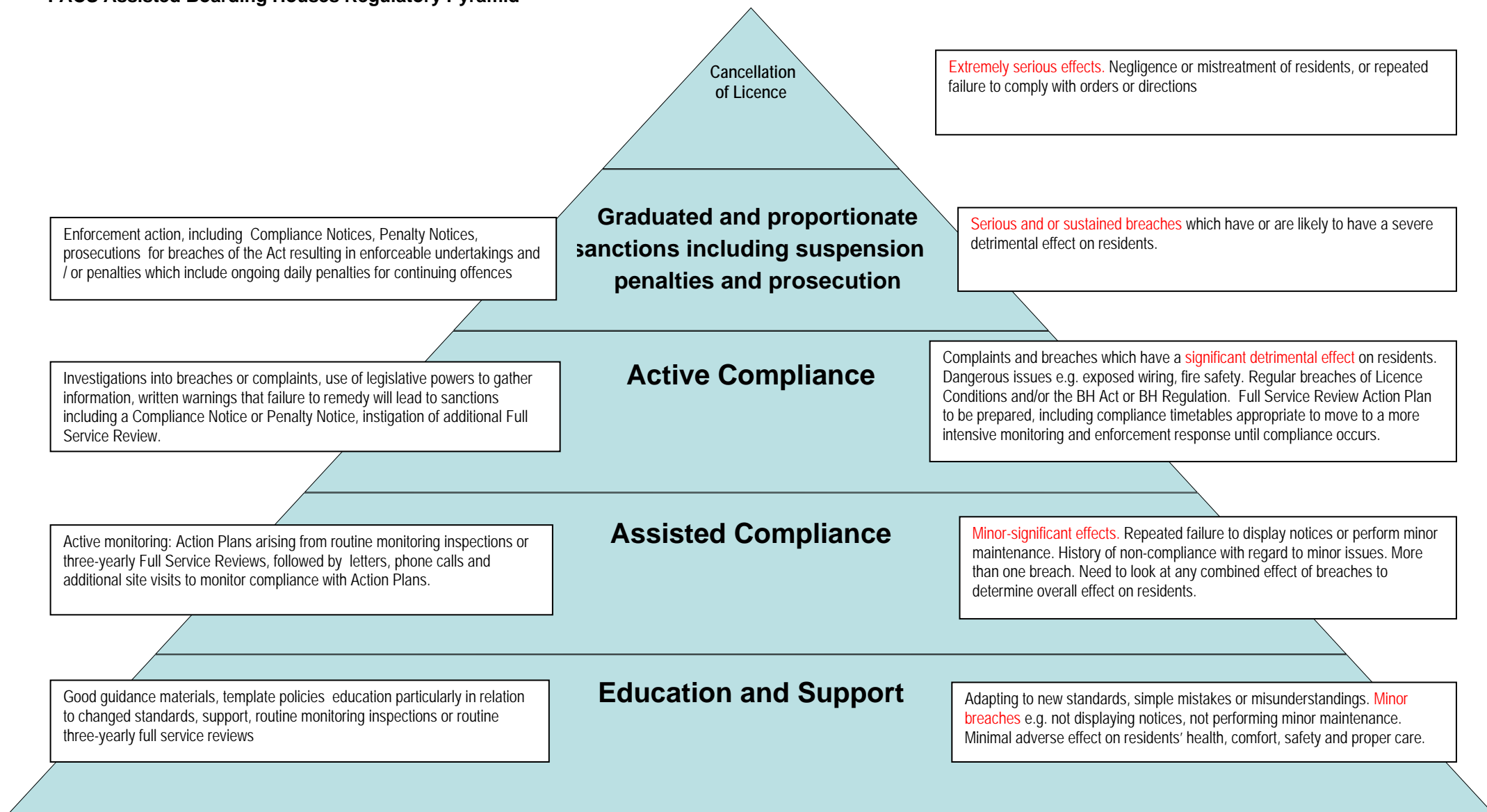
Boarding House Compliance Officers also have a role in the investigation of unauthorised Assisted Boarding Houses – see **Part 4** of this manual.

In the first instance Boarding House Compliance Officers will work with Licensees and Approved Managers of Assisted Boarding Houses to address identified breaches, however they have the authority to take more serious steps when required to ensure compliance including issuing Compliance Notices and Penalty Notices. A regulatory pyramid of support and compliance setting out ADHC’s general approach is over the page.

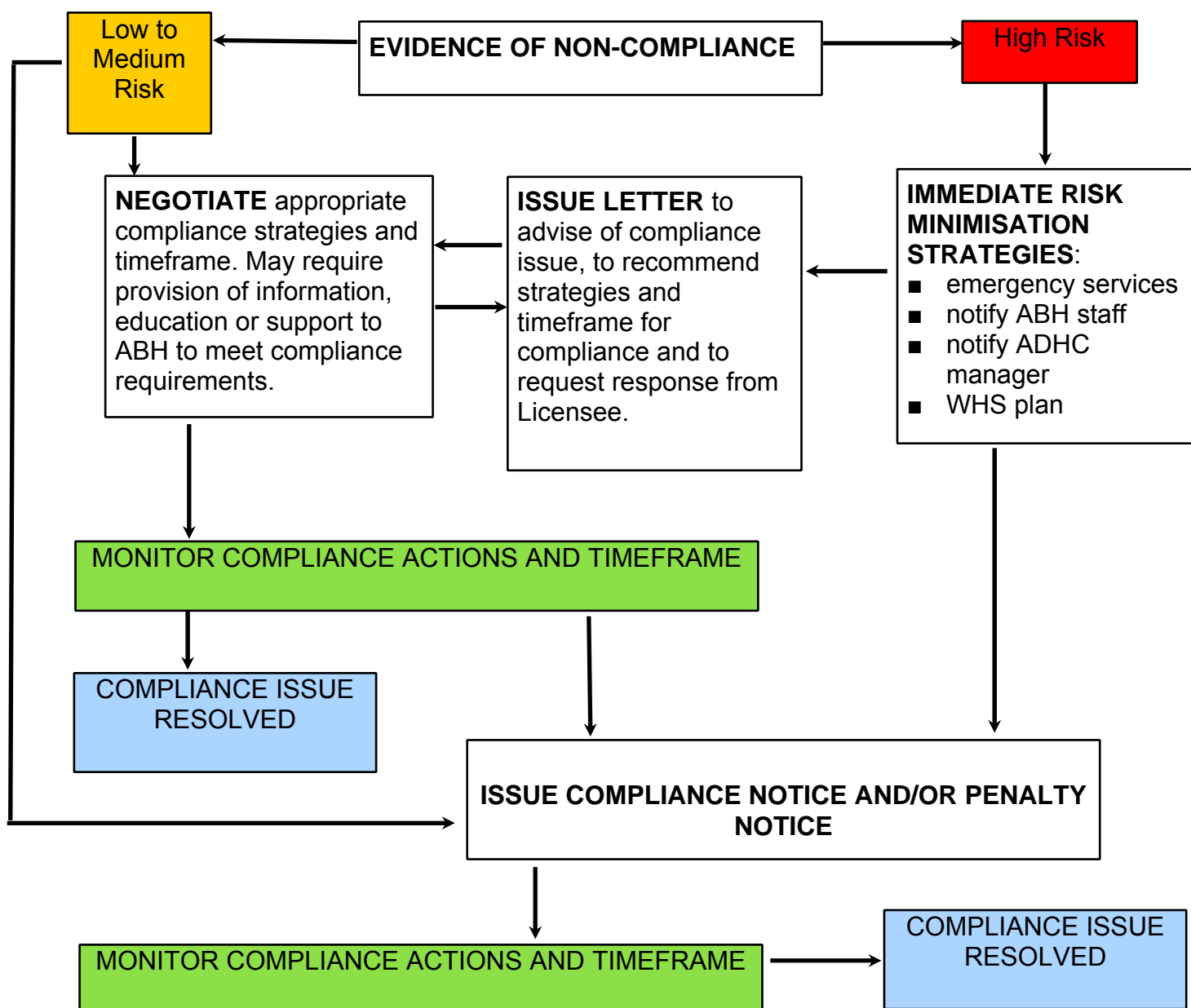
Breaches of the BH Act or BH Regulation will be assessed using the Risk Indicator Chart (**Appendix 21**). The assessed risk rating will then determine ADHC’s response to the breach.

A flow chart outlining FACS’ actions is on the page following the regulatory pyramid.

## FACS Assisted Boarding Houses Regulatory Pyramid







**ISSUE PENALTY NOTICE** only if:

- a Penalty Notice offence under Schedule 2 of the BH Regulation has been committed – see **Appendix 5**
- there is sufficient evidence to support the issuing of the notice
- other strategies outlined above have failed or are not appropriate
- advice and approval has been sought from relevant ADHC management.

**PROSECUTION** only if:

- an offence under the BH Act or BH Regulation 2013 been committed
- there is sufficient evidence to support the application for a Court Attendance Notice (CAN)
- other strategies outlined above have failed or are not appropriate
- advice has been sought from relevant ADHC management and from ADHC legal team
- approval to prosecute has been obtained from the Delegated Officer.

## Module 13 Appointment of Enforcement Officers

### Purpose

To provide advice to FACS managers on appointing Boarding House Enforcement Officers.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	66	Appointment of enforcement officers

### Related Modules

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### Background

Under the BH Act, the Director-General may employ enforcement officers to monitor and investigate both authorised and unauthorised Assisted Boarding Houses.

BH Act  
s66

New positions known as Boarding House Compliance Officers will primarily undertake this enforcement role. The positions will also undertake education and support, using the regulatory pyramid set out in **Module 12**, with a view to ensuring that proprietors and managers of Assisted Boarding Houses understand their obligations and are wherever possible assisted with complying to the BH Act and BH Regulation.

Other FACS staff positions may also be nominated as enforcement officers under the BH Act.

### Procedure

Process	Forms or Templates	Delegation
1. Follow the FACS recruitment process if necessary.		Delegated Officer
2. Manager to complete a submission to Delegated Officer to request appointment.	ADHC submission template	Delegated Officer

3. Request the issue of an identification card by NSW Businesslink.		Delegated Officer
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## Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.
- Any other requirements as per the FACS recruitment process.

## Module 14 Powers of entry

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on the legal right of Boarding House Compliance Officers to enter Assisted Boarding Houses.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	67	Identification card
BH Act	68	Obstruction of enforcement officer
BH Act	76	Powers of entry and inspection by enforcement officers without consent or warrant

### Related Modules

Module 15	Monitoring inspections
Module 16	Full service review
Module 18	Investigating complaints
Module 19	Collecting evidence
Module 25	Powers of entry for unauthorised boarding houses

### Background

Boarding House Compliance Officers have the power to enter the following types of premises at any time without consent or a warrant:

BH Act  
s76

- an authorised Assisted Boarding House
- premises that are the subject of an application to become an authorised Assisted Boarding House.

Boarding House Compliance Officers must carry an identification card whenever they conduct their business, including visiting boarding houses, and produce the identification card when requested.

BH Act  
s67

Boarding House Compliance Officers may inspect anything related to the operation of the premises, and they have powers to:

BH Act  
s76(2)

- photograph, film, audio-record or sketch any part or thing at the premises
- inspect, make copies of, and/or take any documents on the premises (if you are taking a document you must inform the Licensee/Approved Manager that you are taking document and you must return document within seven days)
- ask a person at the premises any questions or to produce a document.

Boarding House Compliance Officers may bring assistants, police officers and/or medical practitioners with them to inspect the premises and/or examine or speak with residents.

BH Act  
s76(2)  
& (3)

It is an offence under the BH Act to hinder or obstruct a Boarding House Compliance Officer or to fail to comply with any requirement made by a Boarding House Compliance Officer (see **Appendix 4**). A person cannot be found guilty of a failure to comply with a requirement made by a Boarding House Compliance Officer unless they were first warned that a failure to comply may constitute an offence.

BH Act  
s68

Boarding House Compliance Officers can also, with written consent of the Director-General, apply for a search warrant if they have reasonable grounds for believing that the BH Act or BH Regulations have been breached. Under the search warrant the Boarding House Compliance Officer can enter the premises, search for evidence of the contravention of the BH Act or BH Regulation, and exercise all other powers as per section 76 of the BH Act. They may bring a police officer to assist in the execution of the warrant.

BH Act  
s78

Boarding House Compliance Officers should be aware that the Assisted Boarding House is a home for the people living there and so should take care to show dignity and respect to the privacy of those residents. This includes things such as knocking on closed doors before entering, seeking advice from operators and residents about entry to closed rooms and explaining the purpose of seeking entry to a resident's bedroom to them.

## Procedure

Process	Forms or Templates	Delegation
1. Show your identification card and declare yourself an officer of FACS to any staff or resident of the Assisted Boarding House.	Enforcement Officer Identification Card	Boarding House Compliance Officer
2. If you are denied entry to the Assisted Boarding House, or any		Boarding House

part of the Assisted Boarding House, warn the Licensee / Approved Manager of their responsibility to not obstruct entry.		Compliance Officer
3. If you ask the Licensee / Approved Manager to answer questions, or to do anything else (for example produce documents), and they refuse to do this, warn them that it is an offence to refuse to comply.		
4. If you take any thing or document from the premises, advise the Licensee / Approved Manager, and ensure it is returned within seven days.		
5. On return to the office, seek advice from FACS legal officers as to the requirements for recording the visit if legal action may occur at a later date.	FACS Legal Request Form (FACS Intranet)	

<p><b>Record Keeping Requirements</b></p> <ul style="list-style-type: none"> <li>■ All documents, including photos, copies of documents found onsite, evidence that might be used in future legal proceedings, and contemporaneous file notes concerning the visit, any obstruction, or evidence of offences are to be uploaded into the relevant TRIM folder.</li> <li>■ Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.</li> </ul>	
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## Module 15      Monitoring inspections

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to conduct monitoring inspections of Authorised Assisted Boarding Houses, both routine and in response to issues or complaints.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	66-68	Enforcement officers
BH Act	70	Power to require provision of documents
BH Act	71-75	Investigation powers
BH Act	76	Powers of entry and inspection by enforcement officers without consent or warrant
BH Act	101	Giving or service of documents

### Related Modules

Module 13	Powers of entry
Module 14	Full service review
Module 20	Investigating complaints
Module 17	Collecting evidence
Module 18	Compliance Notices
Module 19	Penalty Notices

### Background

Boarding House Compliance Officers are to regularly monitor Assisted Boarding Houses throughout the year against the requirements of the BH Act, BH Regulation and any Licence Conditions.

The purpose of a monitoring inspection is to identify any apparent or emerging compliance issues. It is not to assess the Assisted Boarding House against every requirement of the BH Act and BH Regulation. A full review of boarding house operations is done in a Full Service Review (see **Module 16**).

Boarding House Compliance Officers have powers of entry under the BH Act (see **Module 14**), and the authority to issue Compliance Notices and Penalty Notices if Licensees or Approved Managers are in breach of the BH Act or BH Regulation.

BH Act  
s79,  
s98

Routine monitoring inspections should occur at a minimum of once every six to eight weeks, but may occur more frequently in response to concerns or complaints, or to follow up on breaches previously identified or reported, and any plans for the correction of breaches (see the regulatory pyramid in **Module 12**).

Routine monitoring inspections are done without prior notice to gain an accurate snapshot of the premises. They will generally be undertaken between 9:00am to 5:00pm Monday to Friday, however it may be necessary to undertake an out of hours inspection to check on certain Licence Conditions, e.g. to confirm the premises is staffed 24 hours a day as per the BH Regulation Schedule 1. Out of hours inspections must be approved by the Delegated Officer.

Boarding House Compliance Officers should work with Licensees and Approved Managers to address any issues that are noted during routine monitoring inspections. For repeated or serious breaches (breaches that put residents at risk of harm or are likely to put residents at risk of harm) of the BH Act, BH Regulation and/or Licence Conditions see **Module 21 Compliance Notices** and **Module 22 Penalty Notices**.

In addition to the provisions in the BH Act on the requirement to notify ADHC regarding the presence of young people under 18, section 122 of the *Children and Young Persons (Care and Protection) Act 1998* (NSW) requires residential accommodation providers to immediately inform Community Services if they believe a resident is a child aged under 16 years is living away from home without parental permission. Managers or staff of Assisted Boarding Houses should call the Child Protection Helpline on 132 111 to make a report in this case.

BH  
Reg  
cl13

BH Act  
s85

## Procedure

Process	Forms or Templates	Delegation
1. Undertake file review to ascertain whether there are any outstanding actions to be		Boarding House Compliance Officer



reviewed.		
2. If conducting an out of hours inspection, seek prior written approval (e-mail) from the Delegated Officer.		Delegated Officer
3. On arrival at the premises let the Licensee, Approved Manager or senior staff member on duty know you are there (see <b>Module 14</b> ).		Boarding House Compliance Officer
4. Conduct the monitoring inspection: <ul style="list-style-type: none"> <li>a. review previous actions with Licensee / Approved Manager / senior staff member</li> <li>b. walk through premises to identify any new or outstanding compliance issues</li> <li>c. hold discussions with residents (where appropriate) to obtain their views on boarding house operations</li> <li>d. discuss compliance issues, and negotiate timeframes to remedy them with Licensee / Approved Manager / senior staff member</li> <li>e. note your findings and discussion on the Assisted Boarding House Monitoring Inspection Form and leave a copy with the Licensee / Approved Manager / senior staff member.</li> <li>f. make any notes required for evidentiary purposes.</li> </ul>	Assisted Boarding House Monitoring Inspection Form ( <b>Appendix 22</b> )	
5. If you identify any breaches, assess the risk using the Risk Indicator Chart.	Assessing Risk ( <b>Appendix 21</b> )	
6. If you identify any high level breaches: <ul style="list-style-type: none"> <li>a. for critical incidents, seek emergency service assistance (Police/ Ambulance)</li> <li>b. collect evidence (see <b>Module</b></li> </ul>	Compliance Notice ( <b>Appendix 23</b> ) Penalty Notice ( <b>Appendix 24</b> )	Boarding House Compliance Officer Delegated Officer

<p><b>21)</b></p> <ul style="list-style-type: none"> <li>c. notify staff member on duty</li> <li>d. notify relevant manager at ADHC who will provide advice on enforcement actions</li> <li>e. prepare a briefing to the Delegated Officer on your return to the office.</li> </ul>		
<p>7. If you identify any low to medium level breaches:</p> <ul style="list-style-type: none"> <li>a. collect evidence if appropriate (e.g. where the breach is long standing and may escalate to a higher level breach) (see <b>Module 21</b>)</li> <li>b. negotiate a reasonable timeframe for compliance with the Licensee or Approved Manager</li> </ul>		Boarding House Compliance Officer
<p>8. On return to the office, identify whether any Compliance Notices or Penalty Notices are required and follow procedure for issue (see <b>Module 22</b> and <b>Module 23</b>).</p>		
<p>9. Prepare Action Plan if required for any identified breaches:</p> <ul style="list-style-type: none"> <li>a. Action Plan endorsed by Delegated Officer</li> <li>b. Action Plan given to Licensee/Approved Manager</li> </ul>	Action Plan Template ( <b>Appendix 25</b> )	Boarding House Compliance Officer Delegated Officer
<p>10. Compliance with the Action Plan should be monitored at the next routine monitoring inspection.</p>		Boarding House Compliance Officer

## Record Keeping Requirements

- Three copies of the Assisted Boarding House Monitoring Inspection Form are required. Leave one copy at the Assisted Boarding House, one copy is returned for central filing in the Contemporary Residential Options Directorate, and one copy remains on the Boarding House Compliance Officer's hard copy file. Scan and save the completed Assisted Boarding House Monitoring Inspection Form in the Assisted Boarding House's container in TRIM.
- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the "notes" section of the relevant primary TRIM document.

## Module 16 Full service review

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to complete a full service review of an Assisted Boarding House.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	66-68	Enforcement Officers
BH Act	71-75	Investigation Powers
BH Act	76	Powers of entry and inspection by enforcement officers without consent or warrant
BH Act	101	Giving or service of documents

### Related Modules

Module 15	Monitoring inspections
Module 21	Collecting evidence
Module 22	Compliance Notices
Module 23	Penalty Notices

### Background

In addition to routine monitoring inspections (**Module 15**), Boarding House Compliance Officers will undertake full service reviews.

Full service reviews are not set out in the BH Act, but are conducted using powers set out in the BH Act and are an important opportunity to conduct a detailed assessment of the premises compliance with the BH Act, BH Regulation and the Licence Conditions.

A full service review is usually completed over a number of days and includes a file review of recent monitoring inspections, a new on-site inspection, a review of documents (eg resident register, staff probity checks), and staff and

resident interviews (where necessary). A non-compulsory section to identify and suggest service improvements can be offered to Licensees, which includes seeking feedback from staff, residents and other stakeholders.

A full service review of each Assisted Boarding House should be conducted at least once every three years, however it can be done more frequently if required due to complaints; significant, cumulative or unresolved compliance issues; or where there have been significant changes to management or staffing arrangements.

The outcome of a full service review is a Full Service Review Action Plan that identifies any non-compliance with the BH Act, BH Regulation and Licence Conditions, and strategies that may be employed to address them within the Assisted Boarding House.

Boarding House Compliance Officers can work with Licensees and Approved Managers to address any issues that are noted during the full service review. For repeated or serious breaches of the BH Act, BH Regulation and/or Licence Conditions please see **Module 21** and **Module 22**.

In addition to the provisions in the BH Act on the requirement to notify ADHC regarding the presence of young people under 18, section 122 of the *Children and Young Persons (Care and Protection) Act 1998* (NSW) requires residential accommodation providers to immediately inform Community Services if they believe a resident is a child aged under 16 years is living away from home without parental permission. Managers or staff of Assisted Boarding Houses should call Child Protection Helpline on 132 111 to make a report in this case.

BH  
Reg  
cl13

BH Act  
s85

## Procedure

Process	Forms or Templates	Delegation
1. Write to the Licensee to advise of the proposed dates for the review of documents (e.g. resident register). a. Provide a minimum of 10 working days notice	Notice of Full Service Review Template ( <b>Appendix 26</b> )	Delegated Officer
2. Undertake file review to identify any outstanding actions under Action Plans arising from monitoring inspections.	N/A	Boarding House Compliance Officer
3. Write to Local Council to request advice on compliance with its requirements or invite them to do inspection if they have not recently inspected.	Local Council Full Service Review Letter ( <b>Appendix 27</b> )	Delegated Officer

4. Inspect documents	Full Service Review Tool ( <b>Appendix 28</b> )	Boarding House Compliance Officer
5. Inspect premises	Premises Inspection Template ( <b>Appendix 29</b> )	Boarding House Compliance Officer
6. Interview staff and residents (not compulsory).	Full Service Review Tool ( <b>Appendix 28</b> )	Boarding House Compliance Officer
7. If you identify any high level breaches: f. for critical incidents, seek emergency service assistance (Police/Ambulance) g. collect evidence (see <b>Module 21</b> ) h. notify staff member on duty i. notify relevant manager at ADHC who will provide advice on enforcement actions j. prepare a briefing to the Delegated Officer on your return to the office.	Compliance Notice ( <b>Appendix 23</b> )  Penalty Notice ( <b>Appendix 24</b> )	Boarding House Compliance Officer  Delegated Officer
8. If you identify any low to medium level breaches: c. collect evidence if appropriate (e.g. where the breach is long standing and may escalate to a higher level breach) (see <b>Module 21</b> ) d. negotiate a reasonable timeframe for compliance with the Licensee or Approved Manager		Boarding House Compliance Officer
9. Prepare Action Plan if required, using the Risk Indicator Chart in <b>Appendix 21</b> for any identified breaches. a. Action Plan to be endorsed by Delegated Officer.	Action Plan Template ( <b>Appendix 25</b> )  Assessing Risk ( <b>Appendix 21</b> )	Boarding House Compliance Officer  Delegated Officer

BH Act  
s70

10. Write to the Licensee to formally advise the outcome of the full service review and attach: a. the full service review tool b. the Action Plan.	Notice of Full Service Review Outcomes <b>(Appendix 30)</b>	Delegated Officer
11. Action Plan review and ongoing monitoring against Action Plan.		Boarding House Compliance Officer

## Record Keeping Requirements

- All documents, including Action Plan, submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 17 Transition Plans for pre-existing authorised Assisted Boarding Houses

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on the transition plans required for authorised Assisted Boarding Houses that were previously licensed under the *Youth and Community Services Act 1973*.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Reg	12	Conditions relating to standards for authorised boarding houses
BH Reg	Schedule 1	Standards for Assisted Boarding Houses

### Related Modules

Module 15	Monitoring inspections
Module 16	Full service review

### Background

Under the BH Regulation, existing Assisted Boarding Houses that have previously been licensed under the *Youth and Community Services Act 1973* (YCS Act) are exempt from two major standards of Schedule 1 of the BH Regulation period of five years from 1 July 2013:

BH  
Reg  
Sch 1  
Std 5

1. Standard 6 – Maximum number of residents
  - maximum limit of 30 residents.
2. Standard 7 – Sleeping arrangements
  - the maximum number of residents to occupy a bedroom is one, unless a resident requests to share with a particular resident of his or her choice, in which case the maximum number is two
  - the minimum bedroom floor area is 7.5 square metres if a single room or 11 square metres for two residents
  - rooms are capable of being locked.

Std 6  
Std 7

Under the BH Regulation, proprietors of pre-existing Assisted Boarding

BH



Houses must submit a transition plan in a form approved by the Director-General outlining the steps they will take to meet Standards 6 and 7. The transition plan is due as soon as is practicable after 30 June 2014, and at 12-monthly intervals until the end of the five-year transition period.

Reg  
Sch1  
Std5  
(4)-(6)

Each transition plan will include a date by which steps are to be taken.

For clarity, FACS will set the date of 1 July 2014 for the first transition plan, and 1 July for the next 4 years as the deadline for updated transition plans.

FACS provides a template for pre-existing Authorised Assisted Boarding Houses to plan and report annually on their actions to meet the two new standards.

All other standards in Schedule 1 of the BH Regulation are immediately applicable to pre-existing Assisted Boarding Houses. However FACS proposes to work with operators to educate them as to the new obligations, and appreciates that it may take some time for boarding house operators to become fully compliant.

During monitoring inspections and full service reviews, Boarding House Compliance Officers should talk to Licensees and Approved Managers about ways in which they can work towards compliance with the BH Act and BH Regulation.

If Licensees do not meet the 1 July 2018 deadline for compliance with Standards 6 and 7 under Schedule 1 of the BH Regulation, they will be in breach of the BH Act and subject to the relevant penalties listed in **Appendix 4**.

## Procedure

Process	Forms or Templates	Delegation
1. Provide information, education and support to Licensees and Approved Managers of pre-existing Assisted Boarding Houses in relation to the new standards and the transition plan.		Boarding House Compliance Officer
2. Work with Licensees and Approved Managers of pre-existing Assisted Boarding Houses to develop a Transition Plan working towards compliance with Standards 6 and 7 by 1 July 2018. The due-date for the first plan is 1 July 2014, and then an update is due on 1 July 2015,	Transition Plan for Pre-existing Authorised Assisted Boarding Houses ( <b>Appendix 31</b> )	Boarding House Compliance Officer

2016, and 2017.		
3. During routine monitoring inspections, develop a separate Action Plan with reasonable timeframes to bring the Assisted Boarding House into compliance with the remaining standards set out in the BH Regulation (see <b>Module 15</b> ).	Action Plan Template ( <b>Appendix 25</b> )	Boarding House Compliance Officer
4. Monitor compliance with Transition and Action Plans during monitoring inspections and full service reviews.		Boarding House Compliance Officer
5. If there is a failure to submit the Transition Plan or comply with Action Plans, refer to enforcement actions.		Boarding House Compliance Officer

### Record Keeping Requirements

- All documents, including Action Plan, submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 18 Investigating complaints

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to investigate and manage complaints that are received about Assisted Boarding Houses.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Reg	Cl16	Condition relating to development of policies

### Related Modules

Module 13	Routine monitoring inspections
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### Background

Complaints about Assisted Boarding Houses may be made directly to the Assisted Boarding House or to ADHC.

#### Complaints to the Assisted Boarding House operator

It is a condition of a boarding house authorisation that the operator develop, maintain and implement a policy relating to procedures for handling complaints.

ADHC is overseeing the development of a policy template that operators may adapt to their own use.

If operators do not adopt a complaints policy, or do not follow their complaints policy, this is a breach of the boarding house's authorisation and penalties or prosecution may follow.

#### Complaints to ADHC

ADHC may also receive complaints about the operations of a particular Assisted Boarding House or about ADHC's role in monitoring an Assisted Boarding House. Complaints may come from residents, families, carers, service providers, other government departments, or members of the community.

ADHC encourages complaints to be made – whether by letter, e-mail, over the phone, in person or by using the online complaint form on the ADHC website.

BH  
Reg  
cl16(1)  
(ii)

BH  
Reg  
cl11

The ADHC Complaints procedure is available on the ADHC website at [http://www.adhc.nsw.gov.au/contact\\_us/complaints\\_procedure](http://www.adhc.nsw.gov.au/contact_us/complaints_procedure). ADHC can provide help if people need assistance in making a complaint.

When a complaint about a particular Assisted Boarding House is received by ADHC, a monitoring inspection should be scheduled as soon as possible to further investigate or address the issues around the complaint.

Depending on the nature of the complaint, the Boarding House Compliance Officer may need to refer the complaint to additional agencies, eg to NSW Police if criminal activity is suspected (but also see **Module 19** and **Module 20** for incidents which ADHC should report to the police), or to an ADHC local Boarding House Caseworker if a resident needs casework support.

Although a person may be referred elsewhere, Compliance Officers should continue to deal with the complaint as it was lodged to ADHC. Legal advice should be received from FACS legal officers if potential legal issues have been raised in the complaint.

The NSW Ombudsman also has the power to receive complaints about the operator of an Assisted Boarding House as they are defined as a 'service provider' under section 4 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (CS – CRAMA).

Under section 22 of CS–CRAMA, a person may make a complaint to the NSW Ombudsman about the conduct of an operator of an Assisted Boarding House with respect to the provision, failure to provide, withdrawal, variation or administration of a community service in respect of a particular person or group of persons.

## Procedure

Process	Forms or Templates	Delegation
6. Where ADHC has received a complaint directly, investigate using the ADHC Feedback & Complaint Handling Principles and Guidelines	ADHC Feedback & Complaint Handling Principles and Guidelines (ADHC Intranet)  Complaint Handling Process Map ( <b>Appendix 32</b> )	Boarding House Compliance Officer  Delegated Officer
7. Conduct a monitoring inspection (see <b>Module 15</b> )	Assisted Boarding House	Boarding House

	Monitoring Inspection Form ( <b>Appendix 22</b> )	Compliance Officer
8. If the matters are outside ADHC's jurisdiction, advise the complainant to contact the relevant authority, e.g. NSW Ombudsman, NSW Police, Local Council, Australian Taxation Office, NSW Police etc.		Boarding House Compliance Officer
9. If the complaint alleges or reveals a breach of the BH Act or BH Regulation, determine what enforcement action may be required – if necessary seek advice from FACS legal officers.	FACS Legal Request Form (FACS Intranet)	Boarding House Compliance Officer

### Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 19 Incidents

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to respond to incidents that occur in Assisted Boarding Houses.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	83	Notification of deaths, sexual assaults and other incidents involving residents of authorised boarding houses
BH Reg	26	Additional reportable incidents involving residents

### Related Modules

Module 15	Monitoring inspections
Module 20	Death of a resident

### Background

#### Responsibilities of operators of Assisted Boarding Houses

The Authorised Manager of an Assisted Boarding House must give notice to FACS as soon as reasonably possible, either verbally or in writing (e.g. e-mail), of the following:

BH Act  
s83(1)  
  
BH  
Reg  
cl26

- the death of a resident – see **Module 20**
- the sexual assault (or an allegation of sexual assault) of a resident of the boarding house
- the unexpected absence of a resident of the boarding house with additional needs for more than 24 hours
- an assault or allegation of assault (other than a sexual assault) under Part 3 of the Crimes Act of:
  - a resident by a staff member; or
  - a staff member by a resident; or
  - a resident by another resident
- a serious accident involving a resident on the premises of the boarding house resulting in the resident needing medical, dental or hospital

treatment

- the making of a complaint about the treatment of a resident whereby it is alleged that the BH Act or BH Regulation has been contravened, a staff member has committed fraud against a resident, or the resident has been neglected, ill-treated or otherwise had their safety, health or well-being compromised while living at the boarding house
- other incidents involving residents, including serious attempted self harm.

The manager must also report a death or sexual assault or allegation of a sexual assault of a resident to a police officer as soon as is reasonably practicable after becoming aware of the incident.

BH Act  
s83(2)

A manager who does not report as required under section 83 is guilty of an offence (see **Appendix 4** for penalty details).

BH Act  
s83(3)

Although the BH Act does not specify an exact time frame within which these incidents must be reported, FACS considers:

- 48 hours a reasonable time frame for an Assisted Boarding House manager to report any of the listed incidents (including the making of a complaint) to FACS
- 24 hours a reasonable timeframe for the manager to report a sexual assault or allegation of a sexual assault to the police.

Other laws may also be relevant to incidents or allegations about the treatment of residents, for example

- *Work Health and Safety Act 2011* (NSW) – failure to provide a safe workplace leading to serious injury or death on the premises
- *Crimes Act 1900* (NSW) section 44 – failure of persons to provide necessities of life which provides that a person who is under a legal duty to provide another person with the necessities of life, and who, without reasonable excuse, intentionally or recklessly fails to provide that person with the necessities of life, is guilty of an offence if the failure causes a danger of death or causes serious injury, or the likelihood of serious injury, to that person (maximum penalty five years imprisonment).

### **Responsibilities of ADHC staff on becoming aware of an incident at an Assisted Boarding House**

ADHC staff have obligations under ADHC's *Abuse and Neglect Policy and Procedures* and ADHC's *Incident Management Policy*. Please refer to the FACS Intranet for the latest version of these policies as it may be subject to revision, however an overview from each policy as at July 2013 is excerpted below.

#### **ADHC Abuse and Neglect Policy and Procedures** (April 2012):

- covers all ADHC staff who have contact with adult people with a

disability, which would therefore include Boarding House Compliance Officers

- covers observed abuse, reported abuse or suspected abuse of a person with a disability
- requires that ADHC staff be trained to recognise all forms of abuse, including domestic violence, neglect, physical abuse, restraints and restricted practices, sexual assault, emotional abuse, financial abuse and system abuse
- requires ADHC staff to immediately report to police any incidents they know of or suspect where a person has been sexually or physically assaulted or is in immediate danger of such assault (unless the assault is between clients and the perpetrator has an intellectual disability who lacks understanding of their behaviour – in which case, refer to section 3 of the policy)
- requires ADHC staff to report to their manager as soon as possible incidents relating to domestic violence, neglect, restrictive practices, emotional, financial and systems abuse.

**ADHC *Incident Management Policy* (September 2010):**

- applies to all ADHC staff (including Boarding House Compliance Officers)
- defines an incident as “an unexpected or unplanned action or event that injures or harms or has the potential to injure or adversely impact” on a range of clients, staff and services, and also on “the functioning or reputation of ADHC” - the role of ADHC in monitoring Assisted Boarding Houses has the ability to impact on the reputation of ADHC so this policy applies
- requires staff who witness an incident or have an incident reported to them to report the incident orally to their manager, investigate it sufficiently so as to have a good summary of the facts, then follow up with a written incident report
- on receipt of the incident report the relevant manager is required to assess the incident as:
  - Category 1 – incidents which have a serious impact, e.g. the unexpected death of a resident in an Assisted Boarding House (see **Module 20**), an attempted suicide, sexual assaults of clients, significant injury to ADHC staff members, high likelihood of negative media – Category 1 incidents need to be reported to the Chief Executive within seven days
  - Category 2 – incidents which have a less serious impact than Category 1 incidents, e.g. anticipated death of a resident in an Assisted Boarding House (see **Module 20**), sexual harassment of staff or clients, missing client where there is potential for high risk behaviour that may result in harm to either the client or the community, likelihood of adverse local media - to be reported to Executive Director Contemporary Residential Options
  - Category 3 – incidents which have a moderate impact, e.g. some



medication errors, high risk behaviour by a resident - to be reported to the relevant ADHC Director

- Category 4 – incidents which have a minor impact – assaults without injury, minor injury to a client requiring first aid treatment only – to be reported to the relevant ADHC Manager.

Boarding House Compliance Officers or their managers should categorise incidents involving a resident of an Assisted Boarding House as follows:

- where the report is about a sexual or physical assault of a resident, treat the incident as a Category 1 (for deaths, see **Module 20**)
- if the incident is any of the others described under section 83 of the BH Act and/or clause 26 of the BH Regulation, treat the incident as a Category 2.

## Procedure

Process	Forms or Templates	Delegation
1. If the Boarding House Compliance Officer is on the premises at the time of the incident, contact relevant emergency services, e.g. NSW Police, ambulance, mental health crisis team.		Boarding House Compliance Officer
2. Record the details of the incident that has been observed or reported to the Boarding House Compliance Officer; seek further information if appropriate.	Boarding House File Note	Boarding House Compliance Officer
3. If the incident involves a report that a resident has been sexually or physically assaulted or is in immediate danger of such assault, the Boarding House Compliance Officer should immediately call the NSW Police. a. Determine whether the manager of the Assisted Boarding House has already reported the matter to the police. b. Ask the police what action they are planning to take.		Boarding House Compliance Officer
4. Report all incidents to your manager orally immediately on becoming aware of them as per		Boarding House Compliance Officer

	the ADHC Incident Management Policy.		
5.	Request that the Assisted Boarding House Manager completes an Incident Report Form and returns it to ADHC within 48 hours	Assisted Boarding House Incident Report Form ( <b>Appendix 33</b> )	Boarding House Compliance Officer
6.	If this is not possible or not appropriate (e.g. the Manager was involved in the incident), or if the Boarding House Compliance Officer observed the incident themselves, the Boarding House Compliance Officer should fill out an incident report to the best of their ability.	Assisted Boarding House Incident Report Form ( <b>Appendix 33</b> )	Boarding House Compliance Officer
7.	Undertake a file review to check for any similar incidents or other recent incidents that may indicate systemic issues at the Assisted Boarding House.		Boarding House Compliance Officer
8.	Undertake a monitoring inspection (see <b>Module 15</b> ) as soon as possible to investigate the circumstances of the incident, whether the incident to identify whether the incident was caused, even only in part, by breaches of the BH Act, BH Regulation or Licence Conditions, and to determine an appropriate response from ADHC (support, Compliance Notice or Penalty Notice).	Assisted Boarding House Monitoring Inspection Form ( <b>Appendix 22</b> )  Compliance Notice ( <b>Appendix 23</b> )  Penalty Notice ( <b>Appendix 24</b> )	Boarding House Compliance Officer
9.	Identify whether the Manager has complied with the reporting obligations under BH Act or BH Regulation.		Boarding House Compliance Officer
10.	If necessary, and if possible to do so within time constraints, seek advice from FACS legal officers as to breaches of the BH Act, whether legal action ought to be undertaken by FACS against the Approved Manager / Licensee, and how these might affect other criminal matters relating to the incident.	FACS Legal Request Form (FACS Intranet)	Boarding House Compliance Officer

11.	Within seven days of receiving notification of the incident, prepare a Briefing Note to the relevant Delegated Officer setting out: <ul style="list-style-type: none"><li>the circumstances of the incident</li><li>the reporting requirements under section 83 of the BH Act and clause 26 of the BH Regulation</li><li>any breach of the BH Act, BH Regulation or Licence Conditions in either the incident or the reporting of the incident</li><li>any suspected criminal or other offences under other laws (if relevant)</li><li>any recommendations to avoid similar incidents in the future, e.g. requiring the Approved Manager of the Assisted Boarding House to report on improvements in staff training or relevant policies or procedures</li><li>whether legal action such as a Compliance Notice or a Penalty Notice is recommended</li><li>whether there are any other contentious issues</li></ul>	Assisted Boarding House Category 1 Incident Executive Briefing form ( <b>Appendix 34</b> )  ADHC Briefing Note template (ADHC Intranet)		BH Act s83  BH Reg cl26
12.	Refer the resident to ADHC's Casework staff if they need further support.		Boarding House Compliance Officer	

## Record Keeping Requirements

- Category 1 Incident – Executive Briefing form to be forwarded to ADHC's Office of the Chief Executive.
- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the "notes" section of the relevant primary TRIM document.
- Notes to be entered in central incident log.
- Notes to be entered against client file in CIS.

## Module 20      Death of a resident

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on what to do in the event of the death of a resident of an Assisted Boarding House.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act), the Boarding Houses Regulation 2013 (BH Reg), the Community Services (Complaints, Reviews and Monitoring) Act 1993 (CS-CRAMA) and the Coroners Act 2009 (Coroners Act) apply to this module:

Legislation	Section	Content
BH Act	83	Notification of deaths, sexual assaults and other incidents involving residents of authorised boarding houses
BH Reg	27	Reporting police attendances
CS-CRAMA	Part 6 s35-43	Reviews of deaths of children in care and certain other children and persons with disabilities in care
Coroners Act	24	Jurisdiction concerning deaths of children and disabled persons
Coroners Act	35	Obligation to report death or suspected death

### Related Modules

Module 11	Monitoring inspections
Module 19	Incidents

### Background

#### Responsibilities of operators of Assisted Boarding Houses

Under the BH Act, when a resident dies (whether on or off the premises), the manager of the Assisted Boarding House must:

- give notice of the death to FACS as soon as reasonably possible
- report the death to a police officer as soon as is reasonably practicable

BH Act  
s83

- report to FACS the attendance of any police officer at the boarding house to investigate an incident (including a death) as soon as reasonably practicable.

BH  
Reg  
cl27

Failure to comply with these requirements may incur penalties or prosecutions (see **Appendix 4**).

Although the BH Act does not specify an exact period, FACS considers 24 hours a reasonable period for the manager to report a death to FACS.

The *Coroner's Act 2009* (NSW) provides that the Coroner has the power to hold an inquest concerning the death of a person living in an Assisted Boarding House. This power also extends over premises that are exempted from authorisation under section 40 of the BH Act.

Coron-  
ers Act  
s24

Note that the *Coroner's Act 2009* (NSW) also provides an obligation for any person who has reasonable grounds to believe that a death has occurred in an Assisted Boarding House to report a death to police or a coroner as soon as possible. This means, for example, that a staff member of an Assisted Boarding House should report a death to the police.

Coron-  
ers Act  
s35

Depending on the circumstances, other laws may also apply to operators in relation to the death of a resident, for example:

- *Work Health and Safety Act 2011* (NSW) – where there is a failure to provide a safe workplace leading to a death on the premises; or
- *Crimes Act 1900* (NSW) s44 – a person who is under a legal duty to provide another person with the necessities of life, and who, without reasonable excuse, intentionally or recklessly fails to provide that person with the necessities of life, is guilty of an offence if the failure causes a danger of death or causes serious injury, or the likelihood of serious injury, to that person (maximum penalty five years imprisonment).

### **Responsibilities of FACS staff on becoming aware of a death at an Assisted Boarding House**

CS-  
CRAMA  
s4,  
s35,  
s37,  
s38 &  
s43

FACS staff have a range of legal responsibilities in relation to the death of residents of Assisted Boarding Houses.

Under the CS-CRAMA:

- The NSW Ombudsman has the power to review all deaths of residents of Assisted Boarding Houses and make recommendations as to policies and practices to be implemented by government and “service providers” (defined to include the proprietor or occupier of an Assisted Boarding House).
- The Director-General of ADHC is required to provide the NSW Ombudsman with copies of any notification of the death of a resident of an Assisted Boarding House received by the Director-General not later than 30 days after receiving the notification.
- Senior ADHC staff (“the Department Head, Chief Executive Officer or

senior member of any department of the government”) and the proprietor or occupier of an Assisted Boarding House are required to provide the NSW Ombudsman with “full and unrestricted access to records that are under the person’s control” which the NSW Ombudsman needs to exercise its functions.

- A report on reviewable deaths is provided every two years which provides data and makes recommendations in relation to reviewable deaths.

Further information on the NSW Ombudsman’s role in relation to Assisted Boarding Houses can be found on its website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

In addition to these laws, ADHC’s ***Client Death Policy and Procedures*** sets out the responsibilities of ADHC/FACS staff in relation to the death of residents of Assisted Boarding Houses. Please refer to the FACS Intranet for the latest version of this policy as it may be subject to revision, however an overview from the policy as at July 2013 is excerpted below:

- Any death of a person in an ADHC licensed residential service must be reported in compliance with the *Coroner’s Act 2009* (this means that ADHC staff should report the death of an Assisted Boarding House resident to the police even if they think that the death has already been reported by the Approved Manager or other staff of the Assisted Boarding House).
- FACS should ensure that a Client Death Notification (CDN) form is filled out by the Approved Manager of the Assisted Boarding House and returned to ADHC staff as soon as possible.
- The CDN should then be forwarded to the ADHC Office of the Chief Executive, who will send it on behalf of ADHC to the NSW Ombudsman within 30 days.
- Note that this policy states: “It is not the role of ADHC staff to investigate the incident for culpability”.

If the death is unexpected it would be defined as a ‘Category 1’ incident under ADHC’s Incident Management policy (see **Module 19**). This means that a briefing note will need to be prepared for ADHC’s Chief Executive. In addition, further investigations will be required by Boarding House Compliance Officers to identify whether the death could have been in any way caused by a breach of the BH Act, BH Regulation or Licence Conditions.

Boarding House Compliance Officers are to be aware that other residents of the Assisted Boarding House may be deeply affected by the death of the resident, and they should refer residents to ADHC casework or other NGO services for bereavement counselling wherever possible.

## Procedure

Process	Forms or Templates	Delegation
1. As soon as becoming aware of the death, contact police to check that the death has been reported, to ensure police know of the requirements under the Coroner's Act and CS-CRAMA in relation to Assisted Boarding House, and to determine that police are investigating.		Boarding House Compliance Officer
2. Make sure the Licensee or Approved Manager has completed and returned the Client Death Notification Form within 24 hours.  a. If not, notify ADHC's Office of the Chief Executive and follow up with the Licensee or Approved Manager  b. Once CDN has been received, forward to Office of Chief Executive,	Client Death Notification Form ( <b>Appendix 35</b> )	Boarding House Compliance Officer
3. If the death was unexpected:  a. seek advice from NSW Police  b. seek advice from FACS legal officers  c. prepare a briefing note to the Office of the Chief Executive.	FACS Legal Request Form (FACS Intranet)  ADHC briefing note template	Boarding House Compliance Officer
4. If the death was unexpected, undertake a monitoring inspection (see <b>Module 15</b> ) as soon as possible to investigate the circumstances of the incident to determine whether there were any breaches of the BH Act, BH Reg or Licence Conditions.  a. Given the potential for both a coronial inquiry and an investigation by the Ombudsman, work closely with FACS legal officers to determine what investigations can be undertaken by ADHC	Assisted Boarding House Monitoring Inspection Form ( <b>Appendix 22</b> )  FACS Legal Request Form (FACS Intranet)  Compliance Notice ( <b>Appendix 23</b> )  Penalty Notice	Boarding House Compliance Officer

Process	Forms or Templates	Delegation
<p>– you may need to provide FACS legal officers with a brief and documents relating to monitoring of the Assisted Boarding House</p> <p>b. Consider legal action such as a Compliance Notice or Penalty Notice.</p>	(Appendix 24)	
5. Refer other residents to ADHC's casework staff or relevant services for bereavement counseling if required.		Boarding House Compliance Officer

### Record Keeping Requirements

- Client Death Notification Form to be forwarded to ADHC's Office of the Chief Executive.
- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the "notes" section of the relevant primary TRIM document.



## Module 21      Collecting evidence

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to collect evidence in the event that a breach of the BH Act or BH Regulation has occurred in an Assisted Boarding House.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	70-75	Investigation Powers
BH Act	76	Powers of entry and inspection by enforcement officers without consent or warrant
BH Act	100	Evidence of use of boarding premises as general or assisted boarding houses

### Related Modules

Module 14	Powers of entry
Module 15	Monitoring inspections
Module 16	Full service review

### Background

This module details how Boarding House Compliance Officers can collect evidence to demonstrate that a breach of the BH Act, BH Regulation or Licence Conditions has occurred.

Boarding House Compliance Officers can enter authorised Assisted Boarding Houses and do any of the following for an enforcement purpose:

BH Act  
s76(2)

- inspect the premises and any thing there
- photograph, film, make audio recordings or sketches any part of the premises or anything on the premises
- inspect, make copies, take extracts, or take any documents found on the premises
- ask any person on the premises any question.

Boarding House Compliance Officers also have the power to request in writing the provision of documents or records that Licensees are obliged to keep. Boarding House Compliance Officers can make copies of any documents.

BH Act  
s70

Records that are required to be kept under the BH Act include:

BH Act  
s82

- an additional needs resident personal information register
- additional needs resident health records
- occupancy agreement records
- staff information records
- complaint information records
- fire safety procedure records.

BH  
Reg  
cl19

Boarding House Compliance Officers may also consider using the following as evidence:

- “Contemporaneous notebook” for written notes
- Monitoring Inspection Reports (see **Module 15**)
- File notes.

Evidence should be dated and signed by the person who collected it where appropriate, eg the person who made the file note.

As a matter of privacy, photographs and videos of residents should be avoided. However if these are necessary to show a breach of the BH Act or BH Regulation (e.g. photographing a bruise) obtain consent from the resident first and, where possible, avoid including the resident’s face in the photograph.

## Procedure

Process	Forms or Templates	Delegation
1. When requesting information or documents, advise Licensee/Approved Manager that the information they give could be used as evidence in court.		Boarding House Compliance Officer
2. If the Licensee/Approved Manager refuses to provide documents, serve a notice requiring the provision of documents. a. Seek advice from FACS legal officers as to the form and service of the notice	Notice Requiring the Provision of Documents Template ( <b>Appendix 36</b> )  ADHC submission template	Boarding House Compliance Officer  Delegated Officer

BH Act  
s70

3. Collect or make copies of evidence using the most appropriate method. a. Make sure you have consent from the resident if appropriate.	Resident Consent Form <b>(Appendix 37)</b>	Boarding House Compliance Officer
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### Record Keeping Requirements

- All documents, including submissions, briefing notes, electronic files, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 22 Compliance Notices

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on issuing Compliance Notices.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	79-81	Compliance notices
BH Act	87	Applications for reviews by the Administrative Decisions Tribunal
BH Act	101	Giving or service of documents
BH Reg	5	Additional information on Register of Boarding Houses that may be published on internet for public access

### Related Modules

Module 15	Monitoring inspections
Module 16	Full service review
Module 23	Penalty Notices

### Background

If Boarding House Compliance Officers find evidence of breaches of the BH Act, BH Regulation, or any specific Licence Conditions (such as numbers of residents permitted in the premises or approved staff levels) during a visit, they can issue the Licensee, manager or other “person involved in the management of an authorised boarding house” with a Compliance Notice.

BH Act  
s79

The Compliance Notice must:

- give details (“particulars”) of the alleged breach
- set out ways that the manager / proprietor needs to resolve the area/s of non-compliance

BH Act  
s79

BH  
Reg

- provide a reasonable period to remedy the non-compliance. cl5

The Compliance Notice should also:

- state that failure to comply with a Compliance Notice is an offence BH Act s80
- include information about the right to seek a review by the Administrative Decisions Tribunal against the issuing of the Compliance Notice. BH Act s87

A Compliance Notice can in theory be issued on the spot during a visit to the premises, or at any time after the Boarding House Compliance Officer is satisfied that a breach exists.

A decision as to whether to issue an on-the-spot Compliance Notice depends on the seriousness of the risk posed to residents and the speed at which action is required to remedy this risk: see the Risk Indicator Chart in **Appendix 21**. Where the identified breach falls into a “high risk” category, Boarding House Compliance Officers should consider issuing an on the spot Compliance Notice, but where possible should seek advice and approval from management first. This advice is necessary because a person who has received a Compliance Notice may seek its review by the Administrative Decisions Tribunal.

Where the alleged breach is less serious, Boarding House Compliance Officers should consider first writing a letter to the Licensee and/or Approved Manager of the Assisted Boarding House setting out the details of the problems, advising them of a timeframe in which to take action, and advising them that a failure to take action will result in the issuing of a Compliance Notice.

If the relevant person fails to comply with the Compliance Notice they are guilty of an offence. A Boarding House Compliance Officer may then proceed to issue a Penalty Notice or commence a prosecution for a breach of a Compliance Notice (see **Module 23** and **Appendix 4**). BH Act s80

ADHC will consider prosecution when all reasonable attempts to work with the Licensee to address the breach have failed (see the regulatory pyramid and compliance flow chart in **Module 12** and Risk Indicator Chart in **Appendix 21**).

Note that in respect of a particular act or omission, a person cannot be convicted of an offence of failing to comply with a Compliance Notice and another offence against the BH Act or BH Regulation. This means that the Boarding House Compliance Officer cannot issue separate Compliance Notices against the same set of facts, however the Boarding House Compliance Officer can vary an existing Compliance Notice. BH Act s81

Applicants have the right to apply to the Administrative Decisions Tribunal to review the issuing or variation of a Compliance Notice. BH Act s87

Under the *Administrative Decisions Tribunal Act 1997 (NSW)*, FACS must

advise the applicant in writing of the decision, and must also advise the applicant of the right to apply for an internal review within 28 days of the decision.

Details of the internal review process are set out in Part 2 of the *Administrative Decisions Tribunal Act 1997 (NSW)*. Boarding House Compliance Officers should contact FACS legal officers for advice on conducting the internal review. Particular attention must be paid to the time limitations for conducting the review.

The outcome of the internal review must be communicated to the person seeking the review within 21 days of the review request. The letter from FACS advising of the outcome of the review should include advice that the person has the right to apply to the Administrative Decisions Tribunal for an external review of ADHC's decision, and that any application to the Tribunal must be made within 28 days of receiving notice of the decision.

## Procedure

Process	Forms or Templates	Delegation
1. Assess the risk of an identified breach using the Risk Indicator Chart.	Assessing Risk ( <b>Appendix 21</b> )	
2. For existing low to medium level breaches which have been the subject of an Action Plan, seek endorsement from the Delegated Officer to issue a Compliance Notice. a. Attach the Action Plan and other documents which show that the operator has been warned that failure to remedy the breaches may result in the issuing of a Compliance Notice.	ADHC submission template	Boarding House Compliance Officer Delegated Officer
3. If you identify any high level breaches while on the premises: a. for critical incidents, seek emergency service assistance (Police/Ambulance) b. collect evidence (see <b>Module 21</b> ) c. seek approval from relevant ADHC manager to issue an "on the spot" Compliance Notice. In some emergency cases involving high risk this	Compliance Notice ( <b>Appendix 23</b> ) Penalty Notice ( <b>Appendix 24</b> )	Boarding House Compliance Officer Delegated Officer

	may be verbal or by e-mail.		
4.	Issue the Compliance Notice on the approved template.	Compliance Notice ( <b>Appendix 23</b> )	Boarding House Compliance Officer
5.	Follow up during monitoring inspections to ensure the timeframe set out in the Compliance Notice is met. a. If the breach is not remedied, consider whether to issue a Penalty Notice or prosecute (see <b>Module 23</b> ). b. If the problems are fixed, write to the operator noting that ADHC is satisfied that the breach has now been remedied.		Boarding House Compliance Officer

## Record Keeping Requirements

- Leave one copy of the triplicate Compliance Notice at the Assisted Boarding House (or hand deliver to the Licensee, or post to the Licensee/Approved Manager's address), one copy is returned for central filing in the Contemporary Residential Options Directorate, and one copy remains on the Boarding House Compliance Officer's hard copy file. Scan and save the completed Compliance Notice in the Assisted Boarding House's container in TRIM.
- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the "notes" section of the relevant primary TRIM document.

## Module 23      Penalty Notices and prosecutions

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on issuing Penalty Notices and prosecutions for breaches of the Boarding Houses Act and Regulation.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	87	Applications for reviews by the Administrative Decisions Tribunal
BH Act	98	Penalty Notices
BH Act	101	Giving or service of documents
BH Reg	Schedule 2	Penalty Notice offences

### Related Modules

Module 15	Monitoring inspections
Module 16	Full service review
Module 22	Compliance Notices

### Background

If Boarding House Compliance Officers note breaches of the BH Act or BH Regulation during a visit, or if a Licensee or Approved Manager has failed to meet the requirements of a Compliance Notice, they may be able to issue the Assisted Boarding House with a Penalty Notice.

BH Act  
s98

The maximum penalties for breaches of the BH Act and BH Regulation are listed under each section of the BH Act and BH Regulation. The BH Regulation also includes a schedule of offences for which a Penalty Notice can be issued, and the amounts of these penalties. These are set at 75% of the maximum penalties. Penalty Notices cannot be issued for any offence under the BH Act that is not listed in this schedule (see **Appendix 4**).

BH  
Reg  
Sch2



It is important to note that the level of evidence required to issue a Penalty Notice is the same as the level required for prosecution. Boarding House Compliance Officers should therefore only seek to issue a Penalty Notice once advice has been sought from FACS legal officers.

Enforcement actions can be publically recorded on the NSW Fair Trading Boarding Houses Register. The issuing of a Penalty Notice is an “enforcement action”. It is therefore important that Boarding House Compliance Officers seek management advice and approval before issuing a Penalty Notice. BH Reg cl5

FACS has a basic processing service agreement with the State Debt Recovery Office (SDRO) under which:

- SDRO provides online training to FACS staff on use of the SDRO system
- SDRO provides manual Penalty Notice forms that can be filled out by FACS staff
- SDRO then processes all Penalty Notices
- SDRO accepts penalties paid under a Penalty Notice
- SDRO refers any election to have a Penalty Notice determined in court to FACS
- FACS issues a Court Attendance Notice or otherwise initiates court proceedings for the offence.

It is important to also know that if a Penalty Notice is issued, and the relevant person pays the penalty to the SDRO, that person cannot then be prosecuted in relation to the relevant offence. BH Act s98(5)

However if the penalty is not paid, SDRO will notify FACS and FACS can then initiate a prosecution. At court, the maximum penalty may be available for the relevant offence (see **Appendix 4**).

ADHC may decide in some circumstances not to issue a Penalty Notice, but rather, to proceed straight to prosecution. Reasons why proceeding to prosecution might be preferred rather than issuing a Penalty Notice include:

- A prosecution can include an order for continuing penalties – that is, additional penalties for every day the offence continues, whereas a Penalty Notice can only apply a one-off fine.
- If a Penalty Notice is paid but the breach not remedied, a prosecution cannot then occur based on the same set of facts and a new investigation would need to take place and establish evidence that the breach continues to exist – a process which may take time and expose residents to further risks.

Proceeding to prosecution should only be considered where all reasonable attempts to work with the Licensee to address the breach have failed, and where a Penalty Notice is not considered appropriate. See the regulatory pyramid and compliance flow chart in **Module 12** for the escalation process

and when to consider issuing Penalty Notices.

If FACS is concerned that a consistent lack of compliance is due to inadequate management by the Approved Manager or inadequate oversight by the Licensee, it can also seek to take action to:

- suspend or revoke the manager approval (see **Module 9**)
- suspend or cancel the license (see **Module 7**).

## Procedure

Process	Forms or Templates	Delegation
1. Identify the potential breach of the BH Act or BH Regulation and collect evidence to support the view that a breach has occurred (see <b>Module 21</b> ).	Assisted Boarding House Monitoring Inspection Form ( <b>Appendix 22</b> )	Boarding House Compliance Officer
2. Check to see that the breach is an offence listed under Schedule 2 of the BH Regulation.		Boarding House Compliance Officer
3. If the breach is an offence for which a Penalty Notice can be issued: <ul style="list-style-type: none"> <li>a. seek advice from FACS legal officers as to whether the evidence held is sufficient to find a breach</li> <li>b. seek advice and authorization from ADHC management on the preferred approach – i.e. whether to issue a Penalty Notice or prosecute – through the preparation of a briefing note outlining the circumstances of the breach and the history of interaction with the Assisted Boarding House, and a recommendation as to whether the issuing of a Penalty Notice is the appropriate approach.</li> </ul>	FACS Legal Request Form (FACS Intranet)  ADHC submission template	Boarding House Compliance Officer  Delegated Officer
4. If authorised, issue and serve a Penalty Notice.	Penalty Notice ( <b>Appendix 24</b> )	Delegated Officer Boarding House Compliance Officer

5. Forward a copy of the Penalty Notice to SDRO for processing. Refer monitoring of the penalty and interaction with SDRO to FACS legal officers.	Penalty Notice ( <b>Appendix 24</b> )  FACS Legal Request Form (FACS Intranet)	Boarding House Compliance Officer
6. If FACS has authorised prosecution, refer the case to FACS legal officers.	FACS Legal Request Form (FACS Intranet)	Boarding House Compliance Officer
7. If FACS identifies consistent compliance issues, consider whether a suspension or revocation of the manager approval (see <b>Module 9</b> ) or license (see <b>Module 7</b> ) may be appropriate.		Boarding House Compliance Officer

## Record Keeping Requirements

- Leave one copy of the triplicate Penalty Notice at the Assisted Boarding House (or hand deliver to the Licensee, or post), one copy is returned for central filing in the Contemporary Residential Options Directorate, and one copy is forwarded to SDRO for processing.
- Scan and save the completed Penalty Notice in the Assisted Boarding House's container in TRIM.
- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the "notes" section of the relevant primary TRIM document.

# Part 4: Unauthorised Assisted Boarding Houses

## Module 24 Introduction

If a boarding premises is home to two or more residents with additional needs (not counting any persons with additional needs who reside there with their competent relatives), and it has not been authorised by FACS as an Assisted Boarding House, then the proprietor and manager are in breach of the BH Act. The Act provides ADHC with certain powers to investigate and take action against unauthorised Assisted Boarding Houses.

There are several ways that ADHC may find out about an unauthorised Assisted Boarding House. This includes:

- operator self-identification through the NSW Fair Trading registration process
- operator self-identification through requests to ADHC for resident support services
- information about residents gathered by local councils during council inspections
- information about residents provided by the residents themselves, their family or friends, community workers, or members of the public.

Boarding House Compliance Officers' role includes the investigation of unauthorised Assisted Boarding Houses, to assist in the process of identifying and assessing residents with additional needs and to participate in the appropriate response to unauthorised Assisted Boarding Houses.

If there are indications that there may be two or more people with additional needs living in a property, officers will need to assess if it is an unauthorised Assisted Boarding House. Investigations may include a visit to the property, making inquiries of the owner and/or manager, and talking to the residents about their accommodation and support needs.

There are a number of actions that ADHC can take after these initial investigations:

- no action – this may occur when ADHC's inquiries find that there are no persons with additional needs or the premises are exempt from the BH Act
- further assessment – where resident support needs are not clear, ADHC may arrange resident support needs assessments
- authorisation – ADHC will provide advice to operators who wish to apply for authorisation to provide accommodation and services to people with additional needs
- resident support – ADHC may refer people to appropriate case management services to support residents to sustain their existing

accommodation arrangements

- prosecution – as a last resort, and if sufficient evidence exists that the proprietor or manager continues to operate an unauthorised Assisted Boarding House and has taken no action to remedy the situation.

FACS also has some responsibility under the BH Act for the removal of young residents (under the age of 18) from unauthorised boarding houses.

BH Act  
s85

Boarding House Compliance Officers need to be aware of the risk of eviction for people who may be considered by their landlord to be “people with additional needs”. As such officers must ensure a considered and sensitive approach when responding to unauthorised Assisted Boarding Houses.

A fact sheet *Information for operators of boarding houses who may be accommodating people with additional needs* has been prepared to inform operators of general boarding houses about these issues. It is available on the ADHC website.

## Module 25 Powers of entry into unauthorised Assisted Boarding Houses

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on the rights of Boarding House Compliance Officers to enter premises they suspect are operating as Assisted Boarding Houses without authorisation.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	41	Assisted boarding houses to be authorised
BH Act	67	Identification card
BH Act	76	Powers of entry and inspection by enforcement officers without consent or warrant
BH Act	78	Entry and inspection under search warrant

### Related Modules

Module 14	Powers of entry
Module 26	On-site inspections and identifying and supporting people with additional needs

### Background

If ADHC has identified premises which they suspect are operating as an Assisted Boarding House without authorisation, Boarding House Compliance Officers will need to further investigate and gather evidence as to the property's use and the needs of the residents. The best way to gather this evidence is to gain entry to the premises.

BH Act  
s41

The primary piece of evidence that Boarding House Compliance Officers need to gather to show that premises are operating as an Assisted Boarding House without authorisation is evidence that there are two or more residents who are persons with additional needs and who are not residing there with their competent relatives (see **Module 26**).

BH Act  
s36

The provisions of the BH Act which relate to the powers of enforcement officers to enter Assisted Boarding Houses only apply in relation to authorised Assisted Boarding Houses or premises that are the subject of an application for Licence or Interim Permit. BH Act s76(1)

Boarding House Compliance Officers may only enter and inspect an unauthorised Assisted Boarding House if: BH Act s76(6)

- the entry or inspection is in relation to an application for authorisation as an Assisted Boarding House
- the manager consents to the entry and inspection
- the Boarding House Compliance Officer has a search warrant.

If a manager or proprietor of a property initially consents to a Boarding House Compliance Officer entering the premises, but then withdraws that consent, the Boarding House Compliance Officer must leave. Remaining on the property without consent can lead to a charge of trespass under the *Inclosed Lands Protection Act 1901*.

If the Boarding House Compliance Officer does not have consent to enter premises, but they have reasonable grounds for suspecting the premises are operating as an Assisted Boarding House without authorisation, and therefore in breach of section 41 of the BH Act, they may apply for a search warrant.

The Boarding House Compliance Officer should seek advice from FACS legal officers when seeking a warrant. BH Act s78

The Boarding House Compliance Officer needs to seek the written consent of the Director-General (or the relevant Delegated Officer) to apply for a search warrant.

An application for a search warrant then needs to be made to an “authorised warrants officer” as defined by the *Law Enforcement (Power and Responsibilities) Act 2002*. This includes:

- a Magistrate
- a registrar of the Local Court
- an authorised employee of the Attorney General’s Department.

The application process for the warrant is set out in Division 4 of Part 5 of the *Law Enforcement (Power and Responsibilities) Act 2002*.

The search warrant allows the Boarding House Compliance Officer to exercise powers they have in relation to inspecting authorised Assisted Boarding Houses (see **Module 20**). This includes the ability to bring medical practitioners with them to observe, examine and speak with any people on site. BH Act s78(2) (c) & s76

If concerned about the potential for violence or other harm occurring during the search, a Boarding House Compliance Officer should consider requesting police to accompany them and confer with their management.

When entering the property, Boarding House Compliance Officers should show the warrant and their identification card to any person who requests it.

BH Act  
s67 &  
s76

## Procedure

Process	Forms or Templates	Delegation
1. Attend the boarding house premises and attempt to negotiate entry to inspect without a warrant. Approval must be given by the manager, caretaker or any other person who appears to be representing the proprietors or operator of the boarding house.		Boarding House Compliance Officer
2. If unable to obtain entry with consent: <ul style="list-style-type: none"> <li>a. seek advice from FACS legal officers</li> <li>b. seek approval from Delegated Officer to apply for a search warrant</li> <li>c. apply to the authorised warrants officer for a warrant to enter the boarding house.</li> </ul> <p>Determine what names are required on the search warrant - if possible, request that the search warrant include the names of two Boarding House Compliance Officers and the names of medical practitioners or other persons authorised to conduct resident assessments .</p>	FACS Legal Request Form (FACS Intranet)  Email approval	Delegated Officer  Boarding House Compliance Officer
3. Advise the local police office of the date and time of the execution of the search warrant, and if necessary request the support of a Police Officer during the inspection		Boarding House Compliance Officer
4. Attend premises with the search warrant and advise the staff on duty, if present, of the purpose		Boarding House Compliance Officer



for your visit. Give a copy of warrant to staff on duty if present and show your identification card to verify your identity.		
5. Inspect the premises (See <b>Module 26</b> ).		Boarding House Compliance Officer

### Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 26 On-site inspections and identifying and supporting people with additional needs

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on how to conduct an inspection of premises they suspect are operating as an unauthorised Assisted Boarding House. This includes possible actions that can be taken when people with additional needs are found to be living in an unauthorised Assisted Boarding Houses.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	39	Declaration of assisted boarding houses
BH Act	41	Assisted boarding houses to be authorised
BH Act	76	Powers of entry and inspection by enforcement officers without consent or warrant
BH Act	78	Entry and inspection under search warrant

### Related Modules

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### Background

Boarding House Compliance Officers are required to determine if particular premises are operating as an unauthorised Assisted Boarding house.

The primary piece of evidence that Boarding House Compliance Officers need to gather to show that the premises is an Assisted Boarding House is that there are two or more residents who are persons with additional needs (not counting any persons with additional needs who reside there with their competent relatives). The best way to gather this evidence is through entering and inspecting relevant premises and talking to residents on-site. Refer to **Module 25** for details about powers of entry.

BH Act  
s36

For safety reasons, on-site inspections of premises should be carried out by at

least two Boarding House Compliance Officers. If this is not feasible, local ADHC offices can be contacted to provide a second staff member to attend an on-site inspection.

If a manager or proprietor of a property has consented to a Boarding House Compliance Officer entering the premises, the powers of the Boarding House Compliance Officer to inspect the premises and/or talk to residents are limited by the nature of the consent provided.

If at any time the manager or proprietor withdraws consent, the Boarding House Compliance Officer must cease doing what they are doing, and if requested, leave the premises. Remaining on the premises after consent has been withdrawn, and without a search warrant or any other statutory powers to remain onsite, can lead to a charge of trespass under the *Inclosed Lands Protection Act 1901*.

If the Boarding House Compliance Officer attends the property with a search warrant, they are entitled to exercise the same powers that they have to inspect authorised Assisted Boarding Houses (see **Module 25**).

BH Act  
s76 &  
s78

It is important that Boarding House Compliance Officers undertake investigations of unauthorised Assisted Boarding Houses in a sensitive manner due to the vulnerability of people living there, as well as the potential for resident eviction and possible homelessness.

Boarding House Compliance Officers who do speak with residents should make a preliminary assessment as to whether the resident may be a person with “additional needs”. This may require some simple questions relating to whether the resident regularly sees a doctor, if they are OK getting access to meals, whether they have regular support people, and whether they have family who can help them.

Where there are any residents aged under 18 living in the premises, if Boarding House Compliance Officers have concerns they may contact Community Services, FACS to determine whether the *Children and Young Persons (Care and Protection) Act 1998* applies. This will not be necessary in all cases, such as where the young person (16 or 17 year old) is a student or apprentice, does not have additional needs, and is living on the premises with the support and consent of their parent(s) or legal guardian.

Where, in the opinion of the Boarding House Compliance Officer, an adult or young person residing in the property appears to have additional needs, they need to arrange for a more thorough assessment. This is to be conducted by a person trained in the use of the relevant assessment tool.

Once the formal assessment has been undertaken, this will identify not only whether the person is a “person with additional needs” but what sorts of support needs the person has and whether other models of accommodation may be more suitable, e.g. if the person is over 65 and has high support needs aged care accommodation may be more appropriate than an Assisted

## Boarding House.

The assessment might recommend regular mental health appointments which could act to stabilise the person's condition so that onsite support would not be required.

As ADHC officers bound by the Code of Conduct and the organisation's core values, Boarding House Compliance Officers also have a responsibility to promote the health, safety, wellbeing and community inclusion of people with a disability. This includes people with a disability living in boarding houses.

As such it is important that officers adopt an approach to people with additional needs living in general boarding houses that focuses on the individual resident, as well as the legal requirements of the BH Act.

If there are any residents with additional needs aged under 18 living in the boarding house, Community Services may request the young person's parent or guardian to remove the resident as soon as possible.

BH Act  
s85

If their parent or guardian cannot be located, or the young person is not removed, further action can be taken by Community Services under the *Children and Young Persons (Care and Protection) Act 1998*.

## Procedure

Process	Forms or Templates	Delegation
1. Attend the premises either with the permission of the boarding house manager, or with a valid search warrant.		Boarding House Compliance Officer
2. Walk through premises and inspect them to identify any evidence of the presence of people with additional needs. Document evidence as appropriate.	Report on Visit to Potentially Unauthorised Boarding House ( <b>Appendix 38</b> )	Boarding House Compliance Officer
3. If a critical incident or need is identified: a. seek emergency service assistance (Police/Ambulance) b. follow WHS incident management processes c. notify ADHC management.		Boarding House Compliance Officer
4. Discuss support needs with residents (where appropriate) and seek consent from resident	Resident Consent Form	Boarding House Compliance Officer

<p>to:</p> <ul style="list-style-type: none"> <li>a. contact family members or other responsible persons (if they wish contact to be made)</li> <li>b. identify additional support services that may be able to assist them</li> <li>c. engage an authorised provider to assess whether he/she is a “person with additional needs”</li> </ul>	(Appendix 37)	
5. If the authorised support needs assessor is present, and residents consents, provide assistance to them in the completion of resident assessments		Boarding House Compliance Officer
6. If consent is obtained a support referral should be made to: <ul style="list-style-type: none"> <li>a. mental health case management services, or</li> <li>b. ADHC case management services, or</li> <li>c. a specialised service for residents of boarding houses.</li> </ul>		Boarding House Compliance Officer
7. If the resident does not consent to a referral, seek advice from relevant ADHC manager regarding options, including guardianship applications.		Boarding House Compliance Officer
8. Discuss any identified compliance issues, and strategies and periods to remedy them with operator / manager / senior staff member		Boarding House Compliance Officer
9. Complete a report on the inspection during the visit or on return to the office.	Report on Visit to Potentially Unauthorised Boarding House (Appendix 38)	Boarding House Compliance Officer

## Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Module 27      Legal action in relation to unauthorised Assisted Boarding Houses

### Purpose

To provide advice to FACS Boarding House Compliance Officers, any other enforcement officers appointed under the Boarding Houses Act 2012, and their managers on the possible enforcement actions in relation to unauthorised Assisted Boarding Houses.

### Legislative Context

The following sections of the Boarding Houses Act 2012 (BH Act) and the Boarding Houses Regulation 2013 (BH Reg) apply to this module:

Legislation	Section	Content
BH Act	39	Declaration of assisted boarding houses
BH Act	40	Exemption of premises and persons
BH Act	41	Assisted boarding houses to be authorised
BH Act	78	Entry and inspection under search warrant
BH Act	76(6)	Conditions for the entry and inspection of an unauthorised boarding house
BH Act	79	Issue of compliance notices by Director-General
BH Act	80	Failure to comply with compliance notice

### Related Modules

Part 4 (all modules)	Unauthorised Assisted Boarding Houses
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### Background

Once a Boarding House Compliance Officer has identified that a property is an Assisted Boarding House operating without authorisation, they need to determine what action to take.

Boarding House Compliance Officers need to request a Title Search of the property from FACS legal officers to determine who owns the property.

Wherever possible Boarding House Compliance Officers should try to manage this situation sensitively to avoid the eviction and consequent potential

homelessness of people with additional needs.

In any legal action relating to an unauthorised Assisted Boarding House, it is a defence for a proprietor to claim that they did not know, and could not reasonably have been expected to know, that the premises were being used as an Assisted Boarding House without authorisation.

BH Act  
41(3)

To ensure operators are clear on the application of the BH Act, the Director-General or their Delegated Officer can use their power under section 39 to serve notice on an operator of boarding premises declaring the premises to be an assisted boarding house.

BH Act  
s39

This declaration may be issued if the Director-General is satisfied that:

- the premises provide beds for use by two or more residents who are persons with additional needs (not counting any persons with additional needs who reside there with their competent relatives), and
- the premises are not excluded from the definition of assisted boarding house by section 37(2), and
- the making of the declaration is necessary to ensure the wellbeing of the residents of the premises.

## Authorisation

The Boarding House Compliance Officer should discuss with the proprietor the authorisation requirements. This will involve an initial assessment of the premises to determine whether they have the potential to comply with the BH Regulation.

If the proprietor is interested in applying for authorisation, the Boarding House Compliance Officer should provide a copy of the Licence Application form and provide as much support as possible to assist in the authorisation process. See **Module 3** and **Module 4**.

It should be recognised, however, that many operators of boarding houses may be unwilling or unable to adapt their business to the model of an authorised Assisted Boarding House. If this is the case, FACS will need to determine in the circumstances which of the following courses of action are appropriate:

- supporting residents with additional needs to relocate to more appropriate accommodation
- exempting the premises from the BH Act with or without conditions – a temporary measure as exemptions only last for 12 months
- prosecution.

When determining the appropriate course of action, paramount consideration should be given to the wishes and interests of the residents. The objectives of the BH Act should also be taken to account, namely:

- the delivery of quality services to residents
- the promotion and protection of the wellbeing of residents



- promoting the sustainability of, and continuous improvements in, the provision of services at boarding houses.

Where exemptions or prosecutions are being considered, legal advice should be sought from FACS legal officers.

## Relocation of residents

If a proprietor does not want to seek authorisation and residents with additional needs have expressed interest in relocating to alternative housing, then FACS should assist these residents to relocate (see **Module 26**). In this situation it is important to keep the interests of the residents paramount.

If there are any residents with additional needs aged under 18, FACS (Community Services) may request the young person's parent or guardian to remove the resident as soon as possible. If their parent/guardian cannot be located, or the young person is not removed, action can be taken in relation to the young person by FACS under the *Children and Young Persons (Care and Protection) Act 1998*.

BH Act  
s85

## Exemption

The Director-General or their Delegated Officer have the power to exempt premises and persons from Part 4 of the BH Act and the BH Regulation.

BH Act  
s40

An exemption may be for the whole of particular premises, or part of the premises, and the exemption may be from all of Part 4 of the BH Act and Regulations, or only some sections of the BH Act or some clauses of the BH Regulation.

An exemption can only last for 12 months and there is no power to grant a second exemption.

An exemption notice can be given unconditionally or with terms and conditions such as:

- standards to be observed and facilities to be provided in connection with the health, safety and wellbeing of residents with additional needs
- carrying out of inspections and investigations
- any other condition that may be imposed when granting a boarding house license or interim permit (refer to Modules 4 and 5).

An exemption operates only if the specified terms and conditions are complied with.

An exemption can be revoked. The Director General or their Delegated Officer must serve notice on the relevant person stating that after 28 days they intend to revoke the exemption unless they are satisfied that the exemption should not be revoked. The relevant persons can provide submissions, and after 28 days, the Director General can serve a further notice revoking the exemption.

## Review of declarations and exemptions

BH Act

A person has the right to apply to the Administrative Decisions Tribunal to review:

s87

- a declaration under section 39 that premises are an assisted boarding house
- a refusal to grant an exemption under section 40
- the imposition or variation of terms and conditions on an exemption granted under section 40
- the revocation of an exemption granted under section 40.

Under the *Administrative Decisions Tribunal Act 1997 (NSW)*, FACS must advise the applicant in writing of the relevant decision and must also advise the applicant of the right to apply for an internal review within 28 days of the decision.

Details of the internal review process are set out in Part 2 of the *Administrative Decisions Tribunal Act 1997 (NSW)*. Boarding House Compliance Officers should contact FACS legal officers for advice on conducting the internal review. Particular attention must be paid to the time limitations for conducting the review.

The outcome of the internal review must be communicated to the person seeking the review within 21 days of their request for review. The letter or notice from FACS advising of the outcome of the review should include advice that the person has the right under section 87 of the BH Act to apply to the Administrative Decisions Tribunal for an external review of FACS' decision, and that an application to the Tribunal must be made within 28 days of receiving notice of the decision.

## Prosecution

Where the operator(s) of an unauthorised assisted boarding house that has been declared as an Assisted Boarding House continues to operate premises without seeking authorisation, this is a breach of the BH Act and FACS may commence prosecution in the Local Court against both the proprietor and the manager. Prosecutions are managed by FACS legal officers.

BH Act  
s41,  
s88,  
s99,  
s100

If a prosecution is successful and a person is convicted of using boarding premises as an assisted boarding house without authorisation, a resident with additional needs who was relocated from the premises within 28 days of the offence can apply to the Local Court for compensation for relocation expenses.

BH Act  
s 86

The Director-General can also seek compensation for their costs in relocating any residents with additional needs.

## Procedure

Process

Forms or  
Templates

Delegation

1.	Request a Title Search on the property from FACS legal officers.	FACS Legal Request Form (FACS Intranet)	
2.	Obtain entry to boarding house (see <b>Module 25</b> )	Report on Visit to Potentially Unauthorised Boarding House ( <b>Appendix 38</b> )	Boarding House Compliance Officer  (In case of search warrant Delegated Officer)
3.	Undertake on-site inspection a. Discuss individual support needs with both residents and manager where possible	Report on Visit to Potentially Unauthorised Boarding House ( <b>Appendix 38</b> )	Boarding House Compliance Officer
4.	If evidence is found that the premises is an Assisted Boarding House: a. provide a copy of the Unauthorised Assisted Boarding House Fact Sheet b. discuss options for compliance c. follow <b>Module 26</b> to ensure resident supports are provided d. prepare a submission and a Notice declaring the premises an Assisted Boarding House.	Unauthorised Assisted Boarding House Fact Sheet ( <b>Appendix 39</b> )  ADHC submission template  Notice to declare an Assisted Boarding House ( <b>Appendix 40</b> )	Boarding House Compliance Officer Delegated Officer
5.	Send the Notice declaring the premises an Assisted Boarding House.		Boarding House Compliance Officer Delegated Officer
6.	Monitor the premises for compliance in accordance with the notice.		Boarding House Compliance Officer
7.	If the Proprietor/Manager fails to take action to remedy the situation seek advice from FACS legal officers on prosecution or other enforcement actions.	FACS Legal Request Form (FACS Intranet)	Boarding House Compliance Officer

## Record Keeping Requirements

- All documents, including submissions, briefing notes, correspondence (including emails), and file notes are to be uploaded into the relevant TRIM folder.
- Running notes are to be kept in TRIM against the “notes” section of the relevant primary TRIM document.

## Appendix 1: Stakeholders

Stakeholder	Role
ADHC, FACS	Licencing, monitoring and enforcement of the <i>Boarding Houses Act 2012</i> and <i>Boarding Houses Regulation 2013</i> for Assisted Boarding Houses. Working in partnership with Licencees and Approved Managers of Assisted Boarding Houses to ensure people with additional needs have access to the support they need. Funding body for support services for Assisted Boarding House residents.
Boarding Houses Expert Advisory Group (BHEAG)	Provides independent advice to FACS on the Assisted Boarding House sector and the operation of the funded support services program for Assisted Boarding House residents.
<i>Boarding Houses Act 2012</i> Implementation Committee (BHIC)	A NSW interdepartmental committee to provide advice on the implementation of the BH Act.
Coalition for Appropriate Supported Accommodation (CASA)	Independent individual and systemic advocacy service
Councils	<p>Compliance investigations to ensure registered boarding houses comply with the requirements imposed by the <i>Local Government Act 1993</i> and the <i>Environmental Planning and Assessment Act 1979</i> with respect to the use of the boarding house, including (but not limited to):</p> <p>(a) requirements in relation to building and fire safety, and</p> <p>(b) relevant standards or requirements for places of shared accommodation for the purposes of Order No 5 (d) in the Table to section 124 of the <i>Local Government Act 1993</i>.</p>
Division of Local Government	Manages the policy and legislative framework for the local government sector (ie local Councils) in New South Wales.

Stakeholder	Role
Home Care Service of NSW	Personal care services through the Community Care Supports Program
Home Care Service of NSW Referral and Assessment Centre (RAC)	Screening for entry into Assisted Boarding Houses,.
Home Care Service of NSW	Primary and Secondary Health Care services in Sydney and South East Sydney LHDs
Non-government organisations	For services provided to residents of Assisted Boarding Houses, including ALI services.
NSW Fair Trading	Registration of all General and Assisted Boarding Houses
NSW Ministry of Health and Local Health Districts (LHDs)	Primary and secondary health care services and mental health services
NSW Office of State Revenue	Processes Penalty Notices that have been issued by FACS enforcement officers (Boarding House Compliance Officers).
NSW Ombudsman	Authority to respond to complaints, conduct investigations and review the deaths of people with additional needs in Assisted Boarding Houses
Official Community Visitors	Appointed by the Minister to conduct visits to Assisted Boarding Houses (and other accommodation services for children and people with disabilities) and make recommendations to improve services to residents
People With Disabilities Australia (PWD)	Advocacy services to residents of Assisted Boarding Houses who have additional needs.

# Appendix 2: Assisted Boarding Houses Authorisation and Monitoring Manual Feedback Form

*This form is to be used to provide feedback or suggested changes to Ageing, Disability and Home Care for the Assisted Boarding Houses Authorisation and Monitoring Manual.*

*The Assisted Boarding Houses Authorisation and Monitoring Manual will be reviewed on a quarterly basis initially following the publication of this Manual to make any identified improvements or correct any errors based on feedback received. Urgent amendments will occur on an as-needs basis.*

Please forward the completed copy of this form by email to [boarding.houses@facs.nsw.gov.au](mailto:boarding.houses@facs.nsw.gov.au) or by post to **Programs Team, Contemporary Residential Options Directorate, Ageing, Disability and Home Care, Level 5, 83 Clarence Street, SYDNEY NSW 2000.**

Name: \_\_\_\_\_

Contact details: \_\_\_\_\_

Date: \_\_\_\_\_

[illegible]

## Appendix 3: Boarding House Registration Requirements

Under Part 2 of the BH Act, all registrable boarding houses must be registered with the NSW Fair Trading. The provisions relating to the registration of boarding houses commenced on 1 January 2013.

Proprietors must notify the Commissioner of the following details:

- the name, and the residential or business address, of each proprietor of the boarding house
- the name (if any) and the address of the registrable boarding house
- whether the boarding house is a general or assisted boarding house
- whether development consent or approval is required under the Environmental Planning and Assessment Act 1979 to use the boarding house as boarding premises and, if so, whether such consent or approval has been granted
- the number of residents of the registrable boarding house
- the number of residents who are under 18 years of age
- the name of the manager (if any) of the registrable boarding house
- the total number of bedrooms provided as sleeping accommodation for the residents
- any other particulars as may be approved by the Commissioner or prescribed by the regulations.

Proprietors of existing boarding houses need to provide the above information to the Commissioner within six months of the commencement of the BH Act, by 30 June 2013.

For new boarding houses, proprietors of new boarding houses must notify the Commissioner within 28 days of the premises becoming a registrable boarding house.

Registration is subject to a fee of \$100 (see section 9(3) of the BH Act). The Boarding House Registration Form is available on the NSW Fair Trading website. Proprietors who do not register a registrable boarding house or do not provide the above information to the Commissioner will be guilty of an offence. Proprietors may be charged up to 50 penalty units or \$5,500, or 100 penalty units or \$11,000 if they are a corporation, if they fail to comply (see section 9(5) of the BH Act).

A copy of the NSW Fair Trading Boarding House Registration Form is attached. This version is as at 1 July 2013; please refer to the NSW Fair Trading website for the latest version of this form as it may be subject to revision.

A list of registered boarding houses is also published on the NSW Fair Trading website. This and other information can be found at:

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au).





**Fair  
Trading**

## **Boarding House Registration Form**

# **INSTRUCTIONS**

### **DEADLINE TO REGISTER**

The *Boarding Houses Act 2012* commenced on 1 January 2013. Proprietors of registrable boarding houses which were operating on 1 January have until 30 June 2013 to register. Proprietors of registrable boarding houses which commence operations after 1 January 2013, or new proprietors of existing boarding houses are required to register within 28 days of commencing operations.

Registering on the Boarding House Register is a new legal obligation. Proprietors of registrable boarding houses must register with Fair Trading even if they are already registered with the Office of State Revenue or local council, or licensed by Ageing Disability & Home Care.

**There is a one-off fee of \$100 to register.**

### **COMPLETING REGISTRATION**

To complete registration:

1. the registration form must be completed, including a signed declaration by the proprietor or the proprietor's nominee
2. the registration fee of \$100 must be paid to Fair Trading (see payment details below)
3. the completed form must be lodged with a Fair Trading Centre (phone 13 32 20 or visit [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) for Fair Trading Centre locations) or post the registration form with payment to:

Boarding House Register,  
NSW Fair Trading,  
PO Box 972,  
PARRAMATTA NSW 2124

### **PAYMENT DETAILS**

There is a one-off fee of \$100 to register. If you are paying at a Fair Trading Centre, you can pay by cash, cheque, EFTPOS or credit card. If you register by mail, the options for paying the registration fee are cheque (personal, business or bank cheque) made payable to NSW Fair Trading or a money order (available from post offices).

### **FOR FURTHER INFORMATION AND ENQUIRIES**

#### ***For General Boarding Houses***

[www.fairtrading.nsw.gov.au/Tenants\\_and\\_home\\_owners/Boarding\\_houses.html](http://www.fairtrading.nsw.gov.au/Tenants_and_home_owners/Boarding_houses.html)

or phone 13 32 20

#### ***For Assisted Boarding Houses***

[www.adhc.nsw.gov.au/boardinghouse](http://www.adhc.nsw.gov.au/boardinghouse) or phone (02) 9377 6000

#### ***For information on financial assistance programs for boarding houses***

[www.housing.nsw.gov.au/Centre+For+Affordable+Housing](http://www.housing.nsw.gov.au/Centre+For+Affordable+Housing) or phone (02) 8753 8181



## Boarding Houses Act 2012 (Part 2)

## BOARDING HOUSE DETAILS

\_\_\_\_\_

Postcode

Postcode

--

[illegible]

--

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9. Has approval been granted? Yes ☐ No ☐

\_\_\_\_\_

\_\_\_\_\_

[illegible]

Postcode

--

Date received	/ /
---------------	-----

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\_\_\_\_\_

## BOARDING HOUSE RESIDENTS DETAILS

Residents do not include the proprietor, manager or their family members

16. Number of bedrooms for residents

17. Maximum number of residents who can be accommodated at the premises

18. Total number of **current** residents

19. Please indicate to the best of your knowledge the number of current residents living at the boarding house that, in your opinion, fit into each category

Total Female		People with a disability	
Total Male		People living with a mental illness	
Under 18 year of age		People with significant health problems	
Over 60 years of age		People needing assistance with daily tasks & personal care (bathing, dressing etc)	
Students (attending university, TAFE etc)		Other (please specify)	
Speaks a language other than English			

*Note - a resident may be counted in more than one category*

20. What fees do you charge per week per person? (If there is a fee scale, please attach details)

21. Which payment methods do you offer to residents? Please tick all that apply.

Cash ☐ Credit card ☐ Cheque ☐ Direct Debit ☐  
Money order ☐ BPay ☐ Australia Post ☐ Other ☐

If other, please specify:

22. What services are provided by the boarding house?

Accommodation ☐ Meals ☐  
Personal assistance for residents  
(such as help with dressing or bathing, or help with financial or medication management) ☐  
Other ☐

If other, please specify:

23. Does the boarding house have any special provisions for physical access to the buildings?

Yes ☐ No ☐

If yes, what are the access provisions?

### OFFICE USE ONLY

Date received

Registration number

Initials

## BOARDING HOUSE PROPRIETOR DETAILS

24. Name of proprietor/s

--

25. Name and position of contact person if the owner is a company, corporation or other entity

Name	Position
------	----------

26. Telephone number

--

27. Email address

--

28. Postal address

Postcode

## BOARDING HOUSE MANAGER/CARETAKER

29. Name of manager/s

--

30. Telephone number

--

31. Email address

--

32. Contact address

Postcode

## DECLARATION

The boarding house proprietor or the proprietor's nominee must complete the following declaration

.....  
*Name*

.....  
*Position*

.....  
*Signature*

I certify that the above information is correct as at this date

...../...../.....  
*Date signed*

### Warning

It is an offence to knowingly provide false or misleading information.  
Penalties apply.

#### \* Definitions:

**General boarding house:** Is a boarding house accommodating five or more paying residents (excluding family members of the proprietor), and which does not fall within a list of exclusions in the Act, such as hotels or motels, backpackers' hostels and aged care homes;

**Assisted boarding house:** is a boarding house which accommodates two or more "persons with additional needs". A "person with additional needs" is a person who has an age related frailty, a mental illness and/or an intellectual, psychiatric, sensory or physical disability *and* needs support or supervision with daily tasks and personal care, such as showering, preparing meals or managing medication. Assisted boarding houses are licensed by Ageing, Disability and Home Care.

#### OFFICE USE ONLY

Date received

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Registration number

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Initials

--

## Appendix 4: List of Conditions, Standards and Penalties Relating to Assisted Boarding Houses

The BH Act and BH Regulation impose a range of conditions and set out required standards for Assisted Boarding House licensees, managers and staff. The following table sets out these conditions and any relevant penalties.

Penalties are based on \$110 per penalty unit; penalty notices are 75% of the maximum penalty and set out in Schedule 2 of the *Boarding Houses Regulation 2013*.

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
<b>Registration with NSW Fair Trading</b>				
BH Act s9(5)	Proprietor needs to register the boarding house with NSW Fair Trading - failure to do so is an offence.	Corporation	100	\$8,250
		Individual	50	\$4,125
BH Act s10(1)	Proprietor needs to submit any changes to the original Fair Trading registration details within 28 days of the 'annual return period' (the 12-month anniversary of the registration date).	Corporation	20	\$1,650
		Individual	10	\$825
BH Act s11	Proprietor needs to notify Fair Trading if they cease to operate as a boarding house within 28 days of cessation.	Corporation	20	\$1,650
		Individual	10	\$825
BH Act s16	<p>Premises will be inspected by local council within 12 months of registration to ensure they comply with other relevant laws, including the <i>Local Government Act 1993</i> and the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>The council may look at range of issues such as whether the premises have planning approval from the</p>		None under BH Act, may be penalties under other laws	

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
	council to operate as a boarding house, fire safety compliance, vermin, light and ventilation, and possibly compliance with the <i>Food Act 2003</i> .			
<b>Authorisation to operate an Assisted Boarding House</b>				
BH Act s41(1)	Proprietors must seek authorisation from the Director-General to operate an Assisted Boarding House.	Corporation	120 plus 20 per day	\$9,900
		Individual	60 plus 10 per day	\$4,950
BH Act s41(2)	A person must not act as a manager of an Assisted Boarding House unless they are an authorised operator or an approved manager.	Corporation	120 plus 20 per day	\$9,900
		Individual	60 plus 10 per day	\$4,950
BH Act s43(5)	An authorised operator is guilty of an offence if they contravene a condition of the boarding house authorisation.  Note: Conditions may be:  1. placed on individual authorisations (licenses or interim permits)  2. exist in the Act - see s59 , s77 and s84 below, or  3. set out in the Regulation.	Corporation	40 plus 10 per day	\$3,300
		Individual	20 plus 5 per day	\$1,650
BH Reg cl11	Conditions specified in Division 4 of Part 3 of the BH Regulation are prescribed as conditions of boarding house authorisations.	Penalty is in s43(5)		
BH Reg cl12 (1)	To ensure that accommodation, staffing and services are provided in accordance with the standards	Penalty is in s43(5)		

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
	specified in Schedule 1 of the BH Regulation (details of each standard are set out at the end of this table).			
BH Reg cl12(2)	For pre-existing authorised assisted boarding houses, to prepare and comply with a transition plan under BH Regulation Schedule 1 clause 5.	Penalty is in s43(5)		
BH Reg cl13	To notify the Director-General of residents aged under 18 years old within seven days.	Penalty is in s43(5)		
BH Reg cl14	To ensure that additional needs residents are screened before they enter, after an absence of six months, or if they have been a resident of a range of other institutions.	Penalty is in s43(5)		
BH Reg cl15	To provide residents with, and display information relating to fees, services, house rules, compliance notices.	Penalty is in s43(5)		
BH Reg cl16	To develop policies relating to a range of issues including medication, food and nutrition, ethical conduct, complaints processes.	Penalty is in s43(5)		
BH Reg cl17	To provide details of staff positions, duties, hours and rosters to FACS and to notify of changes.	Penalty is in s43(5)		
BH Reg cl18	To notify FACS within three days of issuing an eviction notice against an additional needs resident, or immediately after evicting them, whichever comes first.	Penalty is in s43(5)		

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
BH Act s49(4)	A licensee whose licence is cancelled must surrender the licence to the Director-General within 29 days after the licence is cancelled	Individual	20	\$1,650
BH Act s 50(2)	If a licensed boarding house ceases to be used as an assisted boarding house the licensee must surrender the boarding house licence to the Director-General within 28 days after its cessation.	Individual	20	\$1,650
BH Act s53 & BH Reg cl30	A licence or interim permit must be displayed in a conspicuous position in the boarding house.	Corporation	10	\$825
		Individual	5	\$413
BH Act s57(3)	Where an interim permit has been revoked, the interim permit-holder must return the interim permit to the Director General within 28 days.	Corporation	40	\$3,300
		Individual	20	\$1,650
BH Act s58(2)	Where an interim permit is surrendered, the interim permit-holder must return the interim permit to the Director General within 28 days.	Individual	20	\$1,650
BH Act s59 & s60	It is a condition of a boarding house authorisation that where the authorised operator is not an individual, or does not intend to personally act as the manager, they must appoint an ‘approved manager’ – that is a person who has been approved by the Director-General to act as the manager.	Penalty is in s43(5): Corporation	Penalty is in s43(5): 40 plus 10 per day	Penalty is in s43(5): \$3,300
BH Act s43(5)		Individual	20 plus 5 per day	\$1,650
	Operator must not contravene a condition of an authorised boarding house.			



BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
BH Act s63(4)	An approved manager must comply with the Act, Regulations or any other conditions imposed by the Director-General.	Individual	20 plus 5 per day	\$1,650
BH Act s65(4)	A manager whose manager approval is revoked must surrender the approval to the Director-General within 28 days.	Individual	20	\$1,650
<b>Compliance and enforcement</b>				
BH Act s67(3)	Person who has been issued with an identification card must return it to the Director-General on demand.	Individual	10	\$825
BH Act s68	It is an offence for a person must not hinder or obstruct an enforcement officer, or fail to comply with any requirement made by an enforcement officer.	Corporation	100	- (not listed in Schedule 2)
		Individual	50	- (not listed in schedule 2)
BH Act s73	Person who fails to comply with a requirement made under subdivision 2 (s69-75) is guilty of an offence. This includes:  A notice to provide specified documents to the Director-General.  A notice to attend at a set time and place to answer questions.  However a person is not guilty unless they are warned that failure to comply with the requirement is an offence.	Corporation	40 plus 10 per day	\$3,300
BH Act s70		Individual	20 plus 5 per day	\$1,650
BH Act s71				
BH Act s74				

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
BH Act s77(8)	It is a condition of a boarding house authorisation that the operator permit an authorised service provider to enter, and confer with residents.	Penalty is in s43(5): Corporation	Penalty is in s43(5): 40 plus 10 per day	Penalty is in s43(5): \$3,300
BH Act s43(5)	Operator must not contravene a condition of an authorised boarding house.	Individual	20 plus 5 per day	\$1,650
BH Act s77(8)	It is a condition of a manager approval that the manager permit an authorised service provider to enter, and confer with residents.	Individual	Penalty is in s63(4): 20 plus 5 per day	Penalty is in s63(4): \$1,650
BH Act s63	Manager must comply with conditions.			
BH Act s80	A person who fails to comply with a compliance notice is guilty of an offence.	Corporation	40 plus 10 per day	\$3,300
		Individual	20 plus 5 per day	\$1,650
BH Act s82	It is a condition of a boarding house authorisation that the operator keeps records required by Regulation and produces them if required by the Director-General or any other person authorised to request them.	Penalty is in s43(5): Corporation	Penalty is in s43(5): 40 plus 10 per day	Penalty is in s43(5): \$3,300
BH Act s43(5)	Operator must not contravene a condition of an authorised boarding house.	Individual	20 plus 5 per day	\$1,650
<b>Reporting incidents</b>				
BH Act s83(3) BH Reg cl26	A manager who fails to report the following incidents to the Director-General is guilty of an offence:  Death of a resident.	Individual	50	\$4,125

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
	<p>Sexual assault or allegation of a sexual assault of a resident.</p> <p>Absence of a resident for more than 24 hours if resident has not informed manager of his or her whereabouts.</p> <p>Other assault or making of allegation of assault of a resident by a staff member, staff member by a resident, or resident by a resident.</p> <p>Serious accident involving a resident on the premises of the boarding house that requires the resident to receive medical, dental or hospital treatment.</p> <p>The making of a complaint about the treatment of a resident involving an allegation of a contravention of the Act, Regs, or of fraud, or of neglect or ill-treatment or some form of compromising of the safety, health or wellbeing of a resident.</p>			
BH Act s83(2)	A manager is guilty of an offence if they fail to report the death or sexual assault or allegation of a sexual assault of a resident to police “as soon as is reasonably practicable after becoming aware of the incident concerned”.	Individual	50	\$4,125
BH Reg cl27(3)	Manager is guilty of an offence if they fail to report the attendance of police at the premises to investigate an incident involving an additional needs resident as soon as reasonably practicable after their attendance.	Individual	10	\$825

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
BH Reg cl28(4)	Manager is guilty of an offence if they fail to report to the Director-General the issuing of a planning on-compliance notice within seven days of the notice being issued.	Individual	10	\$825
BH Reg cl29(3)	An authorised operator who fails to report, within seven days of the change: <ul style="list-style-type: none"><li>■ Change in their contact details.</li><li>■ Any significant change that may effect the operator’s capacity to operate the boarding house.</li><li>■ If a company or unincorporated body, a significant change in the circumstances of a person involved in the control and management of the company/unincorporated body (eg bankruptcy of a director or CEO).</li><li>■ Corporation being wound up or other external administration.</li></ul>	Corporation	20	\$1,650
		Individual	10	\$825
Probity checks				
BH Act s84	It is a condition of the boarding house authorisation that the authorised operator not engage a staff member unless they are satisfied that the they are a suitable person to be involved in the management or operation of the boarding house – this requires	Penalty is in s43(5): Corporation	Penalty is in s43(5): 40 plus 10 per day	Penalty is in s43(5): \$3,300
		Individual	20 plus 5 per day	\$1,650

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
BH Act s43(5)	criminal record checks every three years.  Operator must not contravene a condition of an authorised boarding house.			
<b>Schedule 1 - Standards of Assisted Boarding Houses</b>				
BH Reg cl12(1)	It is a condition of a boarding house authorisation that the operator ensures that accommodation, staffing and services are provided in accordance with standards of Schedule 1.	Penalty is in s43(5):  Corporation	Penalty is in s43(5):  40 plus 10 per day	Penalty is in s43(5):  \$3,300
BH Reg cl12(2)	It is also a condition of boarding house authorisations for pre-existing assisted boarding houses that they comply with standard 5 of Schedule 1.	Individual	20 plus 5 per day	\$1,650
BH Act s43(5)	Operator must not contravene a condition of an authorised boarding house.			
Standard 1:	Boarding house must have sufficient staffing levels.	Penalty is in s43(5)		
Standard 2:	Staff must be over 16, have knowledge and skills, and trained in fire fighting equipment.	Penalty is in s43(5)		
Standard 3	Manager must have certain minimum qualifications.	Penalty is in s43(5)		
Standard 4	Services may be provided by volunteers but they do not count in determining staffing levels.	Penalty is in s43(5)		
Standard 5	Proprietors of pre-existing assisted boarding houses must submit	Penalty is in s43(5)		

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
	transition plans outlining steps to comply with standards 6 and 7 below.			
Standard 6	Maximum number of residents is 30 unless otherwise determined by the Director-General.	Penalty is in s43(5)		
Standard 7	The maximum number of residents who can occupy each bedroom is one, unless a resident has requested to share with a particular person in which case the maximum number is two persons per room.  Bedrooms must have a floor area of 7.5m <sup>2</sup> for a single room, or 11m <sup>2</sup> for a double room.	Penalty is in s43(5)		
Standard 8	The premises and all equipment is maintained in a clean, safe and hygienic condition and a reasonable state of repair at all times, and all effort is made to ensure the building and grounds are pest- and vermin-free.	Penalty is in s43(5)		
Standard 9	Adequate light and ventilation must be maintained in the premises.	Penalty is in s43(5)		
Standard 10	Appropriate furniture and fittings must be provided and maintained in a reasonable state of repair.	Penalty is in s43(5)		
Standard 11	All heating, cooling and other electrical equipment must be in safe working order and appropriate for the climate and temperature.	Penalty is in s43(5)		
Standard 12	Each additional needs resident must have an adequate supply of personal	Penalty is in s43(5)		

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
	clothing and footwear that is suitable for the climate and temperature, their own toothbrush, toothpaste and soap, and an adequate supply of bath towels and face washers. None of these items can be required to be shared with other people.			
Standard 13	The boarding house must have secure storage facilities for recreation and education supplies, luggage, cleaning materials and outdoor equipment.	Penalty is in s43(5)		
Standard 14	The boarding house must have sufficient clean and safe toilet, hand washing and bathing/showering facilities and a sufficient supply of toilet paper.	Penalty is in s43(5)		
Standard 15	The boarding house must have sufficient functioning call bells for emergencies, at minimum one in every hallway or common area on every floor and in the kitchen and all bathrooms. Call bells must be regularly tested.	Penalty is in s43(5)		
Standard 16	The premises must have at least one appropriately-sized communal living space for the use of residents. This space may only be outside if it is appropriate for the weather or if there is at least one indoor communal living space as well.	Penalty is in s43(5)		
Standard 17	The premises must have a dining room that comfortably seats all residents who are receiving meals.	Penalty is in s43(5)		

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
Standard 18	The premises must have a private or quiet room.	Penalty is in s43(5)		
Standard 19	The premises must have a food preparation area for use by additional needs residents that is safe and hygienic and has a stove, microwave, sink, refrigerator, suitable disposal facilities and hot water supply.	Penalty is in s43(5)		
Standard 20	The boarding house must have laundry arrangements for its general laundering plus on-site laundry facilities that can be used by additional needs residents, and safe, sanitary facilities to store soiled clothes and linen before laundering.	Penalty is in s43(5)		
Standard 21	The premises must have a working telephone that is readily accessible to staff members to contact emergency services, as well as at least one working telephone that can be used by additional needs residents for a reasonable charge.	Penalty is in s43(5)		
Standard 22	Residents must be provided with suitable storage facilities for their personal property. Personal property must not be taken, borrowed or given to another person without permission of the resident. All personal belongings must be returned to a resident if they move out of the boarding house.	Penalty is in s43(5)		
Standard 23	Residents must be given support to either independently manage their financial affairs and bank account or	Penalty is in s43(5)		



BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
	to arrange assistance to do so (including making an application to the Guardianship Tribunal for a financial management order where necessary.			
Standard 24	Additional needs residents must be given information about support, financial, legal and advocacy services that are available to them and must be supported to access these services if they want to.	Penalty is in s43(5)		
Standard 25	Boarding house staff must assist additional needs residents to maintain relationships with families and friends, receive visitors, make or take telephone calls, and must not obstruct friendships between residents.	Penalty is in s43(5)		
Standard 26	The boarding house must have a balance of indoor and outdoor equipment to meet residents recreational needs.	Penalty is in s43(5)		
Standard 28	Medication held at the Assisted Boarding House on behalf of an additional needs resident must be kept securely in a storage facility that is locked when not in immediate use and only unlocked under the direct supervision of a staff member.  Medication must be kept in sealed receptacles away from food, at its appropriate temperature.  Medication labels must not be altered.  Adequate secure lockable storage	Penalty is in s43(5)		

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
	<p>must be available for people with additional needs who administer their own medication.</p> <p>Medication must be disposed of in a safe manner (eg the Return Unwanted Medicines program at community pharmacies) if the resident no longer lives there, it has expired or the medical practitioner treating the person has advised they no longer need it.</p> <p>If the resident leaves the Assisted Boarding House, their medication must be returned to them.</p>			
Standard 29	<p>Medication distributed at the boarding house must be administered by a staff member in accordance with the detailed directions of the person who prescribed it – this advice must be given in writing and kept with the resident's health records.</p> <p>Non-prescription medication must be distributed in accordance with the product instructions unless otherwise advised by the treating medical practitioner.</p> <p>The staff member must confirm the medication is being provided to the correct resident at the correct dose, in the correct way and at the correct frequency and time – by hand, and observe the resident taking the medication.</p> <p>If the staff member has any concerns they must contact the treating practitioner before administering the medication. They</p>	Penalty is in s43(5)		

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
	<p>must also let the treating practitioner know if the resident refuses to take the medication, or if there have been any errors.</p> <p>Medication should be packed and labeled into individual doses in a blister pack by a registered practitioner where possible</p>			
Standard 30	Additional needs residents must be given the opportunity to choose their own health care providers and supported to make appointments and access their services.	Penalty is in s43(5)		
Standard 31	Additional needs residents are assisted with health issues, including emergency first aid when a resident suffers an injury or is ill at the boarding house, seeking urgent medical or dental treatment, and monitoring the resident until they recover. The staff member must also notify the person responsible.	Penalty is in s43(5)		
Standard 32	<p>Additional needs residents who cannot meet their own dietary needs must be provided with adequate and varied healthy meals that take into account their dietary needs, cultural, religious and dietary preferences. Menus must be prepared with consultation with residents and referenced to published dietary guidelines or on the advice of a dietician.</p> <p>Residents must have ready access to drinking water and other beverages at all times.</p>	Penalty is in s43(5)		

BH Act section or BH Reg clause	Relevant provision	Detail	Maximum penalty units	Penalty notice – Schedule 2
Standard 33	Additional needs residents must be made aware of the evacuation procedures of the boarding house and regular evacuation testing must be carried out at a minimum of every six months.	Penalty is in s43(5)		
Standard 34	The premises must have a well stocked and suitably equipped first aid kit that is accessible to residents and staff members and CPR charts must be prominently displayed.	Penalty is in s43(5)		



**Family &  
Community Services**  
Ageing, Disability & Home Care

# Appendix 5: Assisted Boarding House Licence Application



# Document approval

The Assisted Boarding House Licence Application has been endorsed and approved by:

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Jim Longley  
Chief Executive

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Linda Mallett  
Deputy Chief Executive

Approved:

Approved:

# Document version control

Distribution: Public

Document name: Assisted Boarding House Licence Application

Version: Version 1.0

Document status: Current

File name: Assisted Boarding House Licence Application

Authoring unit: Contemporary Residential Options Directorate

Date: May 2013

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The attachments listed below are included at the end of this document, and are either mandatory or may be required to complete the Licence Application. Where required, you will be requested to complete these throughout the Licence Application form.

**Attachment A: National Police Check**

**Attachment B: Referee Check Form**

**Attachment C: Financial Capacity Form**

**Attachment D: Close Associates Declaration Form**

**Attachment E: Strategies for Compliance**

**Attachment F: Staffing Description Table**

# 1 How to use this form

The purpose of this form is to provide the basic information required to commence an application for a licence to operate an Assisted Boarding House authorised under the *Boarding Houses Act 2012*.

This form replaces a previous version that related to the licensing of Licensed Residential Centres under the *Youth and Community Services Act 1973*.

You must attempt to complete all sections of this form.

You must also provide supporting documents and completed probity check forms where identified throughout the form. It is essential that this information is supplied as early as possible so that checks can be processed without delaying the application timeframe. Please do not supply original documents as they will not be returned.

Background and guiding information is supplied throughout the form in italics.

Completed forms can be submitted to ADHC's Boarding House Team in the following ways:

By email: [boarding.houses@facsnsw.gov.au](mailto:boarding.houses@facsnsw.gov.au)

By post: Boarding House Team  
Ageing, Disability and Home Care  
Level 5, 83 Clarence Street  
SYDNEY NSW 2000

Once forms have been received you will be provided with the name and contact details of a nominated ADHC Officer who will consult with you to undertake the application assessment.

If you require support to complete this form please contact the ADHC Boarding House Team on 02 9377 6000 or at [boarding.houses@facsnsw.gov.au](mailto:boarding.houses@facsnsw.gov.au)

If you would like to make a complaint or seek a review of any decision relating to ADHC's administration of boarding houses, please consider the following options:

An online ADHC complaint information and submission process is at [http://www.adhc.nsw.gov.au/contact\\_us/complaints\\_procedure](http://www.adhc.nsw.gov.au/contact_us/complaints_procedure).

The NSW Ombudsman accepts complaints about NSW State Government Departments and can be contacted on 02 9286 1000. An online complaint tool is also available at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).



## 2 Declaration of Understanding

This section is to identify that you understand your legal responsibilities in the application for a licence and in the operation of an Assisted Boarding House.

This section must be endorsed by the Applicant, the Proposed Licensee and the Proposed Manager.

Applications that are not endorsed by all parties will not be accepted.

- ☐ YES I have read the Boarding Houses Act 2012 and the Boarding Houses Regulation 2013.
- ☐ YES I am aware that the Boarding Houses Act 2012 and the Boarding Houses Regulation 2013 place legal obligations on me as the Applicant / Licensee/ Approved Manager of an Assisted Boarding House.
- ☐ YES I understand that the Boarding Houses Act 2012 and the Boarding Houses Regulation 2013 prescribe penalties should I not meet my legal obligations.
- ☐ YES I understand that ADHC has a legal responsibility to investigate and respond to Assisted Boarding House compliance issues.
- ☐ YES I understand that I have the right to seek a review of a decision to refuse a Boarding House authorisation (licensing) or Manager Approval for the proposed Assisted Boarding House.
- ☐ YES I understand that I can contact ADHC to seek advice regarding the operation of an Assisted Boarding House.
- ☐ YES I understand that providing false or misleading information in relation to this application is an offence under section 95 of the Boarding Houses Act 2012.
- ☐ YES I declare that all the information I provide as part of this application is true and correct.

Applicant Endorsement

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Proposed Licensee Endorsement

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

*If the Licensee is a corporation, endorsement must be made by an authorised representative (eg Chairperson or Director)*

Proposed Manager Endorsement

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## 3 Licence Application

### 3.1 Applicant Details

This section relates to the person requesting the authorisation of a boarding house personally or on behalf of a corporation, trust, unincorporated body or body politic.

Name of person/s requesting authorisation

Address \_\_\_\_\_

Suburb \_\_\_\_\_ State: \_\_\_\_\_ Postcode \_\_\_\_\_

Postal Address \_\_\_\_\_

Suburb \_\_\_\_\_ State \_\_\_\_\_ Postcode \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Mobile \_\_\_\_\_ Email \_\_\_\_\_

Relationship of person/s named above to the proposed licensee below

\_\_\_\_\_  
\_\_\_\_\_

Has the Applicant, the Proposed Licensee or Proposed Manager previously been authorised or licensed to operate an Assisted Boarding House or Licensed Residential Centre and had that authorisation of licence cancelled, revoked, suspended or refused? ☐ YES ☐ NO

If you ticked YES please provide details below

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## 3.2 Proposed Licensee

This section relates to the person or body that will hold the licence to operate an assisted boarding house – the “Authorised Operator” or “Licensee”.

Is the Proposed Licensee a

Natural Person / Corporation / Body Politic / Trustee / Unincorporated Body

(please circle)

Is the Proposed Licensee the same as the Applicant? ☐ YES ☐ NO

If NO, name of Proposed Licensee

---

Address \_\_\_\_\_

Suburb \_\_\_\_\_ State \_\_\_\_\_ Postcode \_\_\_\_\_

Postal Address \_\_\_\_\_

Suburb \_\_\_\_\_ State \_\_\_\_\_ Postcode \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Mobile \_\_\_\_\_ Email \_\_\_\_\_

To support the approval of the Licensee please provide further information to demonstrate the individual or corporation’s capacity and experience to provide appropriate accommodation and services to additional needs residents, and to exercise overall supervision of an Assisted Boarding House. You may wish to provide copies of:

- certificates or statements of attainment for relevant courses
- written references from former or current employers
- a statutory declaration from the individual where documents are not immediately available.

Please do not send original documents as they will not be returned.

For each Proposed Licensee you must also submit a completed and signed:

- **National Police Check (Attachment A)**
- **Referee Check Form (Attachment B)**
- **Financial Capacity Form (Attachment C)**

### 3.3 Close Associates

This section relates to the identification of people who hold or will hold the following in the proposed Assisted Boarding House business: financial interest, entitlement to exercise power or influence in business operations, a position (eg director, partner, management committee member, majority shareholder or secretary). Refer to sections 38 and 45 of the *Boarding Houses Act 2012* for further information.

Are you declaring any Close Associates as part of this application?

☐ YES ☐ NO

If you ticked YES please complete and provide a **Close Associates Declaration Form (Attachment D)**.

You must also provide a completed and signed copy of the following for each Close Associate:

- **National Police Check (Attachment A)**
- **Financial Capacity Form (Attachment C)**

### 3.4 Proposed Manager

This section refers to the person who will be responsible for day to day running of the Assisted Boarding House. Please note that the Proposed Manager is required to endorse this form to support their nomination for this position.

Will the Proposed Licensee also act as the Proposed Manager?

☐ YES ☐ NO

If NO, name of proposed Manager

---

Address \_\_\_\_\_

Suburb \_\_\_\_\_ State \_\_\_\_\_ Postcode \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Mobile \_\_\_\_\_ Email \_\_\_\_\_

Does the Proposed Manager hold:

1. Tertiary Qualifications (degree or diploma) in social work, health or community work? ☐ YES ☐ NO

Details:

- 
- 
- 
2. Relevant experience in the management of Assisted Boarding Houses or Licensed Residential Centres? ☐ YES ☐ NO

Details:

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Please note that if you answered NO to both 1. and 2. above, the proposed manager will not be considered suitable for appointment. See *Boarding House Regulation 2013*, Schedule 1 Standard 3 for more information.

To support the approval of the Proposed Manager please provide further information to demonstrate the individual's capacity and experience to provide appropriate accommodation and services to additional needs residents, and to exercise overall supervision of an Assisted Boarding House. You may wish to provide copies of:

- certificates or statements of attainment for relevant courses
- written references from former or current employers
- a statutory declaration from the individual where documents are not immediately available.

*Please do not send original documents as they will not be returned.*

For each Proposed Manager you must also submit a completed and signed:

- **National Police Check (Attachment A)**
- **Referee Check Form (Attachment B)**
- **Financial Capacity Form (Attachment C)**

### 3.5 Proposed Premises

This section relates to the building that will be licensed (authorised) for use as an Assisted Boarding House.

Name (if applicable) \_\_\_\_\_

Address \_\_\_\_\_

Suburb \_\_\_\_\_ State \_\_\_\_\_ Postcode \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Mobile \_\_\_\_\_ Email \_\_\_\_\_

Local Government Area \_\_\_\_\_

Has the premises previously been used as an Assisted Boarding House or a Licensed Residential Centre? ☐ YES ☐ NO

Is the premises owned by the proposed licensee? ☐ YES ☐ NO

If you ticked NO please provide a copy of a tenancy agreement that outlines:

- the name and address of the owner
- the proposed Licensee's authority to possession of the premises
- the terms of the tenancy agreement (length and costs)

Please do not send original documents as they will not be returned.

Has the local council given consent for the premises to operate as a boarding house (either Class 1B or Class 3 building) or other relevant type or use for the proposed number of residents? ☐ YES ☐ NO

Please attach details.

The following list of premises requirements is extracted from the Boarding Houses Act 2012 and Regulation 2013. Please indicate whether your proposed premises meets the following requirements:

Requirement	Yes	No
Do the premises have emergency fire evacuation plans?		
Do the premises have current fire safety certificates and statements?		
Do all bedrooms allow for single occupancy, and can they be locked?		
Is the premises and all equipment and furnishings in		

Requirement	Yes	No
a safe, clean and hygienic condition?		
Is there adequate light, ventilation and heating in the premises?		
Are there sufficient bathroom facilities for the number of proposed residents?		
Is there a kitchen with standard appliances that can be used by residents?		
Is there secure storage for medication, luggage, recreation supplies, cleaning and outdoor equipment?		
Does the premises have the following: <ul style="list-style-type: none"> <li>■ communal space</li> <li>■ dining room</li> <li>■ private or quiet room</li> <li>■ operating telephone</li> <li>■ operating call bells</li> <li>■ laundry</li> <li>■ first aid kit.</li> </ul>		

If you answered NO to any of the above requirements, please submit a completed **Strategies for Compliance Form (Attachment E)** with your application to demonstrate how you propose to meet the requirements of the *Boarding Houses Act 2012* and *Boarding House Regulation 2013*.

If you answered YES to all of the above, further information will be sought to support your application. This may include a request to provide documents and an on-site inspection of your premises by an ADHC Officer. Further information will be provided in response to your submitted application.

### 3.6 Proposed Business Model

This section refers to the delivery of accommodation services to people with additional needs. Clause 7 of the Boarding House Regulation requires applicants to demonstrate their capacity to provide appropriate accommodation and services, and to exercise supervision in an Assisted Boarding House.

Number of residents to be accommodated in the proposed premises \_\_\_\_\_



Number of staff to be employed in the proposed premises (provide roster showing number of staff and hours to be worked)

Will volunteers be utilised to provide services to residents? ☐ YES ☐ NO

If YES, please explain the role that volunteers will have in the Assisted Boarding House operations

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Have you conducted a National Police Check for all identified staff, volunteers and/or regular contractors? ☐ YES ☐ NO

[Note: this will be required once the premises are authorised under section 84 of the *Boarding Houses Act 2012*]

Do any of the proposed staff (including the Proposed Manager) have training or experience in supporting people with additional needs to safely manage medication storage and administration? ☐ YES ☐ NO

If YES, please provide a short description of his/her experience:

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Do any of the proposed staff (including the Proposed Manager) hold current First Aid certificates? ☐ YES ☐ NO

If YES, please provide a copy (originals cannot be returned) or details of the course including dates.

---

Do any of the proposed staff (including the Proposed Manager) hold current training in the proper use of fire fighting equipment? ☐ YES ☐ NO

If YES, please provide details:

---

---

Do any of the proposed staff (including the Proposed Manager) have training or experience in the planning and preparation of meals for people with specific dietary requirements? ☐ YES ☐ NO

If YES, please provide a short description of his/her experience


If you answered NO to any of the above requirements, please submit a completed **Strategies for Compliance Form (Attachment E)** with your application to demonstrate how you propose to meet the requirements of the Boarding Houses Act 2012 and Boarding House Regulation 2013.

In order to demonstrate your business model capacity, you must also submit a copy of each of the following documents with your application:

- completed **Staffing Description Table (Attachment F)**
- sample weekly staff roster
- sample fortnightly menu
- list of proposed resident fees and charges.

You may also wish to provide copies of documents (e.g. certificates, qualifications, references) to support the statements made above. Copies of staff National Police Checks are not required except in relation the Proposed

Manager.

*Please do not send original documents as they will not be returned.*

If you answered YES to all of the above, further information will be sought to support your application. This may include a request to provide documents and/or an on-site inspection of your premises by a FACS Officer. Further information will be provided in response to your submitted application.

## 4 Definitions

**Applicant** is the person who is applying for the licence; that is, requesting the authorisation of an Assisted Boarding House. The applicant may also be the Proposed Licensee, or may be acting on behalf of the Proposed Licensee.

**Assisted Boarding House** is a boarding premises that provides beds, for a fee or reward, for use by 2 or more residents who are persons with additional needs (not counting any persons with additional needs who reside there with their competent relatives).

**Authorised Assisted Boarding House** is an Assisted Boarding House that has been granted a licence to operate as such.

**Body Politic** is an artificial legal entity having a separate legal personality.

**Close Associate** is a person who holds or will hold any relevant financial interest, entitlement to exercise authority (power or decision making), or influence the management or operation of the business. This includes position holders (e.g. chairperson, secretary, director, or partner). It does not include financial institutions.

**Corporation** is a company, a body corporate or an unincorporated body.

**Financial Management** means the appointment (legal or informal) of a substitute person or authority to make financial decisions on a person's behalf. This includes financial management by the NSW Trustee and Guardian.

**Natural Person** is an actual human being, as opposed to a legal or business entity.

**Person with additional needs** is a person with an age related frailty, a mental illness or a disability who requires support or supervision of daily tasks such as personal care, the preparation of meals or medication management.

**Premises** is a building or structure, land or place or a vehicle, vessel or aircraft.

**Proposed Licensee** is the person or corporation who will be the holder of the boarding house licence, if it is granted.

**Proposed Manager** is the person who will be authorised to be responsible for day to day operation of the Assisted Boarding House, if approved.

**Statutory Declaration** is a written statement that is witnessed by a Justice of the Peace, a Lawyer or a Notary Public.

**Trustee** is a person who acts on behalf of a trust; that is, on behalf of a group of other people (beneficiaries) who are entitled to income and asset of the trust.

**Unincorporated Body** means a partnership or other unincorporated association of persons.

## **Attachment A: National Police Check**

The National Police Check form is an online application form that must be completed electronically and then printed once complete and presented in person with identification and payment at your nearest NSW Police Station.

The website link to the online application form is:

<https://npcoapr.police.nsw.gov.au/aspx/dataentry/Introduction.aspx>

For further information on the National Police Checking Service, please contact the Criminal Records Section by telephone 02 8835 7888 between 8.30am and 4.30pm, Monday to Friday, or by email to [crs@police.nsw.gov.au](mailto:crs@police.nsw.gov.au)



# Assisted Boarding House

## Reference Check Form

This form is to be used by people seeking authorisation as a Licensee or Approved Manager of an Assisted Boarding House.

**Name of person requesting authorisation** \_\_\_\_\_

**Proposed position:** Licensee / Manager / Both (please circle)

I give approval for FACS to contact the people listed below to seek information relating to my suitability to operate an Assisted Boarding House.

Signature \_\_\_\_\_

Date \_\_\_\_\_

### Referee One Details

Name \_\_\_\_\_

Relationship to person named above \_\_\_\_\_

Address \_\_\_\_\_

Suburb \_\_\_\_\_

State \_\_\_\_\_

Postcode \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

Mobile \_\_\_\_\_

Email \_\_\_\_\_

### Referee Two Details

Name \_\_\_\_\_

Relationship to person named above \_\_\_\_\_

Address \_\_\_\_\_

Suburb \_\_\_\_\_

State \_\_\_\_\_

Postcode \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

Mobile \_\_\_\_\_

Email \_\_\_\_\_



# Assisted Boarding House

## Financial Capacity Form

This form is to be used by people seeking authorisation as a Licensee of an Assisted Boarding House.

**Name of person  
requesting authorisation:**

\_\_\_\_\_

I hereby certify that I / the company / trust (please circle or bold) do not know of any impediment to my financial capacity to operate an Assisted Boarding House.

Signature

\_\_\_\_\_

Date

\_\_\_\_\_

Please note: Department of Family and Community Services will also conduct a search of the National Personal Insolvency Index in relation to all Proposed Licensees and Close Associates named in the License Application.



# Assisted Boarding House

## Close Associates Declaration Form

This form is to be used by people seeking a licence to operate an authorised Assisted Boarding House. It is required when the applicant or proposed licensee is required to declare any people who will hold any relevant financial interest, entitlement to exercise authority (power or decision making), or influence the management or operation of the business. This includes position holders (eg chairperson, secretary, director, or partner). It does not include financial institutions.

**Name of person requesting  
authorisation**

**Proposed  
Licensee**

I declare that the people identified below are close associates of the Assisted Boarding House for which I am seeking authorisation.

Applicant Signature

Date

Proposed Licensee Signature

Date

Name	Address	Phone	Email	Interest





Name	Address	Phone	Email	Interest

Please note that each declared Close Associate must also complete a **Criminal Record Check Form** and a **Financial Capacity Check Form**. Copies of these forms must be submitted with the Assisted Boarding House Licence Application.



# Assisted Boarding House

## Strategies for Compliance Form

This form is to be used by people seeking a licence to operate an authorised Assisted Boarding House. It is required when elements of either the premises or the business model do not yet meet the requirements of the Boarding Houses Act 2012 or Boarding Houses Regulation 2013. The purpose of this form is to identify these and to propose strategies and timeframes for compliance as part of the licence application and assessment process.

**Please note that only one Strategies for Compliance form should be submitted in response to Sections 2.5 and 2.6 of the Assisted Boarding House Licence Application form. Responses to both sections can be combined on the single form.**

**Applicant** \_\_\_\_\_ **Proposed Licensee** \_\_\_\_\_

**Proposed Premises** \_\_\_\_\_

The details given below outline the strategies I/we will undertake within given timeframes to ensure compliance with the requirements of the Boarding Houses Act 2012 or Boarding Houses Regulation 2013. This information is submitted to support my/our Assisted Boarding House licence application.

Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

Proposed Licensee Signature \_\_\_\_\_ Date \_\_\_\_\_



Requirement	Proposed Strategy for Compliance	Timeframe
<i>EXAMPLE: Staff First Aid</i>	<i>Proposed Manager booked in for Senior First Aid Course on 20 and 21 July 2013.</i>	<i>Before 22 July 2013</i>



Requirement	Proposed Strategy for Compliance	Timeframe



## 5 Assisted Boarding House

### Staffing Description Table

This form is to be used by people seeking a licence to operate an authorised Assisted Boarding House to detail the staffing arrangements for the premises. Please note that the Licensee has a responsibility to ensure that all staff members are suitable people to be involved in the management or operation of an Assisted Boarding House. This requires that:

- a new criminal record check is completed before engaging staff and repeated every three years during their employment
- all staff have the required knowledge and skills to deliver quality services to people with additional needs.

**Applicant** \_\_\_\_\_ **Proposed Licensee** \_\_\_\_\_

**Proposed Premises** \_\_\_\_\_

The details given below outline the staffing provisions I/we will make at the proposed Assisted Boarding House.

Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

Proposed Licensee Signature \_\_\_\_\_ Date \_\_\_\_\_

Position Title	Main Responsibilities	Frequency at ABH	Number to be Employed	First Aid Qualified
<i>EXAMPLE #1: Cleaner</i>	<i>Maintenance of Bedrooms and Communal Areas (Vacuuming, Mopping, Changing Sheets)</i>	<i>Daily</i>	<i>3</i>	<i>No</i>



Position Title	Main Responsibilities	Frequency at ABH	Number to be Employed	First Aid Qualified
<i>EXAMPLE #2: Manager</i>	<i>Staff management, Resident Support, Incident Response, Issue of Receipts (finance)</i>	<i>Mon - Friday</i>	<i>1</i>	<i>Yes</i>



Position Title	Main Responsibilities	Frequency at ABH	Number to be Employed	First Aid Qualified



## Appendix 6: Application Received Letter Template

NAME  
ADDRESS

AHI <insert file no>

Dear NAME

**APPLICATION TO OPERATE AN AUTHORISED ASSISTED BOARDING  
HOUSE AT**

**PREMISES: ADDRESS**

Your application to operate an Authorised Assisted Boarding House under Part 4 Section 44 of the *Boarding Houses Act 2012* was received at this office on (insert date received)

Your application is currently under consideration and will be processed for recommendation within 40 days.

In the meantime should you have any questions regarding the application process, please contact (insert name) on (insert number).

Yours sincerely

NAME  
DELEGATED OFFICER



# Appendix 7: Assisted Boarding Houses

## Licence Application Checklist

ABH Name \_\_\_\_\_

Address of premises \_\_\_\_\_

	Yes	No	Notes
Is the Declaration of Understanding signed by all parties?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3.1 Applicant Details</b>			
Has the applicant completed all parts of this section?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the applicant the Applicant, the Proposed Licensee or Proposed Manager previously been authorised or licensed to operate an Assisted Boarding House or Licensed Residential Centre and had that authorisation of licence cancelled, revoked, suspended or refused?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3.2 Proposed Licensee</b>			
Has the applicant completed all parts of this section?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the applicant provided appropriate supporting documentation to demonstrate their capacity and experience to operate an Assisted Boarding House?	<input type="checkbox"/>	<input type="checkbox"/>	Details:
Completed National Police Check attached?	<input type="checkbox"/>	<input type="checkbox"/>	
Completed Referee Check attached?	<input type="checkbox"/>	<input type="checkbox"/>	
Completed Financial Capacity Form attached?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3.3 Close associates</b>			
Is the applicant declaring any close associates?	<input type="checkbox"/>	<input type="checkbox"/>	

If yes, has the applicant provided a completed Close Associates Declaration Form AND a completed National Police Check AND a completed Financial Capacity Form?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3.4 Proposed Manager</b>			
Has the applicant completed all required parts of this section?	<input type="checkbox"/>	<input type="checkbox"/>	
Does the Proposed Manager hold appropriate tertiary qualifications or relevant experience to manage an Assisted Boarding House?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the applicant provided appropriate supporting documentation to demonstrate the Proposed Manager's capacity and experience to operate an Assisted Boarding House?	<input type="checkbox"/>	<input type="checkbox"/>	Details:
Completed National Police Check attached?	<input type="checkbox"/>	<input type="checkbox"/>	
Completed Referee Check attached?	<input type="checkbox"/>	<input type="checkbox"/>	
Completed Financial Capacity Form attached?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3.5 Proposed Premises</b>			
Has the applicant completed all required parts of this section?	<input type="checkbox"/>	<input type="checkbox"/>	
If the premises is not owned by the Proposed Licensee, has the applicant provided a copy of the tenancy agreement as specified?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the applicant answered YES to all of the requirements listed from the BH Act and BH Regulation?	<input type="checkbox"/>	<input type="checkbox"/>	
If not, has the applicant provided a completed Strategies for Compliance Form for each of the requirements for which they answered NO?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3.6 Proposed Business Model</b>			
Has the applicant completed all required parts of	<input type="checkbox"/>	<input type="checkbox"/>	

this section?			
Is the proposed number of residents to be accommodated 30 or less to meet BH Regulation Schedule 1 Standard 6?	<input type="checkbox"/>	<input type="checkbox"/>	
Does the proposed number of staff and staff roster demonstrate that at least one member of staff will be on duty at all times to meet BH Regulation Schedule 1 Standard 1?	<input type="checkbox"/>	<input type="checkbox"/>	
If volunteers are to be engaged, has the applicant demonstrated they will not be used to meet the minimum staffing requirements as per BH Regulation Schedule 1 Standard 4?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the applicant conducted a National Police Check for all identified, staff, volunteers and regular contractors as per section 84 of the BH Act?	<input type="checkbox"/>	<input type="checkbox"/>	
Do the proposed staff have the knowledge and skills to support people with additional needs as per BH Regulation Schedule 1 Standard 2?	<input type="checkbox"/>	<input type="checkbox"/>	
If the applicant answered NO to any questions regarding staff skills and training, is a completed Strategies for Compliance Form attached addressing each one?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the application attached all of the following: <ul style="list-style-type: none"> <li>■ completed Staffing Description Table</li> <li>■ sample weekly staff roster</li> <li>■ sample fortnightly menu</li> <li>■ list of proposed fees and charges</li> <li>■ proposed complaints handling procedure</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	

Name

---

Signature

---

Date

---



## Appendix 8: Licence Refused Letter Template

NAME  
ADDRESS

AHI <insert file no>

Dear NAME

### **APPLICATION TO OPERATE AN AUTHORISED ASSISTED BOARDING HOUSE**

**PREMISES: ADDRESS**

I regret to advise that your application to operate an Authorised Assisted Boarding House has been unsuccessful.

After careful consideration the Director-General, Department of Family and Community Services has seen fit to refuse your Licence application for the following reasons:

### **OUTLINE REASONS AND MAKE REFERENCE TO RELEVANT BH ACT AND REGULATIONS**

If you do not agree with the decision set out in this letter, you can apply for an internal review within 28 days of being told of the decision. Your right to an internal review is set out in section 87 of the *Boarding Houses Act 2012* (NSW) and Part 2 of the *Administrative Decisions Tribunal Act 1997* (NSW).

You can request an internal review by writing to ADHC at the address set out in this letter. In your letter to ADHC, please explain what decision you want reviewed. Also please provide the address that you want ADHC to use to notify you of the outcome of the internal review.

The internal review will be dealt with by an ADHC officer who was not involved in the original decision. The officer doing the internal review must provide you with details of the outcome of the review within 21 days of receiving your review request.

If you wish to appeal this decision further you may contact the Administrative Decisions Tribunal by phone on 9377 5711 or in writing at Level 10, John Maddison Tower, 86-90 Goulburn Street, SYDNEY NSW 2000.

If you have any queries in relation to this matter, please do not hesitate to contact [insert name] on [insert number].

Yours sincerely

NAME  
**DELEGATED OFFICER**

## Appendix 9: Assisted Boarding House Licence Template

# Licence

to conduct an

## Authorised Assisted Boarding House

issued in accordance with the

## Boarding Houses Act 2012

This Licence is converted from a Licence previously issued under the *Youth and Community Services Act 1973*.

A converted Licence is hereby granted under Schedule 2, Section 5 of the *Boarding Houses Act 2012* to:

### Name of Licensee

for premises situated at:

### Name and address of premises

**Name/s of Approved Manager/s** are authorised to operate an Assisted Boarding House at the above premises.

This Licence is granted for the period **START DATE** to **END DATE**.

The maximum number of persons, including staff, who may, at the one time reside at the premises is **xxx** until 1 July 2018, and no greater than 30 thereafter.

This Licence is granted subject to the provisions of the Boarding Houses Act 2012 and Boarding Houses Regulation 2013.

**Licence No:** **AH13/XXXXX**

Dated this **day** of **month** **year**

**Delegated Officer**



## Appendix 10: Licence Issued Letter Template

NAME  
ADDRESS

AHI <insert file no>

Dear NAME

### LICENCE TO OPERATE AN AUTHORISED ASSISTED BOARDING HOUSE AT

PREMISES: ADDRESS

I am pleased to advise you that your application to operate an Authorised Assisted Boarding House under section 44 of the *Boarding Houses Act 2012* (*BH Act*) at the above named address has been approved.

Enclosed in this correspondence is a copy of Licence (insert licence number) and the *Boarding Houses Regulation 2013*.

You should be aware, as the Licensee you are required to display a copy of the enclosed Licence in a conspicuous position at the above named premises. Failure to do so is a breach of section 53 of the *Boarding Houses Act 2012*.

If you have any queries in relation to this matter, please do not hesitate to contact [insert name] on [insert number].

Yours sincerely

NAME  
DELEGATED OFFICER

## Appendix 11: Arranging ADHC Funded Supports for Residents

When assessing a Licence Application, it is important to consider the provision of the following services for people with additional needs who will be residing at the premises as required:

- Active Linkage Initiative (ALI) services
- primary and secondary health services
- ADHC caseworkers
- Personal Care Services provided by Home Care

Arranging ADHC-funded supports for residents will generally be undertaken by local ADHC Boarding House Caseworkers, however in districts where there are no Boarding House Caseworkers it may be necessary for Boarding House Compliance Officers to investigate available supports. This document also details the responsibilities of the Contemporary Residential Options Directorate as the budget holder.

### Process

1. Discuss with the budget holder the best approach and current availability of funds for these programs:
  - a. consider a new allocation of BHRP funding if available
  - b. consider a review of existing funded services for extra capacity resulting from Assisted Boarding House closures within the region (if any) in that financial year
  - c. work with the budget holder to review the percentage of Assisted Boarding House beds within regions as a percentage of the state total in order to adjust funding levels across the state at the end of the financial year, giving consideration to Assisted Boarding House closures and new Licence Applications
  - d. consider combined approaches such as utilising existing services and then adjusting levels at the end of the financial year.
2. Determine the appropriate purchasing method in line with ADHC's current procurement policy, or enter into negotiation with the relevant service providers based on the agreed approach for identifying available funds and the Licence being issued.
3. Prepare a submission for the endorsement of the delegated officer seeking approval for the allocation of funds from the BHRP for each service type, detailing:
  - a. a brief history of the Licence application
  - b. the number of beds
  - c. any particular concerns or capacity issues identified (eg access or transport needs etc)
  - d. the recommended amount of funding to be provided to the service provider, including how this amount was determined
  - e. the purchasing strategy for each service type under the BHRP

- f. any recommended service providers where a direct allocation is being sought
  - g. a Description of Funded Service (DoFS) approved by the delegated officer for any direct allocations sought.
- 4. Once the submission has been endorsed by the delegated officer, the officer must file and action the submission, purchasing the services in the approved way and advising service providers of the outcome in writing.



## Appendix 12: Interim Permit Template

# Interim Permit

to conduct an

## Authorised Assisted Boarding House

issued in accordance with the

## Boarding Houses Act 2012

An Interim Permit is hereby granted under section 54 of the *Boarding Houses Act 2012* to:

### Name of Interim Permit Holder

for premises situated at:

### Name and address of premises

**Name/s of interim Approved Manager/s** are authorised to operate an Assisted Boarding House at the above premises.

This Interim Permit is granted for the period **START DATE** to **END DATE**.

The maximum number of persons, including staff, who may, at the one time reside at the premises is **xxx**.

This Interim Permit is granted subject to the provisions of the Boarding Houses Act 2012 and Boarding Houses Regulation 2013.

**Interim Permit No: AH13/XXXXX**

Dated this **day** of **month** **year**

**Delegated Officer**



## Appendix 12a: Interim Permit Letter

NAME  
ADDRESS

AHI <insert file no>

Dear NAME

**APPROVAL FOR AN INTERIM PERMIT TO OPERATE AN AUTHORISED  
ASSISTED BOARDING HOUSE AT**

**PREMISES: ADDRESS**

I am pleased to inform you your application for an Interim Permit to operate an Authorised Assisted Boarding House under Part 4 Section 54 of the *Boarding Houses Act 2012* at the above address has been approved.

Enclosed in this correspondence is the Interim Permit dated (insert date) which remains in force for period specified in the permit.

As the Licensee you are required under Part 4 Section 53 of the Act to display the enclosed permit in a conspicuous position at the above premises.

If you have any queries in relation to this matter, please do not hesitate to contact [insert name] on [insert number].

Yours sincerely

NAME  
DELEGATED OFFICER

## Appendix 13: Notice to Revoke an Interim Permit

<Insert Name>

<Insert Address>

AHI <insert file no>

### REVOCATION OF INTERIM PERMIT UNDER THE BOARDING HOUSES ACT 2012 (NSW) PART 4, SECTION 57

For the premises at **insert address of premises**

Permit Holder: **insert name of Licensee**

Permit Number: **insert permit number**

Dear <Name>

Pursuant to section 57 of the *Boarding Houses Act 2012*, I hereby advise that the Interim Permit for **insert address of premises** is revoked.

The Interim Permit is being revoked because the I am of the opinion that a condition of the permit has been contravened, or for the following reasons: **insert details of the condition being breached or the parts of the BH Act or BH Regulation being breached, or other ground.**

Listed below are the reasons for the revocation:

**Set out facts that the revocation is based on, and relate to sections of the Act/ Regulation. Where there has been an accumulation of small breaches, list the compliance action to date.**

Enclosed is a *Surrender of Licence, Interim Permit or Manager Approval* form which you need to fill in and return with the Interim Permit.

You must return the Interim Permit to ADHC at the address in this letter within 28 days of receiving this notice. Under section 57(3) of the *Boarding Houses Act 2012*, failure to return the Interim Permit is a breach of the Act with a maximum penalty of \$1,650.

If you do not agree with the decision set out in this letter, you can apply for an internal review within 28 days of being told of the decision. Your right to an internal review is set out in section 87 of the *Boarding Houses Act 2012* (NSW) and Part 2 of the *Administrative Decisions Tribunal Act 1997* (NSW).

#### Office of the Chief Executive

Ageing, Disability and Home Care, Department of Family and Community Services  
Level 5, 83 Clarence Street, Sydney NSW 2000 | T (02) 8270 2000 | DX 10485 SSE | TTY (02) 8270 2167  
Translating and Interpreting Service 13 14 50 | ABN 82 016 305 789 | [www.adhc.nsw.gov.au](http://www.adhc.nsw.gov.au)

You can request an internal review by writing to ADHC at the address set out in this letter. In your letter to ADHC, please explain the decision you want reviewed, and the reason why you think the decision is wrong. Also please provide the address that you want ADHC to use to notify you of the outcome of the internal review.

The internal review will be dealt with by an ADHC officer who was not involved in the original decision. The officer doing the internal review must provide you with details of the outcome of the review within 21 days of receiving your review request.

If you wish to appeal the internal review decision, you may contact the Administrative Decisions Tribunal by phone on 9377 5711 or in writing at Level 10, John Maddison Tower, 86-90 Goulburn Street, SYDNEY NSW 2000.

For more information, please contact <Insert Name>, <Insert Position Title> on <insert phone number>.

Yours sincerely

**Jim Longley**  
**Chief Executive**

## Appendix 14: Notice to Suspend a Licence Template

<Insert Name>

<Insert Address>

AHI <insert file no>

### **SUSPENSION OF LICENCE UNDER THE BOARDING HOUSES ACT 2012 (NSW) PART 4, SECTION 49**

**For the premises at** insert address of premises

**Licensee:** insert name of Licensee

**Approved Manager(s):** insert names(s)

**Licence Number:** insert permit number

Dear <Name>

Pursuant to section 49 of the *Boarding Houses Act 2012*, I hereby advise that the Licence for insert address of premises is suspended for insert number – note this must be no more than six months with the suspension date ending on insert date allowing four additional days if this notice is being sent via post.

The Licence is being suspended because: [use whichever of the below are applicable]

- I am of the opinion that the Licensee or a close associate is no longer a suitable person to be involved in the management or operation of the licensed boarding house
- I am of the opinion that the continued use of the Assisted Boarding House under the Licence would constitute an unacceptable risk to the safety, welfare or wellbeing of any person with additional needs or other persons residing in the premises
- I am of the opinion that the licensee has contravened any provision of the BH Act or BH Regulation
- I am of the opinion that a condition of the Licence has been contravened. .

Listed below are the reasons for the suspension:

Set out facts that the suspension is based on, and relate to sections of the Act/ Regulation. Where there has been an accumulation of small breaches, list the compliance action to date.

#### **Office of the Chief Executive**

Ageing, Disability and Home Care, Department of Family and Community Services  
Level 5, 83 Clarence Street, Sydney NSW 2000 | T (02) 8270 2000 | DX 10485 SSE | TTY (02) 8270 2167  
Translating and Interpreting Service 13 14 50 | ABN 82 016 305 789 | [www.adhc.nsw.gov.au](http://www.adhc.nsw.gov.au)

*[optional]*

During the period of suspension, the suspended licensee is required to comply with the following conditions:

**[list conditions]**

If these conditions are satisfactorily met during the period, FACS may reinstate the license.

If the conditions are not satisfactorily met during this period, the Licence will automatically, and without further notice, be cancelled at the end of the period.

If you do not agree with the decision set out in this letter, you can apply for an internal review within 28 days of being advised of this decision. Your right to an internal review is set out in section 87 of the *Boarding Houses Act 2012* (NSW) and Part 2 of the *Administrative Decisions Tribunal Act 1997* (NSW).

You can request an internal review by writing to ADHC at the address set out in this letter. In your letter to ADHC, please explain the decision you want reviewed and the reasons you think the decision are wrong. Also please provide the address that you want ADHC to use to notify you of the outcome of the internal review.

The internal review will be dealt with by an ADHC officer who was not involved in the original decision. The officer doing the internal review must provide you with details of the outcome of the review within 21 days of receiving your review request.

If you wish to appeal the internal review decision you may contact the Administrative Decisions Tribunal by phone on 9377 5711 or in writing at Level 10, John Maddison Tower, 86-90 Goulburn Street, SYDNEY NSW 2000.

For more information, please contact <Insert Name>, <Insert Position Title> on <insert phone number>.

Yours sincerely

**Jim Longley**  
**Chief Executive**

## Appendix 15: Notice to Cancel a Licence Template

<Insert Name>

<Insert Address>

AHI <insert file no>

### NOTICE TO CANCEL A LICENCE UNDER THE BOARDING HOUSES ACT 2012 PART 4, SECTION 49

**For the premises at** insert address of premises  
**Licensee:** insert name of Licensee  
**Approved Manager(s):** insert names(s)  
**Licence Number:** insert permit number

Dear <Name>

Pursuant to section 49 of the *Boarding Houses Act 2012*, I hereby advise that the Licence for insert address of premises is cancelled.

The Licence is being cancelled because: [use whichever of the below are applicable]

- I am of the opinion that the Licensee or a close associate is no longer a suitable person to be involved in the management or operation of the licensed boarding house
- I am of the opinion that the continued use of the Assisted Boarding House under the Licence would constitute an unacceptable risk to the safety, welfare or wellbeing of any person with additional needs or other persons residing in the premises
- I am of the opinion that the licensee has contravened any provision of the BH Act or BH Regulation
- I am of the opinion that a condition of the Licence has been contravened. .

Listed below are the reasons for the cancellation:

Set out facts that the suspension is based on, and relate to sections of the Act/ Regulation. Where there has been an accumulation of small breaches, list the compliance action to date.

#### Office of the Chief Executive

Ageing, Disability and Home Care, Department of Family and Community Services  
Level 5, 83 Clarence Street, Sydney NSW 2000 | T (02) 8270 2000 | DX 10485 SSE | TTY (02) 8270 2167  
Translating and Interpreting Service 13 14 50 | ABN 82 016 305 789 | www.adhc.nsw.gov.au

Enclosed is a *Surrender of Licence, Interim Permit or Manager Approval* form which you need to fill in and return with the Licence.

You must return the Licence to ADHC at the address in this letter within 28 days of this notice (unless you are requesting a review of the decision). Under section 49(3) of the *Boarding Houses Act 2012*, failure to surrender the Licence is a breach of the Act, with a maximum penalty \$1,650.

If you do not agree with the decision set out in this letter, you can apply for an internal review within 28 days of being told of the decision. Your right to an internal review is set out in section 87 of the *Boarding Houses Act 2012* (NSW) and Part 2 of the *Administrative Decisions Tribunal Act 1997* (NSW).

You can request an internal review by writing to ADHC at the address set out in this letter. In your letter to ADHC, please explain what decision you want reviewed. Also please provide the address that you want ADHC to use to notify you of the outcome of the internal review.

The internal review will be dealt with by an ADHC officer who was not involved in the original decision. The officer doing the internal review must provide you with details of the outcome of the review within 21 days of receiving your review request.

If you wish to appeal this decision further you may contact the Administrative Decisions Tribunal by phone on 9377 5711 or in writing at Level 10, John Maddison Tower, 86-90 Goulburn Street, SYDNEY NSW 2000.

For more information, please contact <Insert Name>, <Insert Position Title> on <insert phone number>.

Yours sincerely

**Jim Longley**  
**Chief Executive**





## Appendix 16: Resident Relocation Protocol

# Licensed Residential Centre Resident Relocation Protocol

**Note**

All references to “Licensed Residential Centre” apply to Authorised Assisted Boarding Houses.

It is planned to review and revise this document in due course to ensure it fully aligns with the *Boarding Houses Act 2012* and *Boarding Houses Regulation 2013*.

Version 2.0

Accommodation Support Directorate  
NSW Family & Community Services, Ageing, Disability and Home Care

May 2011



**Family &  
Community Services**  
Ageing, Disability & Home Care

# Document approval

The ***Protocol*** has been endorsed and approved by:

---

Executive Director Michelle Dodd

Approved: 21 June 2011

☒ Signature on file

## Document version control

Distribution: **External Document**

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Date: May 2011

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# 1 PART ONE: INTRODUCTION

## 1.1 INTRODUCTION

The NSW Family and Community Services, Ageing Disability and Home Care (ADHC) is responsible for a range of functions related to Licensed Residential Centre, in New South Wales (NSW) including:

- regulating and monitoring boarding houses under the *NSW Youth and Community Services Act 1973* (YACS Act);
- administering the Boarding House Reform Program under which the Boarding House Relocation Program is managed; and
- leading the Inter-Departmental Committee on the reform of shared private residential services.

A Licensed Residential Centre (LRC) is a private business enterprise, licensed by ADHC under the YACS Act to operate as a residential centre that accommodates two or more people with a disability, who also require supervision and support. LRCs are subject to a set of Licence Conditions which outline minimum standards for provision of the accommodation service. Licensees receive no direct government funding for provision of the accommodation service to people who reside in these premises.

Until the introduction of the Screening Tool for Entry in to a LRC there was no restriction on the level of dependency or support needs of people entering and residing in an LRC. This resulted in a number of residents being inappropriately accommodated. In 1997, an assessment of residents living in LRCs identified many residents whose needs were too high to be supported within this setting. This contributed to the development of a strategy endorsed by the NSW Government, known as the Boarding House Reform Program (BHRP).

Under the BHRP residents requiring relocation due to a LRC closure or because their needs have changed may be eligible for funding to relocate to more appropriate accommodation. Vacancy Management Guidelines for this program can be found at:

<http://www.dadhc.nsw.gov.au/NR/rdonlyres/1C1C9A60-D30D-47C2-87B3-FA769A3B451A/5373/VacancyManagementGuidelines2010.pdf..>

## 1.2 RESIDENTS OF LICENSED RESIDENTIAL CENTRES

Residents of LRCs may have a disability and or conditions such as:

- psychiatric disability
- intellectual disability
- physical disability
- sensory disability
- acquired brain injury
- alcohol related brain damage
- chronic organic brain syndrome
- aged related disability
- physical health problem;
- or any combination of these disabilities, and require supervision or social habilitation.

## **1.3 PURPOSE**

The purpose of the LRC Relocation Protocol (the Protocol) is to document for operational use, agreed procedures for the relocation of residents with a disability usually in the event of the closure of a LRC or in the event of a reduction in the capacity of an LRC. When such circumstances arise it will be necessary for ADHC, as the agency responsible for a range of functions related to Licensed Residential Centres, to assist people with a disability to identify and secure a range of supports suited to their individual needs and assist them to relocate and transition to appropriate alternative accommodation and support services.

In instances of individual residents required to relocate due to their changing needs, the ADHC Regional Boarding House Reform Case Worker will be responsible for the relocation.

The parties to the Protocol agree that the best outcome for residents is to maximise choice of support and accommodation based on assessed needs, with no reduction in lifestyle choices.

## **1.4 ENDORSEMENT**

The following agencies are the parties to the Protocol:

- NSW Family and Community Services;
  - Ageing, Disability and Home Care;
  - Housing NSW;
- NSW Health.

## **1.5 IMPLEMENTATION AND MANAGEMENT**

The implementation of the Protocol is the joint responsibility of all parties. ADHC will provide administrative support and manage the operational processes for each closure.

This Protocol will be supplemented as required by procedures from relevant agencies who are parties to it. This includes specific organisational arrangements such as the identity, by position title, of officers nominated to perform functions required by the Protocol.

## **1.6 ROLES AND FUNCTIONS**

### **1.6.1 Statutory Powers**

The role of Government in NSW in relation to LRCs encompasses both regulation and service provision. Statutory powers relating to public health, building regulations and usage, fire safety and licensing of boarding houses are covered by legislation administered by ADHC, NSW Health, Planning NSW and Local Government Authorities (LGAs).

The NSW Trustee and Guardian when appointed to act for individuals, have statutory responsibilities for financial management and decision making via guardianship orders. The NSW Trustee and Guardian may be responsible for clients in an LRC that require relocation. Alternatively, a family member or friend of a resident may also hold statutory responsibilities if they have been appointed by the Guardianship Tribunal or Court as a guardian or financial manager. These parties play a significant role in the local implementation of this Protocol.

### **1.6.2 Service Functions**

The direct service responsibility of people who require relocation from a LRC lies with:

- ADHC through its direct services such as the Boarding House Reform Caseworker as well as services it funds under the Boarding House Reform Program such as the Active Linking Initiative (ALI); Homecare NSW; Primary and Secondary Health Care Services; and advocacy support;
- NSW Health, principally the Area Mental Health Services may also support residents with a mental health diagnosis. NSW Health provides specialist services to address the clinical needs of people with mental health and other health needs. It works in partnership with other government and non-government agencies that provide disability support services to people with mental illness.

In the event of a closure of an LRC, its reduction in capacity or a person's changing needs which can no longer be met by the LRC, additional agencies, such as those listed below, may also play a significant role in the implementation of this Protocol:

- The Commonwealth Department of Health and Ageing in respect of the provision of aged accommodation and other services including Aged Care Assessment Teams (ACATs) for the assessment of aged care needs;
- Housing NSW in working to assess housing needs and to identify appropriate public and community housing products and services that could be available for eligible consumers.

In many cases, LRC residents may also be receiving services and supports from a range of community based services including general practitioners, independent specialist medical practitioners, church or local neighbourhood services.

In the event that the support needs of some residents will not guarantee eligibility for services from NSW Health, Housing NSW or ADHC regional Community Support Services; processes outlined in this Protocol will address this issue and ensure the appropriate relocation to alternative accommodation and support services.

### **1.6.3 Rights and interests of people with disability**

Maximum opportunity shall be provided to each person with a disability requiring relocation to make decisions about their future care and support.

ADHC funds advocacy support for residents of LRCs under the Boarding House Reform Program. The intention of such advocacy is to provide residents of LRCs with a mechanism and necessary means of support to maximise the level of control they have over their lives through their access to information and the representation of their interests and views.

The nominated advocacy service contracted by ADHC to prioritise advocacy and/or information services to residents who are required to relocate should play an active and consultative role at all stages of the closure and relocation of residents.

ADHC currently funds People With Disability Australia to provide advocacy services for people in LRCs, including people affected by closures. However, some increased advocacy supports may also need to be considered with some closures.

For those residents who have alternative advocacy support which can act in their best interest, such as family members, these advocates also need to have input into decisions about the person's relocation.

## 2 PART TWO: PROCEDURES AND OUTCOMES

### 2.1 RESPONSIBILITY AND CO-ORDINATION OF PROTOCOL

Whilst the coordination of the relocation of residents from a LRC rests with the relevant ADHC region, relocation of the residents is the joint responsibility of all government agencies party to the Protocol. The partnership between ADHC, NSW Health and Housing NSW aims to ensure the success of the relocation and transition of all people with a disability.

The relevant ADHC Region will be responsible for providing administrative support throughout the relocation process.

### 2.2 TRIGGERING THE PROTOCOL

The requirement for notification of changes in the operation of the LRC by the Licensee or Licensed Manager is contained in each of the LRCs Licence Conditions. The Licence Conditions requires them to give ADHC notice of the closure, however this does not always happen in practice and the need to relocate residents due to a closure, a reduction in capacity or changing needs of residents can be immediate, or a matter of days.

It is also recognised that in practice, any of the parties involved in supporting residents in LRCs may be the first to know of a closure, the likelihood of a closure, a reduction in the LRCs capacity or the changing needs of resident/s. It is important that all parties ensure that such information is provided to the relevant ADHC Regional Manager as soon as it is known so that information can be shared with Protocol partners in a timely manner.

### 2.3 MANAGING CLOSURES

#### 2.3.1 Role of ADHC Regional Manager / Closure Operations Coordinator

On receipt of the notification of a closure, the likelihood of a closure, a reduction in the LRCs capacity or the changing need of resident/s, the relevant ADHC Regional Manager will immediately:

- a) appoint an ADHC officer to undertake the role of Closure Operations Coordinator who will have day-to-day management of the closure response and ensure they immediately notify all legal guardians, persons responsible, family (where the resident gives consent), nominated advocates and/or the nominated advocacy service contracted by ADHC to provide support to boarding house residents who are required to relocate due to the closure of a LRC or other reasons;
- b) provide a briefing to the relevant delegated officer (in the instance of a closure, the Minister's Office should be notified);
- c) inform, or have the Closure Operations Coordinator inform, all relevant agencies that are parties to this Protocol that the Protocol has been triggered and provide any known information relevant to the relocation, such as:
  - circumstances leading to the relocation of resident/s;

- any known circumstances of those affected, including number of residents, known support needs etc;
  - proposed date for relocation and any general timelines for action;
- d) request, or have the Closure Operations Coordinator request, contact details of a senior officer in the central and or regional administration of the relevant agency appointed as the agency's primary contact person and representative on the Relocation Committee that will oversee the closure response;
- e) ensure that the Regional Licensing Officer:
- obtains from the Licensee a complete list of affected residents and any known details relating to their care and support including information contained in the Resident Information Register kept by the Licensee as a requirement of Regulation 20 of the *Youth and Community Services Regulation 2010*;
  - notifies all residents affected;
  - monitors any arrangements entered into during, or as an outcome of a closure or reduction in capacity to ensure they do not involve a breach of the YACS Act, licence conditions or regulation and
  - acts to ensure appropriate redress for any breaches of the YACS Act, licence conditions or regulation.

### **2.3.2 The Relocation Committee<sup>1</sup>**

The Relocation Committee is a local committee of workers who have direct responsibilities to the residents of the LRC affected by the need for relocation. The primary objective of the Relocation Committee is to oversee the interests of residents through its representatives and to co-ordinate a service response from all agencies to the needs of the residents affected.

The nominated ADHC Closure Operations Co-ordinator acts as convenor and should convene the Relocation Committee meeting within five working days of the notification of closure, reduction in capacity or identification of a number of residents whose needs can no longer be met by the LRC. Core members of the Relocation Committee may include:

- representatives from ADHC including Licensing Officers and Boarding House Caseworkers;
- NSW Trustee and Guardian;
- NSW Health including ACAT services;
- Housing NSW;;
- the relevant ALI Service Provider;
- the nominated Boarding House Advocacy Service and
- any other representatives from a funded Disability or Home and Community Care organisation providing services to the nominated residents.

---

<sup>1</sup> In the 2003 Closure Protocol two committees with discrete roles were identified, a Service Provider Committee, and a Senior Officers Group. In summary the 2003 Protocol stated that Service Provider Group would develop a Plan for approval by the Senior Officers Group. Feedback from ADHC regions indicate that in practice, this was sometimes difficult to implement due to the short period given for closures, and also membership of the Service Provider Committee and the Senior Officers Group sometimes overlapped both in agency representation and individual membership and so was not the most efficient use of time and resources. Also, where funding was involved ultimate approval was usually with ADHC Executive in Central Office, not the Senior Officers Group.

Therefore, this Protocol has combined the roles, responsibilities and membership of the two committees into the Relocation Committee. Where a long period of closure is given, nothing in this Protocol is meant to prevent the ADHC Region from establishing two committees as per the 2003 Protocol if they believe this will work better for them.



The Closure Operations Co-ordinator convenes the Relocation Committee in order to:

- a) carry out assessments of residents to identify/confirm their support needs and seek, where possible, reports from regional ADHC boarding house case workers on the service needs profile of the residents;
- b) ensure consultation occurs with each resident about their needs, wishes and choices for relocation and that these are taken into consideration;
- c) develop an Operational Plan based on residents' assessments, profiles and consultation and have the Plan approved by ADHC regional and executive management. (The time periods nominated in this protocol may be at the discretion of the ADHC region if reasonable notice is given by the Licensee for the closure of the LRC);
- d) develop individual transition plans for each resident based on the Operational Plan;
- e) monitoring the process and outcome for each resident affected by relocation including ensuring that every resident is accounted for in terms of acceptable care and accommodation and that sufficient resources are provided;
- f) identifying and addressing any resource shortfalls identified by the Operational Plan to ensure the adequate allocation of resources and its full implementation;
- g) the resolution of any issues of service eligibility and jurisdiction and to identify a provider or funding source to ensure that appropriate recurrent services and supports are provided; and
- h) evaluating the success of the Operational Plan.

### **2.3.3 The Operational Plan**

The Relocation Committee is responsible for assisting in the preparation and implementation of the Operational Plan for submission to ADHC regional and executive management for endorsement. The drafting of the Operational Plan is the responsibility of the Closure Operations Co-ordinator, with Relocation Committee representatives responsible for the provision of all details related to their service response to each resident eligible for their services.

The Operational Plan should identify any resource shortfall that will need to be secured with recommendations. When issues about service provision, including eligibility and advocacy, cannot be resolved by the Relocation Committee, the Closure Operations Co-ordinator must ensure they are brought promptly to the attention of ADHC regional and executive management through the relevant Regional Manager. Any unresolved relocations must be identified.

The Relocation Committee through the development of an Operational Plan must ensure that each resident is accounted for and that his or her relocation and support requirements are identified, documented and addressed. Residents not eligible for services from NSW Health, ADHC or Housing NSW who need assistance with relocation will be referred to appropriate agencies for assessment and casework services. ADHC Boarding House Caseworkers will make referrals for these services.

The Operational Plan should ensure the following:

- that the rights of residents are protected;
- the need and consent for assistance with the relocation for each resident is identified, including ensuring applications for appointment of financial managers and guardians are made where required and advocacy services are utilised;
- an appropriate service response is planned and outlined in a transition plan for each resident covering the transition to new accommodation and support;
- that every resident is accounted for in terms of:
  - a) availability and transfer of all clinical and other records, including those related to the essential care requirements and safety of the resident, and
  - b) personal property and assets;
- implementation of the plan including resources allocated to give effect to the transition plans;
- the plan has nominated timeframes for completion and is monitored to ensure outcomes for residents are achieved; and
- ADHC, NSW Health and Housing NSW will offer joint service plans to residents as required.

The Closure Operations Coordinator must submit the draft Operational Plan to ADHC regional and executive management for approval noting any residents whose needs for accommodation and support services can not satisfactorily be resolved by the Relocation Committee.

It is recognised that the accommodation found by the closing date of the LRC may be transitional, particularly in the case of people with high needs. The assessed support needs at the time of the closure may also change over time and the individual transition plans should be altered, as required, to reflect this. The Operational Plan will need to identify whether for each resident this represents only a transition plan and permanent accommodation with appropriate support is still to be identified.

## **2.4 RESPONSIBILITIES OF GOVERNMENT SERVICE AGENCIES**

The Relocation Committee is designed to support and coordinate the regular services of government agencies, but not to replace them. An LRC closure may place people with a disability at risk and it is agreed by the parties to this Protocol that the agencies will respond immediately to assist, within resources, residents who are eligible for their services. For example:

- ADHC has prime responsibility for residents with an intellectual disability;
- NSW Health has prime responsibility for the health needs of residents; and
- The Commonwealth Department of Health and Ageing has prime responsibility for people with aged related needs.

Housing NSW will:

- assess any applications for assistance submitted by boarding house residents within a reasonable timeframe;
- provide early advice to the Relocation Committee on any residents who are ineligible for assistance so alternative arrangements can be explored;
- identify which consumers are eligible for social housing and ensure these consumers are placed on the housing register, in line with Housing Pathways.

- provide any relevant information to the Closure Operations Co-ordinator to be incorporated into the Operational Plan;
- identify appropriate social housing products currently available for eligible consumers;
- liaise with local community housing providers to assist with allocations for social housing eligible consumers, where available;
- identify appropriate social housing products that can be made available in the short term to eligible consumers; and
- maximise resident choice in all relocation processes including being flexible with the interpretation of policy, where possible.

ADHC, NSW Health and the Housing NSW will jointly develop appropriate strategies to meet the needs of people with multiple disabilities, having regard to the above requirements.

#### **2.4.1 Local Government Authorities**

Local Government Authorities (LGAs) have an interest in and regulatory responsibilities for, the availability of low cost accommodation in their areas. In addition they are a resource within the local community. The Closure Operations Co-ordinator will maintain liaison with LGAs and seek agreement on mutual obligations in respect of closures. The agreement should encompass:

- notification of closures when known, and reasons for closure;
- notification where it is known an LRC is likely to close as a result of failure to meet Local Government requirements;
- notification of any other likely closures;
- assistance in fostering links with existing local community services that could facilitate the relocation of residents;
- assistance in identifying appropriate temporary accommodation as required;
- assistance to identify any zoning or ordinance barriers to the development of accommodation options for the relocation of residents; and
- facilitation of community acceptance of people with disabilities and special needs.

## **2.5 THE RIGHTS OF RESIDENTS**

Accommodation and support options for residents are to be offered on the basis of up-to-date assessments and consultation with individuals.

The prime responsibility for the relocation of eligible residents rests with NSW Health, the Commonwealth Department of Health and Ageing and ADHC.

Community based accommodation with support as required, will be given priority consideration or where appropriate, in accredited aged care facilities. Relocation options will take each resident's preferences and community links into account.

The residents of a closing LRC who have a disability have a right to:

- be informed of the closure of the LRC;
- have immediate access to counselling;
- have access to advocacy services, guardianship and financial management<sup>2</sup>;
- have access to advice and a choice in accommodation and support options;

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<sup>2</sup> The Community Services Commission's Disability Deaths Review Team has expressed concern at a lack of promptness where there is no 'person responsible', in seeking and obtaining the appointment of the Public Guardian, particularly in relation to appropriate consents to medication and changes in medication for LRC residents who are moving to other accommodation

- be offered assistance to find alternative accommodation and support of their choice; and
- participate in the development and implementation of their transition plan.

Service providers have an obligation to:

- ensure residents' rights are respected, protected and fulfilled;
- obtain consent to service provision and changes in accommodation;
- maximise consumer choice when offering services; and
- ensure residents are kept informed about the closure and progress in their transition plan.

## 2.6 MANAGING FOR OUTCOMES

The outcome of the process will be the relocation of the affected residents, within the specified closure timeframe, to support residents with finding accommodation of their choice within available resources and which is appropriate to their needs, with no reduction of lifestyle choices.

The Closure Operations Co-ordinator will present a final report to the relevant ADHC Regional Manager.

When the Relocation Committee is satisfied that all residents have been placed, or have plan for placement, and that the outcome of the closure process is acceptable, then the closure response is finalised. The result that is likely to be attained at the time of closure of the LRC is that all residents with high needs will have transitional accommodation and support and all other residents placed in alternative accommodation with appropriate supports. For those residents placed in transitional accommodation, the Operational Plan will need to identify ongoing casework is needed which will lead to a permanent placement.

## 2.7 KEY PERSONNEL

ADHC	Role & Responsibilities
Relevant ADHC Regional Manager <ul style="list-style-type: none"> <li>• Performance, Quality and Improvement</li> <li>• Sector Development, or</li> <li>• Planning</li> </ul>	<p><u>Role:</u></p> <ul style="list-style-type: none"> <li>• To coordinate ADHC's responsibilities under the Relocation Protocol for LRCs.</li> </ul> <p><u>Responsibilities:</u></p> <ul style="list-style-type: none"> <li>• Appoint a Closure Operations Coordinator (can be self) and manage their responsibilities.</li> <li>• Inform and manage the Regional Licensing Officer's role in monitoring the Regulations and the Licence Conditions until the licence is revoked.</li> <li>• Ensure all other roles within the Relocation Protocol are activated.</li> </ul>
Closure Operations Coordinator	<p><u>Role:</u></p> <ul style="list-style-type: none"> <li>• To provide the relevant ADHC Regional Manager with day-to-day reporting on the management and implementation of the Operational Plan.</li> </ul>

ADHC	Role & Responsibilities
Closure Operations Coordinator (continued)	<p><u>Responsibilities:</u></p> <ul style="list-style-type: none"> <li>• Inform all parties to this Protocol of the closure of a LRC.</li> <li>• Establish and Convene the Relocation Committee.</li> <li>• Ensure that relevant reports are received and transmitted to the Relocation Committee or any other relevant person/agency in a timely manner.</li> <li>• Manage the development, coordination and implementation of the Operational Plan through the Relocation Committee.</li> <li>• Submit reports to the relevant ADHC Regional Manager on a regular and timely basis in relation to the development and implementation of the Operational Plan.</li> </ul>
Regional Licensing Officer	<p><u>Role:</u></p> <p>To continue to monitor the LRC until closure occurs to ensure that any arrangements entered into in relation to the closure do not involve a breach of the Regulations, the Licence Conditions and the YACS Act.</p>

Party	Role & Responsibilities	Membership
Relocation Committee	<p><u>Role:</u></p> <ul style="list-style-type: none"> <li>• To oversee the closure process and ensure a service response from all agencies to the needs of the residents affected.</li> </ul> <p><u>Responsibilities:</u></p> <p>To ensure that:</p> <ul style="list-style-type: none"> <li>• Every resident has acceptable accommodation and support.</li> <li>• Sufficient resources from State Government agencies, and Commonwealth Government, are identified to achieve suitable accommodation and care, including seeking to address funding shortfalls that are not available to Relocation Committee.</li> <li>• Residents who are not eligible for services from NSW Health, Housing NSW or ADHC and where no other service agency can be found in the Region, are accepted as a responsibility of the Relocation Committee for resolution.</li> <li>• To oversee the interests of residents through its representatives and to coordinate a service response from all agencies to the needs of the</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant ADHC Regional Manager / Closure Operations Coordinator.</li> <li>• ADHC Regional boarding house caseworkers</li> <li>• NSW Health (Area Health representatives including an ACAT representative)</li> <li>• Housing NSW (Housing Services Region representative)</li> <li>• Commonwealth: relevant agency (by invitation).</li> <li>• People with Disabilities (PWD) Australia</li> <li>• NSW Trustee</li> <li>• Office of the Public Guardian.</li> </ul> <p>As appropriate:</p> <ul style="list-style-type: none"> <li>- representatives from any funded organisations to which residents are being relocated</li> <li>- advocates</li> <li>- any involved HACC service providers</li> </ul>

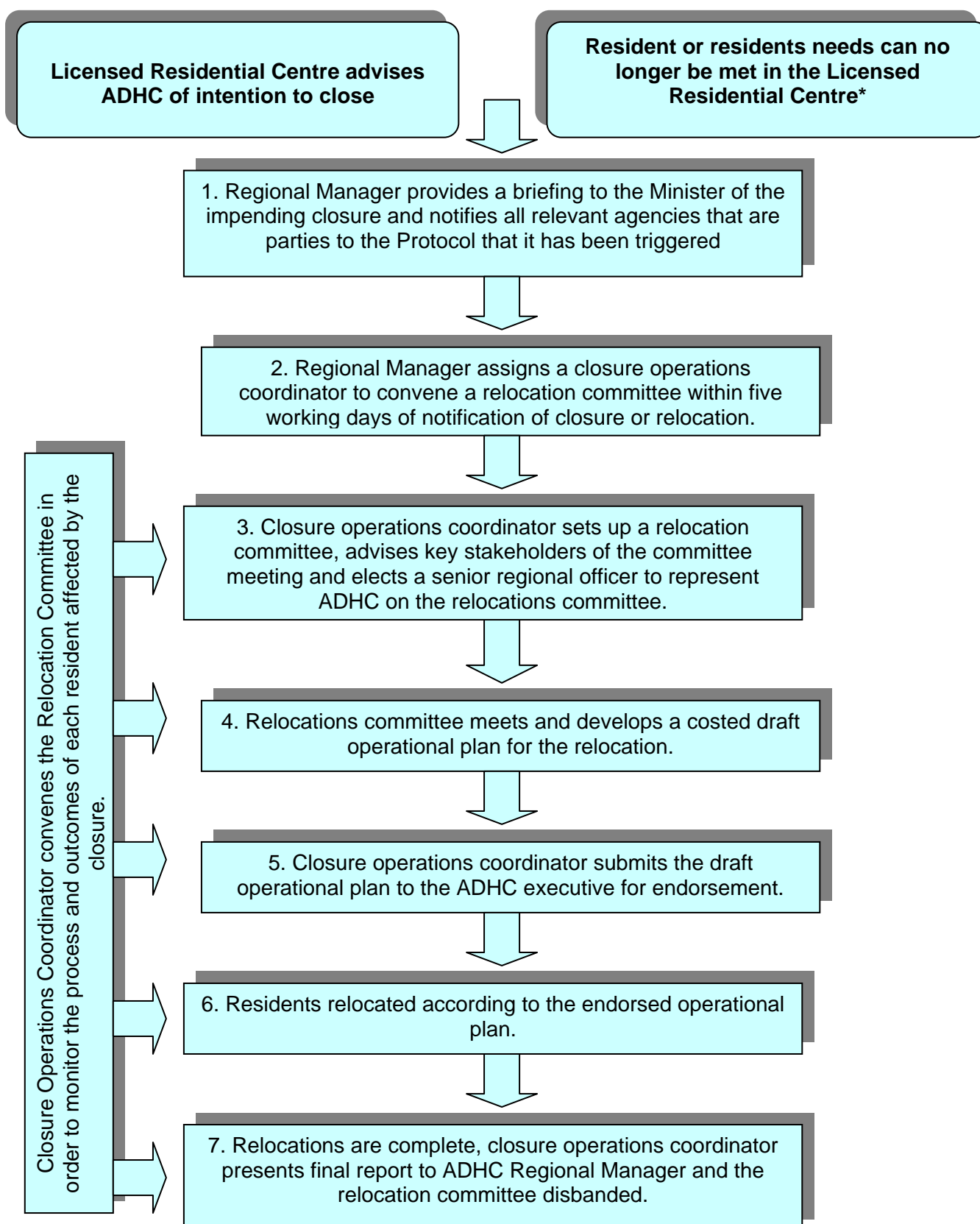
Relocation Committee (continued)	<p>residents affected.</p> <ul style="list-style-type: none"> <li>• To ensure a service response from all relevant agencies. If there is a well established area based coordinating network, this will work closely with the Relocation Committee.</li> <li>• Development of an Operational Plan to ensure its implementation, broadly this includes: <ul style="list-style-type: none"> <li>- Relocation and support requirements of all affected residents are identified, met and documented</li> <li>- Identifying and recommending adequate resources to give effect to the overall Operational Plan including individual transition plans.</li> </ul> </li> </ul>	
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## 2.8 RESPONSE PERIODS IN THE EVENT OF A CLOSURE OF A LRC

The timeframes nominated in this protocol may be at the discretion of the ADHC Regional Manager, Performance, Quality and Improvement if a reasonable timeframe is given by the Licensee for the closure of the LRC.

Responsibility	Response Period	Action
Relevant ADHC Regional Manager	Immediately on notification of closure	Inform all agencies that are parties to the Protocol of the closure
	Within five working days of notification	Either convene the Relocation Committee or appoint a Closure Operations Coordinator with this responsibility.
Closure Operations Coordinator	Within five working days of notification of closure	Convene the Relocation Committee if Regional Manager has delegated this task and secure undertakings from member agencies.

## Licensed Residential Centre Resident Relocation Protocol Process diagram



In the event that the relocation is of only one resident, or a small number of residents, certain steps in the above chart such as 1 to 3 may be omitted. It is also recognised that in the event of a crisis such as imminent homelessness, certain steps may have to be omitted or amalgamated and timeframes adjusted

## Appendix 17: Assisted Boarding Houses

### Surrender of Licence, Interim Permit or Manager Approval Form

This form is to be used by:

- the Licensee Holder to surrender the Licence to operate an Assisted Boarding House under sections 49 or 50 of the *Boarding Houses Act 2012*, or
- the Interim Permit holder to surrender the Interim Permit to operate an Assisted Boarding House under section 58 of the *Boarding Houses Act 2012*, or
- an Approved Manager to surrender their manager approval under section 65 of the *Boarding Houses Act 2012*.

Boarding House Name:

Address of premises:

Licensee Name:

Approved Manager  
Name(s):

Licence Number:

Interim Permit Number  
(if relevant):

I hereby surrender the Licence / Interim Permit / Manager Approval to operate or manage the Assisted Boarding House at the above premises.

I am aware that

- failure to return the License / Interim Permit / Manager Approval within 28 days of being notified that the License / Interim Permit / Manager Approval is cancelled or revoked is a breach of the *Boarding Houses Act 2012* and may incur a Penalty Notice or maximum court penalty of \$1,650, and
- it is an offence under section 41 of the *Boarding Houses Act 2012* to operate or manage premises as an Assisted Boarding House – that is, with two or more residents with additional needs as defined under the *Boarding Houses Act 2012* – without authorisation or approval.

I declare that I will no longer operate or act as a manager of an Assisted Boarding House with two or more residents with additional needs as defined under the *Boarding Houses Act 2012* at the above premises.

Name

Signature

Date



## Appendix 18: Manager Approval Form

# Assisted Boarding House Manager Approval Form

*This form is to be used by people seeking authorisation as an Approved Manager of an Assisted Boarding House.*

Name of Proposed Manager: \_\_\_\_\_

Address \_\_\_\_\_

Suburb \_\_\_\_\_ State \_\_\_\_\_ Postcode \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Mobile \_\_\_\_\_ Email \_\_\_\_\_

Does the Proposed Manager hold:

1. Tertiary Qualifications (degree or diploma) in social work, health or community work? ☐ YES ☐ NO

Details:

---

---

---

2. Relevant experience in the management of Assisted Boarding Houses or Licensed Residential Centres? ☐ YES ☐ NO

Details:

---

---

---

Please note that if you answered NO both 1. and 2. above, the proposed manager will not be considered suitable for appointment. See *Boarding House Regulation 2013*, Schedule 1 Standard 3 for more information.

To support the approval of the Proposed Manager please provide further information to demonstrate the individual's capacity and experience to provide appropriate accommodation and services to additional needs residents, and to exercise overall supervision of an Assisted Boarding House. You may wish to provide copies of:

- certificates or statements of attainment for relevant courses
- written references from former or current employers
- a statutory declaration from the individual where documents are not immediately available.

*Please do not send original documents as they will not be returned.*

For each Proposed Manager you must also submit a completed and signed:

- **National Police Check (Attachment A)**
- **Referee Check Form (Attachment B)**

Proposed Manager  
Name

---

Proposed Manager  
Signature

---

Date

---

Licensee Name

---

Licensee Signature

---

Date

---

Completed forms can be submitted in the following ways:

By email (scan the form so it includes signatures) – [boarding.houses@facs.nsw.gov.au](mailto:boarding.houses@facs.nsw.gov.au)

By post – Boarding House Team  
Ageing, Disability and Home Care  
Level 5, 83 Clarence Street  
SYDNEY NSW 2000

# Appendix 19: Assisted Boarding Houses

## Manager Approval Checklist

ABH Name \_\_\_\_\_

Address of premises \_\_\_\_\_

	Yes	No	Notes
Has the applicant completed all required parts of this section?	<input type="checkbox"/>	<input type="checkbox"/>	
Does the Proposed Manager hold appropriate tertiary qualifications or relevant experience to manage an Assisted Boarding House?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the applicant provided appropriate supporting documentation to demonstrate the Proposed Manager's capacity and experience to operate an Assisted Boarding House?	<input type="checkbox"/>	<input type="checkbox"/>	Details:
Completed National Police Check attached?	<input type="checkbox"/>	<input type="checkbox"/>	
Completed Referee Check attached?	<input type="checkbox"/>	<input type="checkbox"/>	

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



## Appendix 20A: Service Provider Authorisation Form

### Assisted Boarding House Service Provider Authorisation Form

*This instrument identifies the persons named below as Authorised Service Providers for an Assisted Boarding House under Part 4, Section 77 of the Boarding Houses Act 2012*

**Name of Service Provider Organisation**

.....

Address: .....

Phone: .....

**Purpose of Service Provision:**

.....

[Type of services provided by the Organisation to residents of Authorised Assisted Boarding Houses].

The below named staff are employed by the Organisation to provide services to residents of Authorised Assisted Boarding Houses.


Endorsed by Deputy Chief Executive, Ageing Disability and Home Care,  
Authorised Delegate of the Director-General Department of Family and Community  
Services

Signed: ..... Date: .....

This Authorisation is valid to a date 12 months from the date of the endorsement.

*[Under section 77 of the Boarding Houses Act, if requested by the manager or other person in charge of the authorised Assisted Boarding House, staff must identify themselves and produce a copy of this instrument]*

## ***Boarding Houses Act 2012 (NSW) – Section 77***

### **77 Powers of entry by authorised service providers without consent or warrant**

- (1) The Director-General may, by instrument in writing (the "authorisation instrument"), authorise a person (an "authorised service provider") to enter authorised boarding houses under this section if the Director-General is of the opinion that the person is able to provide relevant information or advice to residents of such boarding houses about support services, financial services, legal services or advocacy services provided by the person or the organisation to which the person belongs.
- (2) The authorisation of an authorised service provider:
  - (a) is subject to any requirements of this section and to such conditions as may be specified in the authorisation instrument, and
  - (b) remains in force for the period specified in the authorisation instrument (being a period not exceeding 12 months), unless sooner revoked or surrendered.
- (3) An authorised service provider may, at any reasonable time and subject to the conditions of the authorisation:
  - (a) enter an authorised boarding house for the purpose of conferring with any resident of the boarding house to determine whether the resident wishes to access the services provided by the provider or the organisation to which the provider belongs, and
  - (b) provide such services, or arrange for the organisation to provide such services, if a resident wishes to access the services.
- (4) An authorised service provider must give the authorised operator or approved manager of the authorised boarding house at least 24 hours notice of the provider's intention to enter the boarding house.
- (5) When entering an authorised boarding house under this section, an authorised service provider must identify (or make a reasonable attempt to identify) himself or herself to the manager or any other person apparently in charge of the boarding house.
- (6) An authorised service provider must produce his or her authorisation instrument for inspection on demand when exercising his or her functions under this section.
- (7) The Director-General may, by notice served on the authorised service provider, revoke the authorisation of the provider at any time and for any reason.
- (8) It is a condition of a boarding house authorisation and a manager approval that the authorised operator and approved manager of an authorised boarding house permit an authorised service provider to enter, and confer with residents of, the authorised boarding house in the manner authorised by or under this section.

## Appendix 20B: Service Provider Authorisation Information Letter Template

Name

Address

AH <insert file no>

Dear Name

### **Service providers wishing to enter and provide services to residents of Authorised Assisted Boarding Houses**

On 1 July 2013, Parts 3 and 4 of the *Boarding House Act 2012* (the Act) came into effect. These include section 77 which provides certain service providers with powers to enter authorised Assisted Boarding Houses to provide services even where the manager or other staff have not given consent. A copy of this section is **provided at the end of this email / enclosed with this letter**.

Service providers include people who wish to provide relevant information or advice to residents about support services, financial services, legal services or advocacy services.

It is unlikely that you will need to rely upon powers in this new section, as usually managers of Assisted Boarding Houses are happy to provide consent to service providers to enter and meet with residents.

If, however, you or your staff experience difficulties gaining access to an authorised Assisted Boarding House in order to provide services, advice or information to residents, please follow this procedure:

1. Service providers should firstly negotiate with the manager of the relevant Assisted Boarding House to set a time to meet with or provide services (including giving information or advice) to the relevant resident/s.
2. If the service provider continues to experience difficulties gaining access to residents, for example the manager or staff members refuse entry at the arranged time or fail to pass on messages to residents, the service provider can contact Ageing, Disability and Home Care (ADHC) to seek formal authorisation as a service provider.
3. The individual service provider or the organisation which employs them will need to fill out a *Service Provider Authorisation Form* (available on the

ADHC website). An organisation should list all of the staff who need to enter an authorised Assisted Boarding House to provide services.

4. Once ADHC has approved the authorisation they will return a signed copy of the endorsed *Service Provider Authorisation Form* to the service provider or their organisation. The authorisation is valid for 12 months.
5. The service provider should then contact the relevant Assisted Boarding House manager again, provide a copy of the endorsed *Service Provider Authorisation Form*, provide a date (giving at least 24 hours notice) and a time (at a reasonable hour) that they intend to enter to provide services to the resident/s.
6. The authorised service provider should carry a copy of the endorsed *Service Provider Authorisation Form* with them whenever they enter the premises. If requested by the manager or staff in charge, they should identify themselves and show a copy of the endorsed *Service Provider Authorisation Form*. The text of section 77 of the Act appears on the back of the form for easy reference by the service provider when onsite.
7. If the authorised service provider is then obstructed from entering or meeting with residents even though they have followed the requirements of section 77 of the Act, they should lodge a complaint with the ADHC Specialist Accommodation Programs team.
8. ADHC can take legal action against the manager and/or the licensee, including issuing a Compliance Notice, a Penalty Notice or taking them to court for prosecution.

Should you have any further questions regarding this policy please contact **Name, Position Title** on **phone number** or email [boarding.houses@facs.nsw.gov.au](mailto:boarding.houses@facs.nsw.gov.au).

Yours sincerely

Name  
Title

## Appendix 21: Assessing Risk

When a breach of the BH Act, BH Regulation or Licence Conditions occurs the principal concern is for the wellbeing of the residents. You will need to assess the level of risk to the health, comfort, safety and proper care of residents using the tables below, based on ADHC's Client Risk Policy and Procedures.

### Severity

High	Life threatening or cause serious injury. <i>Could it cause death or permanent disability, long term illness or serious injury? Could it cause a high level of psychological distress or emotional discomfort? Will it strongly interfere with a person's human rights?</i>
Moderate	Could result in temporary incapacity. <i>Could it cause someone to need medical attention and being unable to perform normal duties or activities for several days?</i>
Low	Could result in inconvenience or first aid. <i>Could it cause someone to need minor first aid that can be performed on the premises?</i>

### Likelihood

Very likely	Known to regularly or very likely occur, given existing circumstances or environment.
Likely	Known to often or fairly likely occur given existing circumstances or environment.
Unlikely	Some potential to occur based on previous experience or existing circumstances or environment.

### Risk Indicator Chart

Using the matrix below, determine how severely the breach could affect a resident's health and how often the breach is occurring to get the overall risk rating of Category 1 (red), Category 2 (amber) or Category 3 (green) of the breach, where Category 1 is extremely important and the breach needs to be addressed immediately and Category 3 is immediate attention is not required:



Effect to the resident's health safety, comfort and proper care  Severity	Likelihood		
	Very likely	Likely	Unlikely
High	Category 1	Category 1	Category 2
Medium	Category 1	Category 2	Category 3
Low	Category 2	Category 3	Category 3

Level of Risk	Response period	Examples
Category 1	Work or action to be undertaken immediately to remedy the breach.	<p>Dangerous maintenance issues (eg live electrical wires exposed)</p> <p>Fire safety</p> <p>Medication not being administered in accordance with health practitioner's directions</p> <p>Abuse or neglect of resident</p>
Category 2	Work or action to be undertaken to remedy this breach within two weeks.	<p>Replace a worn mattress</p> <p>Repair of damaged internal walls or doors</p> <p>Not providing adequate quality and quantity of food for residents</p>
Category 3	Work or action to be undertaken to remedy this breach within four months.	<p>Minor maintenance issues (eg a few missing tiles in bathroom needing replacement)</p> <p>Displaying notices (eg fees and charges)</p> <p>Resident's information register not up to date</p>

## Appendix 22: Assisted Boarding House Monitoring Inspection Form

Under section 76 of the *Boarding Houses Act 2012*

1. Premises name

2. Premises Address

3. Inspection Date

 /  /  (date/month/year)

4. Inspection Times

 :  am/pm (entry)     :  am/pm (exit)

5. Staff on duty

6. Inspection Notes

7. Compliance Notice issued ☐ Yes ☐ No

9. Photographic Evidence Collected ☐ Yes ☐ No

9. Boarding House Compliance  
Officer Name/s

Signature  
and Date

10. Boarding House Staff on Duty  
Name/s

Signature  
and Date

## Appendix 23: Boarding House Compliance Notice

Under section 79 of the *Boarding Houses Act 2012*

1. This notice is issued to (name, address, position)

2. In relation to the boarding house (name, address)

3. This notice is issued on  /  /  (date/month/year) at  :  am/pm.

4. I  (name) am an enforcement officer appointed under Section 66 of the *Boarding Houses Act 2012*.

5. I have provided  (name) with a warning under section 74 of the *Boarding Houses Act 2012* that any information provided (oral or written) in relation to this matter may be documented and used in criminal proceedings and that if they object to the provision of such information on the grounds that it may incriminate them such evidence will not be admissible in proceedings against them as per section 74(3) of the *Boarding Houses Act 2012*, but they are still obliged to provide the information.

6. I am of the opinion that the proprietor / authorised operator / authorised manager (cross out where not relevant) has contravened or is likely to contravene the following provision of the *Boarding Houses Act 2012* and/or *Boarding Houses Regulation 2013*:

Section  and/or Regulation

7. The reasons for this opinion are:

8. Under Section 79(3) of the *Boarding Houses Act 2012* you are directed to take the following action to remedy the contravention:

10. You are required to remedy the contravention by  /  /  (date/month/year).

11. Signature of enforcement officer

**Failure to comply with this notice is an offence under Section 80 of the *Boarding Houses Act 2012*.**

You may seek a review of the decision to issue this Compliance Notice. Review requests can be forwarded to Boarding Houses, Level 5, 83 Clarence Street, Sydney 2000 or [boarding.houses@facs.nsw.gov.au](mailto:boarding.houses@facs.nsw.gov.au). Alternatively or additionally you may apply to the Administrative Decisions Tribunal (ADT) to review the issuing or variation of a compliance notice. The ADT can be contacted on 9377 5711 or at Level 10, John Maddison Tower, 86-90 Goulburn Street, Sydney 2000.



## Appendix 24: Penalty Notice

To be supplied once finalised



## Appendix 25: Action Plan Template

# Assisted Boarding House

## Action Plan

This form is to be used to note areas of non-compliance with the *Boarding Houses Act 2012* and/or *Boarding Houses Regulation 2013* and/or Licence Conditions following a monitoring inspection.

**Name of Assisted Boarding House:** \_\_\_\_\_

**Premises Address:** \_\_\_\_\_

**Date of Monitoring Inspection:** \_\_\_\_\_

**Persons Present (name and title):** \_\_\_\_\_

Section of BH Act or BH Regulation or Licence Condition	Details of Non-Compliance	Suggested Action to Remedy Non-Compliance	Completion Date	Implementation: Complete / In progress / Not yet addressed



Section of BH Act or BH Regulation or Licence Condition	Details of Non-Compliance	Suggested Action to Remedy Non-Compliance	Completion Date	Implementation: Complete / In progress / Not yet addressed



Section of BH Act or BH Regulation or Licence Condition	Details of Non-Compliance	Suggested Action to Remedy Non-Compliance	Completion Date	Implementation: Complete / In progress / Not yet addressed



## Appendix 26: Notice of Full Service Review Template

NAME  
ADDRESS

AHxx/xxxx

Dear NAME

### RE: INTENTION TO CONDUCT A FULL SERVICE REVIEW

Ageing, Disability and Home Care (ADHC), Department of Family and Community Services intends to conduct a full service review of (name and address of premises).

The full service review monitors compliance with the *Boarding Houses Act 2012* (BH Act) and the *Boarding Houses Regulation 2013* (BH Regulation).

The review will be conducted by (Boarding House Compliance Officer names). The officers will attend the premises on (date - allow 7-10 days notice) at time.

You will need to have a number of documents available for sighting by the officers, being those required under the section 82 of the BH Act and clauses 14 and 19 of the BH Regulation, which are:

- the additional needs resident personal information register
- additional needs resident health records
- occupancy agreement records
- staff information records
- complaint information records
- fire safety procedure records
- screening tools for residents.

The full service review will also consider any other reporting and notifications required under the BH Act or BH Regulation, such as deaths and incidents.

In addition, the review will cover all other requirements of the BH Act and BH Regulation and may therefore involve liaising with a number of other parties involved with (name of premises). I would therefore greatly appreciate if as Licensee and/or Licensed Manager you would make yourself available at the time stated to assist the Boarding House Compliance Officers with accessing the documents listed. Following their review of documents the officers will speak to you later on that day, or make a further time with you to discuss their preliminary findings.

Should you require any clarification of the matters referred to in this letter please contact (contact name) on (contact number).

Yours sincerely

Delegated Officer





## Appendix 27: Local Council Full Service Review Letter

NAME OF CONTACT OFFICER  
COUNCIL  
ADDRESS

AHI <insert file no>

Dear NAME

### FULL SERVICE REVIEW OF ASSISTED BOARDING HOUSE

PREMISES: ADDRESS

As you may be aware the Ageing, Disability and Home Care (ADHC), Department of Family and Community Services is responsible for the monitoring of standards of Assisted Boarding Houses under the *Boarding Houses Act 2012*. The aim of this Act is to ensure the safety and proper care of residents with additional needs (such as a disability, mental health issues or age related conditions) residing in such premises.

ADHC is undertaking a review of the premises at ADDRESS, which is authorised under the *Boarding Houses Act 2012* to LICENSEE NAME for a capacity of NUMBER residents.

Part of ADHC's role in assessing whether a premises continues to meet the obligations of the legislation is to investigate all aspects of the service. This includes ensuring that the premises complies with all relevant local government authority requirements.

As this premises is in your Local Government Area, I would appreciate your advice in respect of compliance of this premises with local government regulations, specifically in relation to:

- fire safety provisions including detection, alarm and egress;
- adequate light and ventilation;
- public health issues including the preparation and storage of food;
- general cleanliness and maintenance; and
- any other issues that you consider relevant in light of the fact that the premises accommodates NUMBER of people with additional needs.

In respect of these premises I am also particularly interested in (add any other details if appropriate).

I look forward to receiving a written response in relation to this request at your earliest convenience.

Should you require further information regarding this request please contact name, on xxxx xxxx.

Yours sincerely

NAME  
DELEGATED OFFICER

## Appendix 28: Full Service Review Tool

# Assisted Boarding House

## Full Service Review Tool

**Name of Assisted Boarding House:** \_\_\_\_\_

**Premises Address:** \_\_\_\_\_

**Licensee:** \_\_\_\_\_ **Approved Manager:** \_\_\_\_\_

**Date of Full Service Review:** \_\_\_\_\_ **Licence Number:** \_\_\_\_\_

**Persons Present (name and title):** \_\_\_\_\_

### 1. Records, display of information, notifications and routine reporting

#### **BH Regulation Clause 13: Condition relating to notification of presence of young residents**

- (1) It is a condition of a boarding house authorisation that the authorised operator ensures that the Director-General is notified, in accordance with this clause, that a person under 18 years of age is a resident of the authorised boarding house (a young resident).
- (2) A notification under this clause must be in writing and contain such particulars as the Director-General may require.
- (3) A notification under this clause must be given:
  - (a) in the case of any person who is a young resident of an authorised boarding house at the time this clause commences—within 14 days after that commencement, or
  - (b) in the case of any person who becomes a young resident of an authorised boarding house after the commencement of this clause - within 7

days after the person begins to reside at the boarding house.			
No evidence found to indicate this clause may have been breached.		Sign and date:	
<b>Issue</b>	<b>Action</b>	<b>Date due</b>	<b>Outcome</b>
<b>BH Act Section 53: Display of Licence</b>			
(1) The licensee of a licensed boarding house must ensure that a copy of the boarding house licence is displayed in a conspicuous position at the boarding house.			
No evidence found to indicate this clause may have been breached.		Sign and date:	
<b>Issue</b>	<b>Action</b>	<b>Date due</b>	<b>Outcome</b>
<b>BH Regulation Clause 15: Conditions relating to provision and display of information</b>			
(1) It is a condition of a boarding house authorisation that the authorised operator ensures that the information specified in this clause is provided or displayed in accordance with the requirements of this clause.			

- (2) A person seeking to become a resident of the authorised boarding house must be provided with information about the following before an occupancy agreement or rental agreement is entered into with the person:
- (a) the room number of the room that will be allocated,
  - (b) the services that will be provided,
  - (c) the fees payable in connection with residency (including any occupancy fee as defined in Part 3 of the Act or rent) and fees for services,
  - (d) any reductions in fees available for work undertaken by the person or in other specified circumstances,
  - (e) the procedures of the boarding house for handling complaints.
- (3) Each of the following must be displayed in a conspicuous position at the boarding house:
- (a) conditions to which the boarding house authorisation is subject (other than conditions imposed by the Act or this Regulation) where those conditions do not appear in full on the boarding house authorization,
  - (b) a copy of the rules of the boarding house,
  - (c) an itemised schedule of all standard fees payable in connection with residency (including any occupancy fee or rent) and for services provided at the boarding house
  - (d) a copy of any current compliance notice issued in relation the boarding house.
- (4) At least one copy each of the Act and this Regulation must be available at the authorised boarding house for use by staff members, residents and visitors.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

**BH Regulation Clause 18: Condition relating to notification of evictions of additional needs residents**

(1) It is a condition of a boarding house authorisation that the authorised operator ensures that the Director-General is notified that an additional needs resident is being evicted within three days after the resident has been issued with an eviction notice or immediately after the resident has been evicted, whichever occurs first.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

### **BH Regulation Clause 19: Records required to be kept**

(1) The following written records are required for the purposes of section 82(2) of the Act:

- (a) an additional needs resident personal information register setting out the information specified by clause 20,
- (b) additional needs resident health records of the kind specified by clause 21,
- (c) occupancy agreement records and rental agreement records of the kind specified by clause 22,
- (d) staff information records setting out the information specified by clause 23,
- (e) complaint information records setting out the information specified by clause 24,
- (f) fire safety procedure records setting out the information specified by clause 25

(2) The relevant custodian for a record referred to in subclause (1) must keep the record in a safe and secure area at an authorised location:

- (a) in the case of a record relating to a person who is (or was) an additional needs resident of the assisted boarding house concerned—until the expiry of the period of seven years after the person ceased to be a resident of the boarding house, or
- (b) in the case of a record relating to a person who is (or was) a staff member of the assisted boarding house concerned—until the expiry of the period of seven years after the person ceased to be a staff member of the boarding house, or
- (c) in the case of any other record—until the expiry of the period of seven years after the record was made.

No evidence found to indicate this clause may have been breached.		Sign and date:	
Issue	Action	Date due	Outcome

**BH Regulation Clause 20: Additional needs resident personal information register**

(1) The following information must be recorded in an additional needs resident personal information register about each additional needs resident of an authorised boarding house in a form approved by the Director-General:

- (a) the full name of the resident (including former or other names of the resident),
- (b) the date of birth of the resident,
- (c) whether a resident has been assessed in accordance with a screening tool as provided by clause 14 and, if so:
  - (i) the date of any assessment, and
  - (ii) the name and contact details of the person who conducted the assessment,
- (d) the resident's pensioner concession card number (or number and type of any other entitlement card issued by the Commonwealth or a State or Territory Government),
- (e) the medicare number by which the resident is covered, and (if known) the name of any health fund that has issued a policy by which the resident is covered,
- (f) the gender of the resident,
- (g) the date on which the resident began to reside in the authorised boarding house,
- (h) the cultural and ethnic identity of the resident and the primary language spoken by the resident,
- (i) a list of the items of personal property belonging to the resident that the resident brought into the authorised boarding house when he or she began to reside there,

- (j) the name and address of the person responsible for the resident,
- (k) if the person referred to in paragraph (j) is the guardian of the resident—details of the duration of the guardianship and of the functions exercisable by the guardian with respect to the resident,
- (l) the name, address and telephone number of the resident's treating medical practitioner or nurse practitioner,
- (m) any serious illnesses suffered by the resident,
- (n) any sensitivities or allergies to any medication suffered by the resident,
- (o) any assistance in taking or administering any medication required by the resident,
- (p) any assistance with personal care needs required by the resident,
- (q) any special dietary requirements of the resident,
- (r) whether the financial affairs of the resident are managed by the resident or any other person and the name of any person managing the resident's financial affairs.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

### **BH Regulation Clause 21: Additional needs resident health records**

- (1) The additional needs resident health records to be kept in relation to the health of each additional needs resident of an authorised boarding house are each of the following:
- (a) any written authorisation for the administration of any medication to the resident by a member of staff, and any medical practitioner's or nurse practitioner's instructions relating to its administration,
  - (b) if any medication is administered to the resident on the premises of the boarding house by a member of staff of the boarding house or a medical practitioner or nurse practitioner:



- i) the name of the medication, and
- ii) the date, time and dosage administered, and
- iii) the names and signatures of the persons who checked the dosage and administered the medication,
- (c) any written particulars provided by the resident or a person responsible for the resident advising the authorised operator or manager that the resident suffers from allergies, epilepsy, asthma or any other specified medical condition and of the treatment to be given if the resident appears to be severely physically affected by the condition,
- (d) any written consent to the carrying out of medical treatment on the resident given by a guardian of the resident,
- (e) the nature and circumstances (including the date and time) of any significant injury to the resident or illness of the resident while he or she resides in the authorised boarding house,
- (f) particulars of treatment given to the resident if the resident is injured or becomes ill while he or she resides in the authorised boarding house,
- (g) if the resident dies while he or she resides in the authorised boarding house, the details surrounding the resident's death.

**Note.** Section 23 of the *Health Records and Information Privacy Act 2002* provides that a private sector person is not required to comply with a requirement of Part 4 of that Act if non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law. Similar provision is made in respect of a number of Health Privacy Principles set out in Schedule 1 to that Act, including in relation to the disclosure of health information under Principle 11. Section 94 of the BH Act also enables the Director-General to enter into information sharing arrangements with certain relevant agencies with respect to information held by the Director-General.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

## BH Regulation Clause 22: Occupancy and rental agreement records

- (1) The following records are to be kept concerning any occupancy agreement or rental agreement (as defined in Part 3 of the Act) entered into in relation to an additional needs resident of an authorised boarding house:
- (a) a copy of the agreement and of any written amendments to the agreement,
  - (b) if the agreement or amendments to the agreement are not in writing—a record of the date, parties to and terms of the agreement or amendments.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

### **BH Regulation Clause 24: Complaint information records**

- (1) The complaint information records to be kept concerning any complaint relating to an additional needs resident are as follows:
- (a) details of any complaint made by or on behalf of the resident concerning the care provided to the resident or the operations of the authorised boarding house,
  - (b) details of any action taken in response to the complaint,
  - (c) whether the complaint was resolved.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

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### BH Regulation Clause 28: Reporting failure to comply with planning requirements

- (1) The manager of an authorised boarding house must report to the Director-General the issuing of a planning non-compliance notice within 7 days after the notice is received.
- (2) A **planning non-compliance notice** is a notice, order or other document given or issued by a council to the effect that the authorised boarding house does not comply with requirements imposed by or under the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979 with respect to the use of the boarding house, including (but not limited to):
  - (a) requirements in relation to building and fire safety, and
  - (b) relevant standards or requirements for places of shared accommodation for the purposes of Order No 5(d) in the Table to section 124 of the Local Government Act 1993.
- (3) The report must be in writing and include a copy of the planning non-compliance notice.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue	Action	Date due	Outcome

### BH Regulation Clause 29: Reporting changes in circumstances

- (1) The authorised operator of an authorised boarding house must report to the Director-General any of the following changes in circumstances within seven days after the change:

- (a) a change in the contact details of the authorised operator,
- (b) if the authorised operator is a corporation or made the application for the boarding house authorisation on behalf of an unincorporated body—a significant change in the circumstances of a person involved in the control and management of the corporation or unincorporated body,
- (c) any significant change that may affect the authorised operator’s capacity to operate the boarding house.
- (2) For the purposes of subclause (1), a **significant change** includes a change in financial circumstances, such as an individual becoming bankrupt or a corporation being subject to winding up or other external administration.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

## 2. Reporting serious incidents

### **BH Act Section 83: Notification of deaths, sexual assaults and other incidents involving residents of authorised boarding houses**

- (1) The manager of an authorised boarding house must, as soon as is reasonably possible after becoming aware of any of the following incidents, report the incident to the Director-General:
- (a) the death of a resident of the boarding house,
  - (b) the sexual assault (or the making of an allegation of sexual assault) of a resident of the boarding house,
  - (b) the absence of a resident of the boarding house for a period of more than 24 hours if the resident has not informed the manager of his or her whereabouts,
  - (c) such other incidents involving residents as may be prescribed by the regulations.
- (2) The manager must also report the death (or the sexual assault or the making of an allegation of sexual assault) of a resident of the boarding house to a police officer as soon as is reasonably practicable after becoming aware of the incident concerned.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

### **BH Regulation Clause 26: Additional reportable incidents involving residents: section 83 of Act**

- (1) Each of the following incidents involving residents of an authorised boarding house is prescribed for the purposes of section 83 (1) (d) of the Act:
- (a) an assault under Part 3 of the Crimes Act 1900 (or the making of an allegation of such an assault) of:
    - (i) a resident by a staff member, or

- (ii) a staff member by a resident, or
  - (iii) a resident by another resident,
  - (d) a serious accident involving a resident on the premises of the boarding house (being an accident that requires the resident to receive medical, dental or hospital treatment),
  - (e) the making of a complaint about the treatment of a resident.
- (2) For the purposes of subclause (1)(c), a **complaint about the treatment of a resident** means a complaint that consists of:
- (a) an allegation of a contravention of the Act or this Regulation by the authorised operator or a staff member in relation to the treatment of a resident, or
  - (b) an allegation that a staff member has committed an offence under Part 4AA (Fraud) of the Crimes Act 1900 against a resident, or
  - (c) an allegation that a resident has been neglected or ill-treated, or that the safety, health or wellbeing of a resident has otherwise been compromised, while residing in the authorised boarding house concerned.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

### **BH Regulation Clause 27: Reporting police attendances**

- (1) The manager of an authorised boarding house must report to the Director-General the attendance of any police officer at the boarding house as soon as is reasonably practicable after the attendance if the reason for the attendance was to investigate an incident involving an additional needs resident.
- (2) The report must be in writing and set out the following:
  - (a) the full name of the resident,
  - (b) the reason for the attendance of the police officer,

(c) the COPS Event Number provided by the NSW Police Force in relation to the attendance.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

**Note.** Section 122 of the *Children and Young Persons (Care and Protection) Act 1998* requires a person who provides residential accommodation for another person who the person has reasonable grounds to suspect is a child living away from home without parental permission to inform the Director-General of the child's whereabouts. A child for the purposes of that section is a person who is under 16 years of age.

### 3. Screening tool

#### **BH Regulation Clause 14: Condition relating to screening of actual and proposed additional needs residents**

- (1) It is a condition of a boarding house authorisation that the authorised operator ensures that:
  - (a) additional needs residents (or proposed additional needs residents) of the authorised boarding house are assessed in accordance with the requirements of this clause, and
  - (b) the Director-General is notified of matters in accordance with the requirements of this clause.
- (2) The following persons must be assessed in accordance with a screening tool before being permitted to reside at the authorised boarding house:
  - (a) a person who has not previously resided at an assisted boarding house or former licensed residential centre,
  - (b) a person who has been absent from any authorised boarding house for 6 months or more,
  - (c) a person who has previously been admitted to a psychiatric or other hospital, an aged care facility or a rehabilitation centre (regardless of whether the person resided at an authorised boarding house before the admission).
- (3) Any such person must not be permitted to reside at the authorised boarding house if, following such an assessment, it is determined that the authorised boarding house is not a suitable residence for the person.
- (4) However, subclauses (1) and (2) do not apply if:
  - (a) a person requires emergency accommodation (because of a natural disaster or where the person's health, safety or welfare may be adversely affected if the person is not permitted to stay at the authorised boarding house), and
  - (b) the Director-General is notified of the person's presence at the authorised boarding house within one business day of the person being permitted to stay at the authorised boarding house, and
  - (c) steps to arrange an assessment in accordance with a screening tool are taken within one business day of the person being permitted to stay at the authorised boarding house.
- (5) An additional needs resident must be re-assessed in accordance with a screening tool as soon as reasonably practicable after the occurrence of any of the following:
  - (a) a significant deterioration in the physical or mental health of the resident,
  - (b) an increase in the need of the resident for care or support services.
- (6) If it is determined, following any such re-assessment, that the authorised boarding house is no longer a suitable residence for the additional needs resident, arrangements must be made (in consultation with the Department) for the relocation of the resident to appropriate alternative accommodation within one month of the determination.



(7) The Director-General must be notified in writing, within 14 days, if it is determined, in accordance with a screening tool, that:

- (a) the authorised boarding house is not a suitable residence for a proposed additional needs resident, or
- (b) the authorised boarding house is no longer a suitable residence for an additional needs resident.

No evidence found to indicate this clause may have been breached.

Sign and date:

**Issue**

**Action**

**Date due**

**Outcome**

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#### 4. Policies and procedures

##### **BH Regulation Clause 16: Condition relating to development of policies**

- (1) It is a condition of a boarding house authorisation that the authorised operator must:
- (a) develop, maintain and implement policies dealing (in accordance with such guidelines, if any, as may be issued for that purpose by the Director-General from time to time) with each of the following:
    - (i) ethical conduct by staff members
    - (ii) procedures for handling complaints
    - (iii) confidentiality of records
    - (iv) illness, accident and emergency treatment
    - (v) administration of medication
    - (vi) infectious diseases
    - (vii) food and nutrition
  - (b) ensure that copies of those policies are available at the authorised boarding house for inspection by staff members, residents and visitors.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue	Action	Date due	Outcome

## 5. Staffing

### BH Regulation Clause 17: Condition relating to staff arrangements

- (1) It is a condition of a boarding house authorisation that the authorised operator must:
- (a) ensure that:
    - i) information concerning staff positions, duties and hours of work at the authorised boarding house is provided to the Director-General at such times and in such circumstances as may be specified in a direction in writing given to the operator by the Director-General, and
    - ii) the Director-General is given notice in writing of a reduction of staffing hours or the number of staff members at the authorised boarding house within 14 days before the reduction takes effect, and
    - iii) copies of staff rosters for the authorised boarding house are provided to the Director-General at such times and in such circumstances as may be specified in a request in writing given to the operator by the Director-General, and
  - (b) engage staff members, or re-organise existing staffing rosters, duties and hours, in accordance with any direction in writing given to the operator by the Director-General.
- (2) A direction for the purposes of subclause (1)(b) that requires additional staff members to be engaged may specify both the number of staff to be engaged and the qualifications they must have.
- (3) The Director-General may give a direction for the purposes of subclause (1)(b) that requires additional staff members to be engaged only if the Director-General is satisfied that, having regard to the needs of the additional needs residents of the authorised boarding house, sufficient staff members with suitable qualifications are not available at the boarding house.

No evidence found to indicate this clause may have been breached.		Sign and date:	
Issue	Action	Date due	Outcome

### BH Regulation Clause 23: Staff information records

- (1) The staff information records to be kept concerning each staff member (or former staff member) employed at an authorised boarding house are as follows:
- (a) the full name and the residential address of the staff member,
  - (b) the date of birth of the staff member,
  - (c) the date on which the staff member commenced work,
  - (d) the positions in which the staff member is employed to work during the member's employment,
  - (e) any relevant qualifications of the staff member (including first aid qualifications),
  - (f) the date on which the staff member ceased to be employed to work at the authorised boarding house

**Note.** Section 84 of the Act also makes it a condition of a boarding house authorisation that the authorised operator ensures that probity checks are carried out on staff members and that records are kept of such checks.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

### BH Regulation Schedule 1 Part 1 Staffing: 1. Staffing Levels

- (1) An authorised boarding house must have staff levels that are sufficient to cater for the needs of the additional needs residents of the boarding house.
- (2) Without limiting subclause (1), the staff levels of the authorised boarding house must include:
- (a) at least one staff member present on the premises of the boarding house at all times, and

<p>(b) if that staff member does not have a current first aid qualification or has that qualification but is not capable of attending to a first aid emergency expeditiously—at least one other staff member present on the premises of the boarding house at all times who has that qualification and is capable of attending to a first aid emergency expeditiously.</p> <p>(3) It is sufficient compliance with this clause if:</p> <p>(a) the staff levels are determined to be sufficient using a staff needs assessment tool, or</p> <p>(b) the Director-General has given written approval for the staffing levels, or</p> <p>(c) the staffing levels are in accordance with a direction given by the Director-General.</p>			
No evidence found to indicate this clause may have been breached.		Sign and date:	
Issue	Action	Date due	Outcome
<b>BH Regulation Schedule 1 Part 1 Staffing: 2. Staffing qualifications, skills and training</b>			
<p>(1) The staff members of an authorised boarding house who exercise functions in relation to additional needs residents must:</p> <p>(a) be at least 16 years of age, and</p> <p>(b) have the knowledge and skills required to exercise those functions (including an understanding of the importance of delivering quality services to, and promoting and protecting the wellbeing of, such residents), and</p> <p>(c) be competent in exercising their functions.</p> <p>(2) Each staff member must be trained in the proper use of the fire fighting equipment of an authorised boarding house and the evacuation procedures followed for the boarding house.</p>			
No evidence found to indicate this clause may have been breached.		Sign and date:	

Issue	Action	Date due	Outcome
<b>BH Act Section 84: Probity checks on staff members of authorised boarding houses</b>			
<p>(a) A person must not be engaged as a staff member of an authorised boarding house unless the authorised operator is satisfied that the person is a suitable person to be involved in the management or operation of the boarding house.</p> <p>(b) The authorised operator must, in deciding whether a person is a suitable person to be involved in the management or operation of the boarding house, first ensure that a criminal record check is conducted on the person.</p> <p>(c) The authorised operator must ensure that a new criminal record check is conducted or obtained in respect of a staff member every 3 years during the period while the person remains a staff member.</p> <p>(d) The authorised operator of an authorised boarding house must not engage (or continue to engage) a person to be a staff member of the boarding house if:</p> <ul style="list-style-type: none"> <li>(i) the operator is satisfied from the person's criminal record check that the person has committed a serious criminal offence, or</li> <li>(ii) the person refuses to obtain or submit to a criminal record check for the purposes of section 84 of the Act.</li> </ul> <p>(e) The authorised operator must ensure that records of such criminal records checks are kept for a period of three years and must make those records available for inspection by enforcement officers.</p>			
No evidence found to indicate this clause may have been breached.		Sign and date:	
Issue	Action	Date due	Outcome

<b>BH Regulation Schedule 1 Part 1 Staffing: 3. Minimum qualifications for managers</b>			
<p>(1) Without limiting clause 2, the manager of an authorised boarding house must have:</p> <ul style="list-style-type: none"> <li>(a) the required abilities to provide services to people with additional needs in boarding houses and the capacity to exercise overall supervision of an assisted boarding house, and</li> <li>(b) one or more of the following: <ul style="list-style-type: none"> <li>(i) a degree or diploma in social work, or in health or community work, of a kind approved by the Director-General,</li> <li>(ii) relevant experience in the management of assisted boarding houses.</li> </ul> </li> </ul>			
No evidence found to indicate this clause may have been breached.		Sign and date:	
<b>Issue</b>	<b>Action</b>	<b>Date due</b>	<b>Outcome</b>
<b>BH Regulation Schedule 1 Part 1 Staffing: 4. Use of volunteers</b>			
<p>(1) Services to additional needs residents of an authorised boarding house may be provided with the assistance of volunteers, but only if the volunteers:</p> <ul style="list-style-type: none"> <li>(a) supplement the staffing requirements specified by this Part and are not counted in determining whether the required staffing levels have been met, and</li> <li>(b) are covered by insurance arrangements in relation to their work.</li> </ul>			

**Note.** The term **staff member** of an assisted boarding house is defined in section 35(1) of the Act to include volunteers. They are therefore subject to the same requirements relating to other staff members, including probity checks for the purposes of the condition imposed on boarding house authorisations by section 84 of the Act. However, this clause ensures that such volunteers are not to be counted for the purposes of determining whether there are appropriate staffing levels for an authorised boarding house.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome



## 6. Support services and protection of residents' interests

### **BH Regulation Schedule 1 Part 3 Lifestyle: 23. Protection of financial affairs of additional needs residents**

- (1) Each additional needs resident of an authorised boarding house must be given support so that the resident has the opportunity to independently operate his or her bank account and manage his or her financial affairs.
- (2) In the event that an additional needs resident is unable to operate his or her bank account or manage his or her financial affairs, the resident must be given support in arranging for such assistance as is required to operate the account or manage the affairs (including support in making an application to the Guardianship Tribunal for a financial management order where necessary).

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

### **BH Regulation Schedule 1 Part 3 Lifestyle: 24. Information about available support services**

- (1) An additional needs resident of an authorised boarding house must be provided with information about support services, financial services, legal services and advocacy services that are available to them.
- (2) An additional needs resident who wishes to access any such service must be assisted (and not obstructed in any way) in accessing those services regardless of where those services are available.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue	Action	Date due	Outcome
<b>BH Act Section 77: Powers of entry by authorised service providers without consent or warrant</b>			
<p>This section makes it a condition of a boarding house authorisation and a manager approval that the authorised operator and approved manager of an authorised boarding house permit an authorised service provider to enter, and confer with residents of, the authorised boarding house in the manner authorised by or under that section. An <b>authorised service provider</b> is a person authorised by the Director-General under that section to enter authorised boarding houses to provide (or provide relevant information or advice about) support services, financial services, legal services or advocacy services provided to residents by the person or the organisation to which the person belongs.</p>			
No evidence found to indicate this section may have been breached.		Sign and date:	
Issue	Action	Date due	Outcome

## 7. Health and wellbeing

### BH Regulation Schedule 1 Part 4 Health and wellbeing: 28. Storage of medication of additional needs residents

- (1) Any medication held at an authorised boarding house on behalf of an additional needs resident must be kept in a lockable storage facility that:
  - (a) is secured to prevent access by an unauthorised person, and
  - (b) that is kept locked at all times when not in immediate use.
- (2) When the storage facility is unlocked, the medication must be kept under the direct supervision of an authorised staff member.
- (3) Any medication kept in the facility must be stored in sealed receptacles apart from any food present in the storage facility.
- (4) Any medication required to be stored at or below a particular temperature must be stored at the appropriate temperature in a lockable storage facility in accordance with the requirements in subclauses (1) and (2).
- (5) No alteration may be made to any label affixed to a container of prescribed medication other than by the person who dispensed the medication.
- (6) Adequate secure lockable storage for medication must be provided for an additional needs resident who personally administers the medication to himself or herself.
- (7) Prescribed medication for an additional needs resident must not be kept at an authorised boarding house if:
  - (a) the resident no longer resides there, or
  - (b) the expiry date for the medication has passed, or
  - (c) the resident, a person responsible for the resident or the treating medical practitioner or nurse practitioner advised that the resident no longer requires the medication.
- (8) Any medication that is expired or no longer required for administration must be destroyed in a manner that is not likely to constitute a risk to the public, such as through the Return Unwanted Medicines project available at community pharmacies.
- (9) A prescribed medication stored on behalf of an additional needs resident must (unless destroyed under subclause (8)) be returned to that resident when the resident leaves the authorised boarding house.

No evidence found to indicate this clause may have been breached.		Sign and date:	
Issue	Action	Date due	Outcome

## BH Regulation Schedule 1 Part 4 Health and wellbeing: 29 Distribution and administration of medication

- (1) Medication distributed or administered at an authorised boarding house to an additional needs resident must be distributed or administered in accordance with the requirements of this clause.
- (2) Prescribed medication administered by a staff member must only be administered in accordance with the directions of the person who prescribed it, regardless of the method or route of administration.
- (3) Where prescribed medication is to be administered to a resident when required according to the resident's needs, written directions of the following matters must be obtained from a medical practitioner or nurse practitioner and kept with the resident's health records:
  - (a) the circumstances under which the medication may be given to the resident,
  - (b) the procedure to be followed for administration of the medication,
  - (c) the circumstances under which a further dose may be administered and the required interval between doses,
  - (d) the maximum dose that may be given,
  - (e) the circumstances under which a medical practitioner or nurse practitioner should be contacted in relation to the administration of the medication.
- (4) Non-prescribed medication that is distributed by the authorised boarding house must be distributed in accordance with the product instructions unless advised otherwise by the treating medical practitioner or nurse practitioner.
- (5) Before administering or supervising the administration of medication to a resident, the staff member responsible for giving the medication must confirm that the medication is being provided to the correct resident, at the correct dose, by the correct route, at the correct frequency and at the correct time.
- (6) A staff member administering prescribed medication must consult with the treating medical practitioner or nurse practitioner, or a pharmacist, in relation to any concern about the appropriateness of a medication before administering the medication or substance.
- (7) A staff member supervising the administration of medication by a resident must hand the medication directly to the resident at the appropriate administration time and observe the administration of it by the resident.
- (8) A staff member who administers prescribed medication must ensure any instructions for the administration of the medication (such as "swallow

whole”) are followed.

- (9) A staff member who administers or supervises the administration of prescribed medication to a resident must notify the treating medical practitioner or nurse practitioner of:
- (a) any failure of administration, whether due to refusal or otherwise, or
  - (b) any error in medication administration.
- (10) Nothing in this Division precludes a resident from personally administering an injection of medication (including insulin) to himself or herself. However, a staff member must not administer an injection to a resident unless the staff member has been adequately trained to complete that task.
- (11) If it is practicable to do so, staff members should ensure that all prescribed medicines are repacked and labelled by a registered pharmacist, medical practitioner or nurse practitioner into individual doses in a dose administration aid such as a blister pack.
- (12) If a resident is responsible for the administration of prescribed medication to himself or herself:
- (a) in the case where there is reason to believe that the resident has maladministered or failed to administer that medication—reasonable steps must be taken to ensure that the health practitioner who prescribed the medication is notified (and, if applicable, any mental health or general emergency services), and
  - (b) in the case where there is reason to believe that the resident is failing to comply with recommendations or advice from the medical practitioner or nurse practitioner who prescribed the medication—reasonable steps must be taken to discuss the matter:
    - (i) with the resident or a person responsible for the resident, and
    - (ii) where appropriate, the practitioner who prescribed the medication.
- (13) Arrangements must be made for all medications required by a resident during the resident’s absence from the authorised boarding house to be provided to the resident for administration during the absence. No medication may be repacked by any person other than a registered pharmacist, medical practitioner or nurse practitioner.

No evidence found to indicate this clause may have been breached.		Sign and date:	
Issue	Action	Date due	Outcome

<b>BH Regulation Schedule 1 Part 4 Health and wellbeing: 30 Choice of and access to health care providers</b>			
<p>(1) Additional needs residents of an authorised boarding house must be offered the opportunity to select their own health care providers and be provided with reasonable support to access those providers in a timely way.</p> <p>(2) It is sufficient compliance with subclause (1) if:</p> <ul style="list-style-type: none"> <li>(a) preferred health care providers are identified by residents and included in each resident's health records, and</li> <li>(b) residents are assisted, as far as possible, with making appointments and with transport arrangements to attend appointments with health care providers, and</li> <li>(c) residents are encouraged to access health care promptly if any sign of deterioration in their health status appears.</li> </ul>			
No evidence found to indicate this clause may have been breached.		Sign and date:	
<b>Issue</b>	<b>Action</b>	<b>Date due</b>	<b>Outcome</b>
<b>BH Regulation Schedule 1 Part 4 Health and wellbeing: 31 Assistance with health issues</b>			
<p>(1) The following requirements apply in relation to the provision of assistance to additional needs residents of an authorised boarding house:</p> <ul style="list-style-type: none"> <li>(a) in the case where an additional needs resident suffers an injury or is ill while on the premises of the boarding house: <ul style="list-style-type: none"> <li>(i) immediate steps must be taken to administer any necessary emergency first aid and, if the injury or illness requires urgent medical or dental treatment, to secure that treatment, and</li> <li>(ii) the resident must be monitored on the premises until the resident recovers or until a person responsible for the resident takes charge of the resident,</li> </ul> </li> </ul>			

- (b) in the case where any medication or medical, hospital or dental treatment or ambulance services are obtained for the resident:
- (i) a person responsible for the resident must be notified as soon as practically possible of the injury or illness and the treatment or services arranged for the resident, and
  - (ii) relevant medical advice in relation to the management of the injury or illness must be followed
- (c) in the case where any other matter concerning the resident's health arises while the resident is on the premises of the boarding house (including a significant deterioration in the resident's health)—a person responsible for the resident must be given notice of that matter as soon as practicable after the authorised operator becomes aware of the matter.

No evidence found to indicate this clause may have been breached.

Sign and date:

**Issue**

**Action**

**Date due**

**Outcome**

## 8. Food and nutrition

### BH Regulation Schedule 1 Part 4 Division 3 Food and Nutrition

- (1) This clause applies to and in respect of additional needs residents who are unable to provide themselves with meals and food that meet their dietary needs and daily requirements
- (2) Each additional needs resident of an authorised boarding house must be provided with meals that take into account their health, dietary needs and cultural, religious and dietary preferences, and a menu plan that takes into account the following:
  - (a) discussion of dietary needs and cultural, religious and dietary preferences with each resident,
  - (b) kitchen staff being informed of those preferences and menus being planned that take these into consideration,
  - (c) the acquisition of food and supplies that reflect the planned menu.
- (3) Each additional needs resident must be provided with food that is adequate in quality, quantity, variety and nutritional value to meet their daily and specific dietary requirements, and in accordance with the following:
  - (a) menus are planned with reference to published dietary guidelines or, when necessary, the advice of a qualified dietician or nutritionist,
  - (b) menus are rotated regularly to ensure variety,
  - (c) residents have ready access at all times to drinking water and other beverages and refreshments,
  - (d) meals are provided at appropriate and acceptable times.

**Note.** See also the requirements of the Food Act 2003 (and the Food Safety Standards within the meaning of that Act) concerning food preparation. Those requirements apply in relation to authorised boarding houses. See section 6 of the Act.

No evidence found to indicate this clause may have been breached.		Sign and date:	
Issue	Action	Date due	Outcome



## 9. Safety, fire evacuation and first aid

### BH Regulation Schedule 1 Part 4 Division 4 Safety: 33 Evacuation procedures

- (1) Additional needs residents of an authorised boarding house must be informed of the evacuation procedures that are followed by the boarding house.
- (2) Regular evacuation testing must be carried out for an authorised boarding house every six months or more frequently if this is required to manage risks effectively (taking into account the particular needs of all the additional needs residents, the nature of the premises, the overall number of occupants, staffing numbers and staff and resident turnovers).

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue

Action

Date due

Outcome

### BH Regulation Clause 25: Fire safety procedure records

- (1) The fire safety procedure records to be kept for an authorised boarding house are as follows:
- (a) any emergency evacuation plans prepared for the boarding house,
  - (b) fire safety certificates and statements for the boarding house,
  - (c) the dates for evacuation tests that have been carried out,
  - (d) the dates and reasons for any actual evacuations.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue	Action	Date due	Outcome

### **BH Regulation Schedule 1 Part 4 Division 4 Safety: 34 First aid kits**

- (1) An authorised boarding house must have a suitably equipped and well stocked first aid kit of a kind approved by the Director-General.  
 (2) The first aid kit must be readily accessible to residents and staff members.  
 (3) Cardio-pulmonary resuscitation charts must be displayed in a prominent position both inside and outside the premises of an authorised boarding house.

No evidence found to indicate this clause may have been breached.

Sign and date:

Issue	Action	Date due	Outcome

# Appendix 29: Assisted Boarding Houses Premises Inspection Form

ABH Name \_\_\_\_\_

Address of premises \_\_\_\_\_

Licensed capacity \_\_\_\_\_

Date of inspection \_\_\_\_\_

*For additional detail on what guidance has been given to Licensee on appropriate standards please refer to the Assisted Boarding Houses Practice Guide.*

## General

Item	Yes	No	Notes
Telephone present and available for staff for emergencies	<input type="checkbox"/>	<input type="checkbox"/>	
Telephone present and available for residents at reasonable fee	<input type="checkbox"/>	<input type="checkbox"/>	
Call bell on each floor in hallway or common area	<input type="checkbox"/>	<input type="checkbox"/>	
Suitable storage facilities for residents' personal property	<input type="checkbox"/>	<input type="checkbox"/>	
Suitable storage facilities for recreation and education supplies, luggage, cleaning materials and outdoor equipment	<input type="checkbox"/>	<input type="checkbox"/>	
Number of recreation areas (e.g. lounge room, outdoor area)			
What is the square metre per person space of <b>internal</b> areas per person accommodated?			

## Bedrooms – General

Item	Yes	No	Notes
Number of bedrooms			
Number of single occupancy bedrooms			
Are all single bedrooms a minimum of 7.5m <sup>2</sup> ?	<input type="checkbox"/>	<input type="checkbox"/>	
Double occupancy bedrooms?	<input type="checkbox"/>	<input type="checkbox"/>	Number:
Bedrooms with more than two people?	<input type="checkbox"/>	<input type="checkbox"/>	Provide details:
If double occupancy bedrooms, have residents consented to share a room?	<input type="checkbox"/>	<input type="checkbox"/>	

## Bathroom(s) and Toilet(s) – General

Item	Yes	No	Notes
Number of toilets			
Number of shower/bath facilities			
Number of hand washing facilities			
Is number of toilets sufficient for number of residents?	<input type="checkbox"/>	<input type="checkbox"/>	

## Kitchen(s) – General

Item	Yes	No	Notes
Number of kitchens			
Capacity for residents to prepare food and refreshments			

## Dining Room(s) – General

Item	Yes	No	Notes
Number of dining rooms			

## Bedrooms – Specific

Bedroom number: \_\_\_\_\_ Number of beds: \_\_\_\_\_

Item	Yes	No	Notes
If double occupancy bedrooms, have residents consented to share a room?	<input type="checkbox"/>	<input type="checkbox"/>	
If double occupancy bedrooms, are bedrooms a minimum of 11m <sup>2</sup> ?	<input type="checkbox"/>	<input type="checkbox"/>	
Bed frame, mattress clean comfortable and in working order?	<input type="checkbox"/>	<input type="checkbox"/>	
Bedding, pillows and linen appropriate to climate and sufficient?	<input type="checkbox"/>	<input type="checkbox"/>	
Each resident has own wardrobe storage	<input type="checkbox"/>	<input type="checkbox"/>	
Each resident has own bedside table	<input type="checkbox"/>	<input type="checkbox"/>	
Floor – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Walls – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Ceiling – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate light and ventilation	<input type="checkbox"/>	<input type="checkbox"/>	
Heating, cooling and electrical equipment in safe working order and appropriate for climate and temperature?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	
Curtains	<input type="checkbox"/>	<input type="checkbox"/>	
Windows	<input type="checkbox"/>	<input type="checkbox"/>	
In safe, hygienic condition, a reasonable state of repair, and pest- and vermin-free?	<input type="checkbox"/>	<input type="checkbox"/>	

## Common Area – Specific

Specify area (eg lounge, outdoor): \_\_\_\_\_

Item	Yes	No	Notes
Appropriate furniture and fittings provided and in reasonable state of repair	<input type="checkbox"/>	<input type="checkbox"/>	
Appropriate for climate and temperature			
In safe, hygienic condition, a reasonable state of repair, and pest- and vermin-free?	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate light and ventilation	<input type="checkbox"/>	<input type="checkbox"/>	
Heating, cooling and electrical equipment in safe working order and appropriate for climate and temperature?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	
Floor – any issues?			
Walls/Doors – any issues?			
Ceiling – any issues?			
Curtains			
Windows			
Electrical Appliances (TV, music)			
Other:			

## Bathroom / Toilet – Specific

Specify area: \_\_\_\_\_

Item	Yes	No	Notes
In safe, hygienic condition, a reasonable state of repair, and pest- and vermin-free?	<input type="checkbox"/>	<input type="checkbox"/>	
Privacy	<input type="checkbox"/>	<input type="checkbox"/>	
Call bell present in all bathrooms	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate light and ventilation	<input type="checkbox"/>	<input type="checkbox"/>	
Heating, cooling and electrical equipment in safe working order and appropriate for climate and temperature?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	
Floor – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Walls/Doors – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Ceiling – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Curtains	<input type="checkbox"/>	<input type="checkbox"/>	
Windows	<input type="checkbox"/>	<input type="checkbox"/>	
Electrical Appliances	<input type="checkbox"/>	<input type="checkbox"/>	
Other:	<input type="checkbox"/>	<input type="checkbox"/>	

## Kitchen(s) - Specific

Item	Yes	No	Notes
In safe, hygienic condition, a reasonable state of repair, and pest- and vermin-free?	<input type="checkbox"/>	<input type="checkbox"/>	
Call bell present	<input type="checkbox"/>	<input type="checkbox"/>	
Fridge	<input type="checkbox"/>	<input type="checkbox"/>	
Stove	<input type="checkbox"/>	<input type="checkbox"/>	
Microwave	<input type="checkbox"/>	<input type="checkbox"/>	
Sink	<input type="checkbox"/>	<input type="checkbox"/>	
Cupboards	<input type="checkbox"/>	<input type="checkbox"/>	
Hot water	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate light and ventilation	<input type="checkbox"/>	<input type="checkbox"/>	
Heating, cooling and electrical equipment in safe working order and appropriate for climate and temperature?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	
Floor – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Walls/Doors – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Ceilings – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Windows	<input type="checkbox"/>	<input type="checkbox"/>	
Surfaces	<input type="checkbox"/>	<input type="checkbox"/>	
Fly Proof	<input type="checkbox"/>	<input type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>	



## Dining Room(s)

Item	Yes	No	Notes
Sufficient comfortable seats for all residents who are receiving meals?			
Appropriate furniture and fittings provided and in reasonable state of repair	<input type="checkbox"/>	<input type="checkbox"/>	
In safe, hygienic condition, a reasonable state of repair, and pest- and vermin-free?	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate light and ventilation	<input type="checkbox"/>	<input type="checkbox"/>	
Heating, cooling and electrical equipment in safe working order and appropriate for climate and temperature?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	
Floor – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Walls/doors – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Ceilings – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Windows	<input type="checkbox"/>	<input type="checkbox"/>	
Curtains	<input type="checkbox"/>	<input type="checkbox"/>	
Electrical Appliances (TV, music)	<input type="checkbox"/>	<input type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>	

## Private or Quiet Room(s)

Item	Yes	No	Notes
Number of private or quiet rooms			
In safe, hygienic condition, a reasonable state of repair, and pest- and vermin-free?	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate light and ventilation	<input type="checkbox"/>	<input type="checkbox"/>	
Heating, cooling and electrical equipment in safe working order and appropriate for climate and temperature?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	
Floor – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Walls/doors – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Ceilings – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Windows	<input type="checkbox"/>	<input type="checkbox"/>	
Curtains	<input type="checkbox"/>	<input type="checkbox"/>	
Electrical Appliances (TV, music)	<input type="checkbox"/>	<input type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>	

## Laundry

Item	Yes	No	Notes
Laundry available for use of residents?	<input type="checkbox"/>	<input type="checkbox"/>	
In safe, hygienic condition, a reasonable state of repair, and pest- and vermin-free?	<input type="checkbox"/>	<input type="checkbox"/>	
Adequate light and ventilation	<input type="checkbox"/>	<input type="checkbox"/>	
Heating, cooling and electrical equipment in safe working order and appropriate for climate and temperature?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	
Floor – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Floor waste properly installed and working?	<input type="checkbox"/>	<input type="checkbox"/>	
Walls/doors – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Ceilings – any issues?	<input type="checkbox"/>	<input type="checkbox"/>	
Windows	<input type="checkbox"/>	<input type="checkbox"/>	
Curtains	<input type="checkbox"/>	<input type="checkbox"/>	
Electrical Appliances (washing machine, dryer)	<input type="checkbox"/>	<input type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>	



## Appendix 30: Notice of Full Service Review Outcomes

Name  
Licensee &/or Licensed Manager  
Address  
SUBURB NSW POSTCODE

AH13/xxxxxx

Dear Name

Thank you for making time for Ageing, Disability and Home Care (ADHC), Department of Family and Community Services staff to conduct a full service review at **name and address of premises**. I appreciate that you were able to provide significant time for the review to be completed.

ADHC Boarding House Compliance Officers will continue to monitor your progress in ensuring the health and safety of residents in **name of premises** and the requirements of the *Boarding Houses Act 2012* and the *Boarding Houses Regulation 2013* are met.

I have attached a copy of the Full Service Review Report and Action Plan. ADHC Boarding House Compliance Officers will be in contact to monitor implementation of any actions required.

In summary I note that during the full service review and as assessed against the criteria in the Risk Indicator Chart in the ADHC Assisted Boarding Houses Authorisation and Monitoring Manual there are:

- **x high risk breaches**
- **x medium risk breaches and**
- **x low risk breaches.**

[Add or delete as applicable] Given the seriousness of some of these breaches and your obligations under the *Boarding Houses Act 2012* and *Boarding Houses Regulation 2013*, Boarding House Compliance Officers will continue to work with you to address the matters that have arisen from the review.

Please do not hesitate to contact (**Boarding House Compliance Officer name**) on **xxxx xxxx** if you would like to discuss any issue relating to the review.

Yours sincerely

**Delegated Officer**

## Appendix 31: Transition Plan for Pre-existing Authorised Assisted Boarding Houses

This form must be used annually by Assisted Boarding Houses that were previously licensed under the *Youth and Community Services Act 1973* (YCS Act) to detail the steps Licensees are taking to adapt to Standards 6 and 7 in Schedule 1 of the *Boarding Houses Regulation 2013*.

The Transition Plan must be submitted to FACS by 1 July 2014, and an update submitted by 1 July every year after until 1 July 2018.

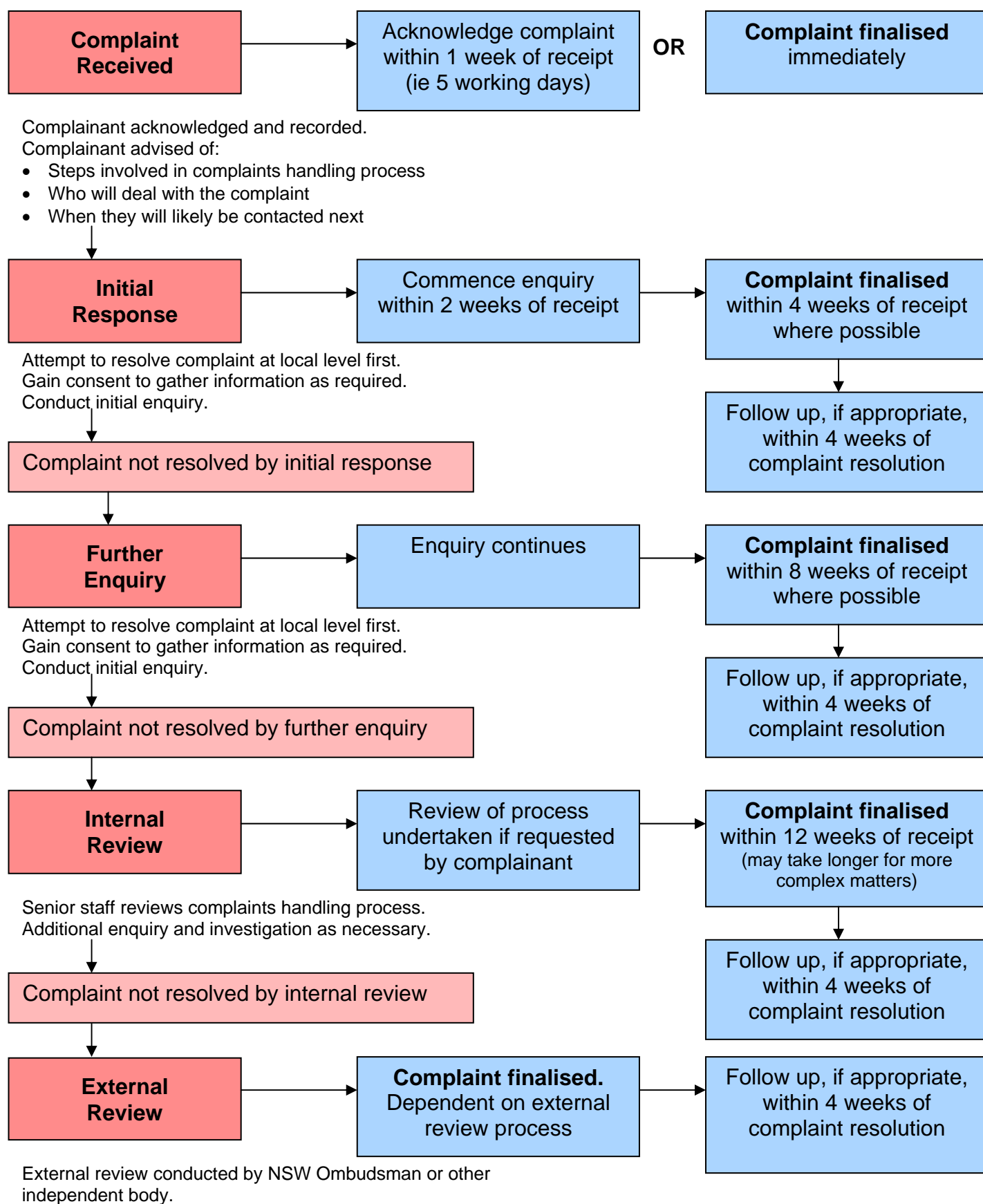
I agree to comply with the actions set out below.

Licensee Name \_\_\_\_\_ Date of this update \_\_\_\_\_

Licensee Signature \_\_\_\_\_

Assisted Boarding House details		
Name		
Address		
Year	Proposed Actions	Annual Report on Actions
1 July 2014 – 30 June 2015		
1 July 2015 – 30 June 2016		
1 July 2016 – 30 June 2017		
1 July 2017 – 30 June 2018		
1 July 2018	Compliant with Standards 6 and 7 of the <i>Boarding Houses Regulation 2013</i> : <ul style="list-style-type: none"> <li>- Maximum number of residents is 30</li> <li>- One resident per room unless resident chooses to share with another resident – in which case maximum is two per room</li> <li>- Locks on bedroom doors</li> </ul>	

## Appendix 32: Complaint Handling Process Map



## Appendix 33: Assisted Boarding House Incident Report Form

This form is to be used to notify the Chief Executive of Ageing, Disability and Home Care (ADHC) of incidents in accordance with section 83 of the *Boarding Houses Act 2012*.

Incidents include:

- the sexual assault (or an allegation of sexual assault) of a resident of the boarding house
- the unexpected absence of a resident of the boarding house with additional needs for more than 24 hours
- an assault or allegation of assault (other than a sexual assault) under Part 3 of the Crimes Act of:
  - ☐ a resident by a staff member; or
  - ☐ a staff member by a resident; or
  - ☐ a resident by another resident
- a serious accident involving a resident on the premises of the boarding house resulting in the resident needing medical, dental or hospital treatment
- the making of a complaint about the treatment of a resident whereby it is alleged that the BH Act or BH Regulation has been contravened, a staff member has committed fraud against a resident, or the resident has been neglected, ill-treated or otherwise had their safety, health or well-being compromised while living at the boarding house
- other incidents involving residents, including serious attempted self harm.

If a resident has died, please use ADHC's Client Death Notification Form.

Please complete this form and return it to ADHC's Contemporary Residential Options Directorate as soon as reasonably possible after the incident happens. Given the seriousness of these incidents, and the standard set by other regulatory practices, we would encourage you to notify ADHC within a 24 hour period.

Assisted Boarding House details			
Name			
Address			
Details of persons involved			
Name		<input type="checkbox"/> Resident	<input type="checkbox"/> Staff <input type="checkbox"/> Other
Name		<input type="checkbox"/> Resident	<input type="checkbox"/> Staff <input type="checkbox"/> Other
Name		<input type="checkbox"/> Resident	<input type="checkbox"/> Staff <input type="checkbox"/> Other
Name		<input type="checkbox"/> Resident	<input type="checkbox"/> Staff <input type="checkbox"/> Other

Incident details			
Date		Time	
Where incident occurred			
Incident type	<div> <input type="checkbox"/> Absence           <input type="checkbox"/> Illness (hospitalisation)         </div> <div> <input type="checkbox"/> Alleged sexual assault           <input type="checkbox"/> Injury         </div> <div> <input type="checkbox"/> Assault physical/verbal           <input type="checkbox"/> Medication error         </div> <div> <input type="checkbox"/> Damage to property           <input type="checkbox"/> Self harm (actual / threat)         </div> <div> <input type="checkbox"/> Fire (minor / major)           <input type="checkbox"/> Theft / robbery         </div> <div> <input type="checkbox"/> Other (please specify)         </div>		
Description ( <i>what happened</i> )			
Reported to		Reported by	
Witness name		Witness name	
Immediate action			
Was first aid administered? If yes, please give name of first aid attendant	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		
Was an ambulance called?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		
Were the police called? If yes, please give name of Police Officer, station and Police event number.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		
Treating Hospital/ Doctor		Phone	





### Other action

*Please give details of any further action taken in response to the incident:*

Your name		Phone	
Signature		Date	
<b>ADHC use only</b>			
Name of officer		Date received	
Comments			

## Appendix 34: ASSISTED BOARDING HOUSE CATEGORY 1 INCIDENT – EXECUTIVE BRIEFING

**REGION:**

**DATE OF INCIDENT:**

**TRIM:**

- > A copy of this briefing, and copy of the Client Death Notification (CDN) form if necessary, is due to the Office of the Chief Executive within 24 hours of receipt of CDN by Regional Offices or Directorates. A copy of this briefing must be received by the Manager Programs, Contemporary Residential Options Directorate.
- > Attach documents or forms to this briefing where applicable.

### INCIDENT OVERVIEW

*Attach a separate sheet for incidents involving multiple clients.*

Resident Name:

D.O.B:

Residence:

Brief description of circumstances:

Police report made

Yes ☐ No ☐

Details:

### INDIVIDUAL HISTORY

Primary diagnosis

Date of last mental health intervention

Date:

Doctor:

Known medical conditions

Date of last medical review

Date:

Doctor:

Medicine form attached

Yes ☐ No ☐

Health care plan attached

Yes ☐ No ☐

### LICENSING HISTORY

Full service review in last 12 months

Yes ☐ No ☐

Date:

Monitoring inspection within last 8 weeks

Yes ☐ No ☐

Date:

### CONTENTIOUS CONSIDERATIONS

*If **YES** is ticked to any of these boxes a briefing note to Chief Executive must be completed within 7 days.*

Other deaths at ABH within last 6 months

Yes ☐ No ☐

Details:

*Include names and TRIM numbers:*

Police investigation commenced

Yes ☐ No ☐

Event number:

Unexpected or unexplained death

Yes ☐ No ☐

Details:

OH&S risks associated with accident

Yes ☐ No ☐

Details:

Media attention or complaint likely

Yes ☐ No ☐

Details:

Policy/Procedure implications for future service delivery

Yes ☐ No ☐

Details:

### ENDORSED:

Manager Date	
Regional Director Date	
Executive Director CRO Date	
Director-General Date	

### OCE USE:

Copy ☐  
DDG ☐  
EPSU ☐  
Media ☐  
Other ☐

Further information required ☐

OCE to request briefing note - due

**RETURN THIS FORM TO OCE**

**FAX 8270 2473 and EMAIL [pab@dadhc.nsw.gov.au](mailto:pab@dadhc.nsw.gov.au)**

DADHC Incident Management Policy  
(Section 8)- Appendix D

## Appendix 35: Client Death Notification Form (CDN)

 Office use only  
 ADHC TRIM NO:

 Text references e.g.<sup>1</sup> refer to notes in *Guidelines for Completion* (p 5-6)

To pick a box, double-click on it and select 'checked'.

### Person's Details

Family name:  Given name(s):   
 Date of birth:  ☐ Male ☐ Female Aboriginal or Torres Strait Islander<sup>1</sup> ☐ Yes ☐ No ☐ Don't know  
 Country of birth:  First language<sup>2</sup>: ☐ English ☐ Other (specify):   
 Did the person receive support for communication<sup>3</sup> ☐ Yes ☐ No If yes (specify):

### Accommodation

Name of service provider <sup>4</sup> <input type="text"/>		
Postal address: <input type="text"/>		Postcode: <input type="text"/>
Contact person: <input type="text"/>	Title: <input type="text"/>	Telephone: <input type="text"/>
Place of residence <sup>5</sup> : <input type="text"/>		
<b>ADHC operated service</b> <input type="checkbox"/> Group home (< 7 people) <input type="checkbox"/> Small residential (7-20 people) <input type="checkbox"/> Large residential (>20 people) <input type="checkbox"/> Respite - group home <input type="checkbox"/> Respite - large residential <input type="checkbox"/> Other If other (specify): <input type="text"/>	<b>Funded Service</b> <input type="checkbox"/> Group home (< 7 people) <input type="checkbox"/> Small residential (7-20 people) <input type="checkbox"/> Large residential (>20 people) <input type="checkbox"/> Respite - group home <input type="checkbox"/> Respite - large residential	<input type="checkbox"/> Licensed boarding house
Person's length of time at this residence: <input type="text"/>	Length of time in accommodation/support services during lifetime: <input type="text"/>	
Number of residents living at this address: <input type="text"/>	Names of other residents who died at service outlet in last 12 months: <input type="text"/>	
<b>Respite stays</b> Starting date last respite admission: <input type="text"/> Overnight respite stays in previous 12 months: <input type="text"/>		

### Time and Place of Death

Please provide copies of relevant Critical Incident Reports and/or Incident Briefing Notes

#### Date and time

 Date of death:  Time of death: 

#### Place of death

☐ At the residence ☐ At hospital (specify)   
☐ Other (specify)

#### Notification to Police<sup>6</sup>

 Date:  Notifying person: 

 Police Station: 

 Name and rank of police officer:  COPS Event No (if known):

## Disability and Health

### Intellectual

☐ Mild      ☐ Moderate      ☐ Severe      ☐ Profound      ☐ Unknown level

### Had cause of intellectual disability been diagnosed?

☐ Yes (specify) ☐ Down syndrome    ☐ Microcephaly    ☐ Meningitis    ☐ Other (specify):

☐ No    ☐ Don't know

### Other cognitive impairment

☐ Dementia    ☐ Alcohol related brain damage    ☐ Other (specify):

### Mental illness

Specify:

### Sensory impairment

☐ Sight (specify):       ☐ Hearing (specify):

### Physical

☐ Cerebral Palsy (including spastic quadriplegia)    ☐ Other (specify):

### Other disability

Specify:

### Health management documents

Did the person have: **Nutrition & Swallowing Checklist:** ☐ Yes    ☐ No      **Health Care Plan<sup>7</sup>** ☐ Yes    ☐ No

Please forward with the CDN form the most recently completed copies of these documents and any other health-related support plans such as **Epilepsy Management, Asthma Management, Palliative Care** or **Eating & Drinking** plans etc.

### Health issues

Had the person been diagnosed with any of the following health conditions:

☐ Asthma                                      ☐ Cancer  
☐ Diabetes                                   ☐ Epilepsy  
☐ Osteoporosis                              ☐ Constipation  
☐ High blood pressure                   ☐ Recurrent respiratory infections  
☐ Gastroesophageal reflux (&/or oesophagitis)

☐ Other (specify):

### Weight & height

Last recorded weight before death:  (kg)    Date:       Weight 3 months before that:  (kg)    Date:

Last recorded height before death:  (cm)    Date:

### Personal care needs

Did the person have: ☐ Swallowing difficulties<sup>8</sup>    ☐ Help with meals<sup>9</sup>    ☐ Tube feeding<sup>10</sup> (specify):

Was the person nil by mouth?<sup>11</sup> ☐ Yes    ☐ No    Did the person have: ☐ Urinary incontinence<sup>12</sup>    ☐ Faecal incontinence<sup>13</sup>

### Dental

Did the person have: ☐ All their teeth    ☐ Some teeth    ☐ No teeth    ☐ Dental aid<sup>14</sup>    ☐ Don't know

### Mobility

Limited mobility<sup>15</sup> ☐ No    ☐ Wheelchair    ☐ Walking frame    ☐ Walking stick    ☐ Other (specify):

### Any fractures in previous five years

☐ Yes    ☐ No    ☐ Don't know    If yes (specify number):

**Behaviour**

Did the person display challenging behaviour<sup>16</sup> in the previous 12 months: ☐ Yes ☐ No

If yes: ☐ Serious self injury<sup>17</sup> ☐ Absconding<sup>18</sup> ☐ Eating non-food items (Pica)

☐ Other challenging behaviour (specify):

Were restrictive practices<sup>19</sup> used in the last 12 months: ☐ Yes ☐ No If yes (specify):

**Smoking**

☐ Yes ☐ Occasional ☐ Up to 10/day ☐ 11-20/day ☐ >20/day

☐ No ☐ Non-smoker ☐ Ex smoker

**Medication and Consent**

List all medications the person was prescribed at the time of death. Indicate dosage, and regular<sup>20</sup> or PRN<sup>21</sup>:

Item	Dosage	Regular	PRN	Item	Dosage	Regular	PRN
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>

Any other medications prescribed for the person in the last 12 months<sup>22</sup>

<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>

Were there any medication incidents<sup>23</sup> in the last 12 months?

☐ Yes ☐ No If yes(specify):

**Responsible for consent<sup>24</sup>**

☐ Deceased themselves ☐ Family member ☐ Friend ☐ Advocate ☐ Public Guardian ☐ Private Guardian

Immunisation	Yes	No	Date immunised	Don't know	Immunisation	Yes	No	Date immunised	Don't know
Tetanus	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>	Pneumococcal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>
Diphtheria	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>	Influenza	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>
Hepatitis A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>	Meningococcal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>
Hepatitis B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>	Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/>

**Health providers**

General Practitioners	Date of last visit	Date last comprehensive annual review
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

	Practitioner/profession	Date last visit	Provider's name
Hearing	<input type="text"/>	<input type="text"/>	<input type="text"/>
Vision	<input type="text"/>	<input type="text"/>	<input type="text"/>
Therapists	Speech pathologist	<input type="text"/>	<input type="text"/>
	Dietitian	<input type="text"/>	<input type="text"/>
	Occupational Therapist	<input type="text"/>	<input type="text"/>
	Physiotherapist	<input type="text"/>	<input type="text"/>

	Other		
<b>Medical specialist</b>	Neurologist		
	Cardiologist		
	Psychiatrist		
	Dentist		
	Other		
<b>Multidisciplinary teams</b>	Palliative care		
	Dysphagia Clinic		
	Other		

### In the 12 months before the person's death

**Illnesses** Did the person have any illness that required treatment by a doctor?(*e.g. chest infection*) ☐ Yes ☐ No

If yes(specify):

**Date**

**Hospital admissions** Was the person admitted to hospital?<sup>25</sup> ☐ Yes ☐ No

If yes (specify):

Date	Hospital	Reason/s for admission
------	----------	------------------------

--	--	--

--	--	--

**Accidents** Did the person have any accident/s that caused injury? *E.g. fell and cut head* ☐ Yes ☐ No

If yes (specify):

**Date**

### Other Information

Please provide any other relevant information about the person not provided above

### Checklist for Completion (see Guidelines)

I have completed the following (please tick):

☐ Signed and dated CDN ☐ Faxed (02 8270 2473) CDN to Coordinator Client Relations, Ministerial & Executive Services, ADHC ***within 48 hours of person's death***

☐ Posted the following documents to Coordinator Client Relations, Ministerial & Executive Services, ADHC, **Level 5, 83 Clarence Street, Sydney, NSW 2000:**

☐ CDN form ☐ copies of Critical Incident Reports<sup>26</sup> / Incident Briefing Notes<sup>27</sup> about the death (see ***Time and Place of Death*** on page 1) ☐ copies of health related plans (see ***Health Management Documents*** on page 2).

Form completed by (please print name):

Date:

Signature ..... Position title:

Telephone:

**ADHC  
Operations**

Line Manager:

Senior Manager:

Regional Director:

## Guidelines for Completion of Client Death Notification Form

The service provider fills out the Client Death Notification (CDN) form and submits it to Ageing, Disability and Home Care (ADHC), Department of Human Services NSW no later than 48 hours after the person's death. At this time, or as soon as possible, the service provider also sends the associated documents (health care plans, briefing notes etc) to ADHC, who will send all these documents to the Reviewable Deaths Team at the NSW Ombudsman's Office.

Ref	CDN Question	Guidelines for completion
<b>Person's Details</b>		
1.	Aboriginal or Torres Strait Islander	Tick "Yes" if this has been confirmed on the person's file.
2.	First language	Indicate which language the person preferred. If the person was largely non-verbal, indicate which language their family used to communicate with them.
3.	Support for communication	This may have been necessary if the person had limited expressive and/or receptive communication skills. Support examples include use of gestures, adjusted verbal language, signing, pictures and electronic devices, hearing aide.
<b>Accommodation</b>		
4.	Name of service provider	Write full details of the service provider's head office, if applicable.
5.	Person's place of residence	Write full details of the specific service outlet including the Unit name/number at which the person resided.
<b>Time and Place of Death</b>		
6.	Notification to Police	Under the <i>Coroners Act 2009</i> , service providers are required to report the person's death to a police officer, coroner (or assistant coroner) as soon as possible after the death.
<b>Disability and Health</b>		
7.	Health Care Plan	Any document that provides a comprehensive overview of the person's health needs and outlines the actions required to meet those needs. In relation to licensed boarding houses, this includes records kept in accordance with Youth and Community Services Regulations 2010, Part 2 clause 11, clause 12(2) and (4).
8.	Swallowing difficulties	Tick if person had been identified as having dysphagia (swallowing problems), or if the person required foods and fluids of different texture e.g. minced/ pureed food, thickened fluids. Do not tick if this only occurred during a final hospital admission prior to death.
9.	Help with meals	Tick if the person needed help to chop food up (or mince or blend) and/or help to use utensils to eat. Do not tick if the person needed help with cooking.
10.	Tube feeding	Tick if the person received food / fluid via a tube. Specify which type, eg: nasogastric, PEG (percutaneous endoscopic gastrostomy), or jejunostomy.
11.	Nil by mouth	Tick if the person did not take any food and/ or fluid via their mouth, and they received all food and fluid via a tube. Do not tick if this only occurred during a final hospital admission prior to death.
12.	Urinary incontinence	Tick if the person had decreased ability to control their passing of urine
13.	Faecal incontinence	Tick if the person had decreased ability to control the emptying of their bowel.
14.	Dental aid	A dental aid refers to items such as dentures. Some people may have some of their own teeth and a partial denture.
15.	Limited mobility	This refers to decreased ability to move freely without assistance or without risk of falling. Other aides may include a hoist or assistance from

		a carer.
16.	Challenging behaviour	Behaviour that is of such intensity, frequency or duration that the physical safety of the person or those nearby is put at risk.
17.	Serious self injury	Examples are self-hitting, banging head, biting, cutting, scratching or picking skin, burning and eye poking.
18.	Absconding	The person left a place without the agreement of those responsible for their care.
19.	Restrictive practices	Restrictive practices refer to methods that involve some intrusion on the person's freedom in order to curtail a particular behaviour. May include physical or chemical restraint and seclusion or containment.
20.	Regular medication	Medication taken on a regular basis.
21.	PRN medication	Medication taken as needed.
22.	Other medications in last 12 months	List any medications prescribed for the person in the last 12 months that were ceased prior to their death.
23.	Medication incidents	Any incident where medication was not given as required. For example, the wrong medications were given, medications were missed or were given at the wrong time, or the wrong dose was given.
24.	Responsible for consent	Indicate who was responsible for providing consent to medical and dental treatment on the person's behalf.
<b>In the 12 months before the person's death</b>		
25.	Hospital admissions	This refers to a full admission to hospital or a short-term admission to an Accident and Emergency department.
<b>Checklist for Completion</b>		
26.	Critical incident reports	A staff member's report of a significant incident or event that represented potential danger to the person or other people.
27.	Briefing notes	A short, written outline provided to management about the death.



## Appendix 36: Notice Requiring the Provision of Documents Template

NAME  
ADDRESS

AHI <insert file no>

Dear NAME

### NOTICE REQUIRING THE PROVISION OF DOCUMENTS

#### PREMISES: ADDRESS

This is a notice under section 70 of the *Boarding Houses Act 2012* that the Director-General of the Department of Family and Community Services requires that you provide the following documents within 10 calendar days of the date of this letter:

#### List documents

Failure to provide these documents will constitute a breach of the *Boarding Houses Act 2012*, and the following maximum penalties will apply:

- 40 penalty units (\$4,400) plus an additional 10 penalty units (\$1,100) per day if the Licensee is a corporation
- 20 penalty units (\$2,200) plus an additional 5 penalty units (\$550) per day if the Licensee is an individual.

If you have any queries in relation to this matter, please do not hesitate to contact [insert name] on [insert number].

Yours sincerely

NAME  
DELEGATED OFFICER  
Dated:



## Appendix 37: Boarding House

### Resident referral and consent form

*This form is to be used by residents of assisted and general boarding houses to give Ageing, Disability and Home Care, (ADHC) Department of Family and Community Services (FACS) permission for support or assessment referrals.*

Resident name \_\_\_\_\_

Resident address \_\_\_\_\_

- ☐ I would like ADHC to help me get some support where I live
- ☐ I agree for ADHC to arrange an assessment to see if I need more help

I understand that there are people who can help me to:

- |   |  |
|---|--|
| <input type="checkbox"/> take care of myself                                  | <input type="checkbox"/> sort out my money                   |
| <input type="checkbox"/> make friends and get out of the house to meet people | <input type="checkbox"/> make decisions or sort out problems |

I understand that ADHC needs to find out about me so that they can help me. I agree that they can ask people about me. I also agree that other people can tell ADHC about me.

I agree that ADHC can give or get information about me to or from my:

- |  |  |
|--|--|
| <input type="checkbox"/> family                    | <input type="checkbox"/> doctor(s)                     |
| <input type="checkbox"/> boarding house manager    | <input type="checkbox"/> guardian or financial manager |
| <input type="checkbox"/> mental health case worker | <input type="checkbox"/> hospital (NSW Health)         |
| <input type="checkbox"/> Housing NSW               |  |

I do not want ADHC to talk to or about me to the following people or organisations:

\_\_\_\_\_  
I understand that this form will let ADHC share information about me with the people above for 12 months.

I know I can change my mind and say no to this agreement to share information and to be given help from other services at any time.

Resident  
signature \_\_\_\_\_

Date \_\_\_\_\_

Witness  
name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



## **Privacy Notice**

Information about you will be stored by Ageing, Disability and Home Care (ADHC), Department of Family and Community Services (FACS). FACS follows NSW privacy law when it collects and manages personal and health information. We can only use the information for the purpose for which it was collected. You have a right to find out what information we have about you, and to change information that is wrong. Your information can be used by other agencies that are part of FACS (including Housing NSW and Community Services) as a whole to plan, coordinate and improve the way we provide services.

<b>Name (if applicable)</b>		
<b>Street Address</b>		
<b>Suburb and Post Code</b>		
<b>Operator (if known)</b>		

<b>Date of Visit</b>	
<b>Officer(s)</b>	

**Is the boarding house registered with NSW Fair Trading?** ☐ YES ☐ NO ☐ UNKNOWN

*If yes, please attach a copy of the registration form.*

**Reason for ADHC investigation:**

- ☐ NSW Fair Trading registration referral  
☐ Other referral - ☐ Council ☐ Funded Provider ☐ Community ☐ \_\_\_\_\_ (please specify)  
☐ Complaint  
☐ Other: \_\_\_\_\_ (please specify)

<b>Is the premises already known to ADHC?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Details:</b>	

<b>Power of entry details</b>	
<input type="checkbox"/> Entry denied  <input type="checkbox"/> Manager approval to enter	Person: Details:
<input type="checkbox"/> Entry under search warrant  Police attended: <input type="checkbox"/> YES <input type="checkbox"/> NO LAC: Officer names:  Others attended: <input type="checkbox"/> YES <input type="checkbox"/> NO Names:	
Warrant number: Details:	

<b>Physical status of premises</b>		
<input type="checkbox"/> Satisfactory	<input type="checkbox"/> Poor	<input type="checkbox"/> Serious deficiencies
<b>Details:</b>		
<b>Referral to Local Council:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO	<b>Date:</b>	

<b>Actions and Evidence</b>		
Was a manager present at time of visit?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Did the manager obstruct the visit in any way?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Details:		
Were there any critical incidents during the visit?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<i>This includes any event that required the intervention of emergency services (e.g. police or ambulance), or any Workplace Health and Safety hazards or incidents.</i>		
Details:		
Were there any residents on site during the visit?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<i>If yes, please complete and attach a resident information spreadsheet (page 4 of this form)</i>		
Total number of residents who require additional assessment of support needs		
Was there any other evidence on site to suggest the presence of people with additional needs?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Details:		
Were photographs taken? <input type="checkbox"/> YES <input type="checkbox"/> NO		
Were documents or other things seized? <input type="checkbox"/> YES <input type="checkbox"/> NO		
Does the evidence collected suggest that the premises may be an Assisted Boarding House operating without authorisation?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Was the operator/ manager given a copy of the Unauthorised Assisted Boarding Houses Fact Sheet?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Has the operator/ manager indicated interest in applying for a licence to operate an Assisted Boarding House?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Did the operator/ manager indicate that they knew they were operating an Assisted Boarding House without authorisation?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Comments:		



Resident Information Spreadsheet		
CODE		
DSP	=	Disability Support Pension
TAG (Fin)	=	Trustee and Guardian (Financial Order)
TAG (other)	=	Appointed Guardian for Accommodation, Medical & Dental, other function
CTO	=	Community Treatment Order
Diagnosis	=	ID (Intellectual Disability); Psych (Psychiatric Diagnosis/Disability); ARBD (Alcohol Related Brain Damage)

	Consent (Y/N)	First Name	Surname	Sex (M/F)	DOB	No disability	Diagnosis	DSP	TAG (Fin)	T&G - other	CTO	Screening Tool (not eligible)	Services Accessed	Assessment Consent form	
1															
2															
3															
4															
5															
6															
7															
8															
9															
10															

<b>Recommended Action</b>		
No Action	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<i>Only where residents are not people with additional needs, or where the premises is exempt from the Boarding House Act 2012.</i>		
Rationale:		
Further Assessment	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<i>Where resident support needs are not clear, resident support needs assessments should be arranged.</i>		
Rationale:		
Resident Support/ Referral	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<i>Referral to appropriate case management services to support residents sustain existing accommodation arrangements.</i>		
Rationale:		
Authorisation	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<i>ADHC to provide support and advice to operators on the authorisation process to operate an Assisted Boarding House.</i>		
Rationale:		
Legal Action		
(i) Notice of Prosecutable Offence	<input type="checkbox"/> YES	<input type="checkbox"/> NO
(ii) Penalty Notice	<input type="checkbox"/> YES	<input type="checkbox"/> NO
(iii) Prosecution	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<i>As a last resort, and only if sufficient evidence exists that the proprietor or manager knowingly continues to operate as an Assisted Boarding House without authorisation.</i>		
Rationale:		

<b>Endorsement</b>
<i>Name, Date and Signature of Compliance Officer</i>
<i>Name, Date and Signature of Line Manager</i>

## Information for operators of boarding houses who may be accommodating people with additional needs

### Boarding Houses Act 2012

The *Boarding Houses Act 2012* provides a comprehensive and contemporary legislative framework for the regulation of boarding houses in NSW. This includes:

- central registration of all “registrable boarding houses” with NSW Fair Trading
- mandatory building inspections by local councils
- the introduction of occupancy rights for residents administered by the Consumer Tenancy Tribunal
- enhanced standards for “assisted boarding houses” monitored by Ageing, Disability and Home Care

### Assisted Boarding Houses

“Assisted boarding houses” were previously known as “licensed residential centres” under the *Youth and Community Services Act 1973*. There are currently around 20 authorised assisted boarding houses operating across NSW.

Someone may be operating an assisted boarding house without authorisation if they provide boarding accommodation for two or more unrelated “persons with additional needs”. A “person with additional needs” is defined as a person:

- with a permanent disability, mental illness or aged related frailty, **and**
- who requires support with their daily care and living tasks such as showering, taking medication or cooking meals.

A tenant or resident with a disability or someone who receives the Disability Support Pension (DSP) is not necessarily a person with additional needs. People with a disability can live independently in the community without the need for additional support.

It is important that operators of boarding houses seek authorisation from Ageing, Disability and Home Care (ADHC) to provide accommodation to people with additional needs. The *Boarding Houses Act 2012* makes it an offence to operate as an assisted boarding house without authorisation and sets out penalties for both proprietors and managers of unauthorised assisted boarding houses.

Some premises are exempt from the *Boarding House Act 2012*, including hotels, accommodation owned by schools or universities, government-owned or funded group homes for people with disabilities, hospitals, nursing homes and retirement villages.



## Responding to Unauthorised Assisted Boarding Houses

There are several ways that ADHC may find out about an unauthorised assisted boarding house. This includes:

- operator self-identification through the NSW Fair Trading registration process
- operator self-identification through requests to ADHC for resident support services
- information gathered by local councils during council inspections
- information provided by residents, their family or friends, community workers, or members of the public.

If ADHC thinks there may be two or more people with additional needs living in a property, officers will need to assess if it is an unauthorised assisted boarding house. Investigations may include a visit to the property, talking to the owner and/or manager, and talking to the residents about their accommodation and support needs.

There are a number of actions that ADHC can take after these initial investigations:

- no action – this may occur when ADHC's inquiries find that there are no persons with additional needs or the premises are exempt from the Act
- further assessment – where resident support needs are not clear, ADHC may arrange resident support needs assessments
- authorisation – ADHC will provide advice to operators who wish to apply for authorisation to provide accommodation and services to people with additional needs
- resident support - ADHC may refer people to appropriate case management services to support residents to sustain their existing accommodation arrangements
- prosecution – as a last resort, and if sufficient evidence exists that the proprietor or manager continues to operate an unauthorised assisted boarding house and has taken no action to remedy the situation.

## Key ADHC Messages

ADHC is committed to supporting and improving the wellbeing of people with a disability living in boarding houses in NSW.

ADHC will apply person-centred practice when working with boarding house residents, which means supporting residents to make informed choices about their service and accommodation options.

**Owners and managers of boarding houses who are concerned that they may be accommodating people with additional needs without authorisation are requested to seek advice from ADHC before taking any action.**



## Further Information

If you would like further information about boarding houses please contact ADHC's Boarding House Team on 9377 6000 or email [boarding.houses@facs.nsw.gov.au](mailto:boarding.houses@facs.nsw.gov.au)



## Appendix 40: Notice to declare an Assisted Boarding House

NAME  
ADDRESS

AHI <insert file no>

Dear NAME

### NOTICE TO DECLARE AN ASSISTED BOARDING HOUSE

PREMISES: ADDRESS

This is a notice under section 39 of the *Boarding Houses Act 2012* that the Director-General of the Department of Family and Community Services declares this premises to be an assisted boarding house for the following reasons:

- (a) the premises provides beds for use by two or more residents who are persons with additional needs (not counting any persons with additional needs who reside there with their competent relatives), and
- (b) the premises are not excluded from the definition of assisted boarding house by section 37(2), and
- (c) the making of the declaration is necessary to ensure the wellbeing of the residents of the premises.

Under the *Boarding Houses Act 2012*, a boarding house that accommodates two or more residents with additional needs is required to be authorised by the Department of Family and Community Services.

An officer from the Department will be in touch with you shortly to discuss your options. No action will be taken before this discussion takes place, and we request that you please do not take any action in relation to residents until you have had the opportunity to meet with the officer from the Department.

If you have any queries in relation to this matter, please do not hesitate to contact [insert name] on [insert number].

Yours sincerely

NAME  
DELEGATED OFFICER