15 April 2013

Submission to:

Draft Boarding House Regulation 2013

UnitingCare Children, Young People and Families (UnitingCare CYPF) welcomes the opportunity to provide a submission to the draft regulations concerning the operation of boarding houses and assisted boarding houses in New South Wales. UnitingCare CYPF is a service group of UnitingCare NSW/ACT which is one of the largest providers of services to support children, families and individuals in NSW. Our service group includes UnitingCare Disability.

UnitingCare Disability plays a lead role in the provision and development of services for people with disabilities and their families. Our aim is to help transform lives by creating options that enable all people to live a good life as valued citizens in their communities.

UnitingCare Disability works to support people with disabilities to move from licensed boarding houses into the community in a variety of ways. The Weroona Transitional Service provides transitional accommodation, support and planning for people with a disability exiting long-term boarding house accommodation.

UnitingCare Disability also provides a number of longer term support options for people who have exited Licensed Boarding houses including a Supported Living (drop in support) program and a small group home for people requiring 24 hour care and support.

In addition, UnitingCare Disability provides outreach support to people currently living in licensed Boarding Houses through the Active Linking Initiative (ALI) program in Sydney’s Inner West. UnitingCare Disability is auspice to the state wide ALI Financial Assessor project, assessing the capacity of people with a disability living in licensed boarding houses to make independent financial decisions, and linking them where necessary to the appropriate supports.

UnitingCare CYPF endorses the submission from People With Disability Australia (PWD) to the Draft Boarding Houses Regulation 2013. In particular we wish to highlight two major issues:

1) The failure of the regulation to exclude children and young people from
residing in boarding houses

2) Dilution of current standards that are a requirement of the Notice of Licence Conditions

Excluding Children and young people from residing in boarding houses

UnitingCare CYPF do not believe that boarding houses are a suitable or safe place for children and young people, and that their accommodation in boarding houses is unnecessarily placing children and young people at foreseeable risk. UnitingCare CYPF reiterates our position outlined in the submission to the Exposure Draft Boarding House Bill 2012 that specific provisions must be made within the legislation to exclude all children and young people (as defined by the Children and Young Persons Care and Protection Act 1998) as residents of any boarding house whether or not they have a disability.

It is longstanding NSW Government policy and practice not to allow children and young people as boarding house residents. For example, licence conditions under the Youth and Community Services Act 1973, clearly state “no person under the age of 18 years shall reside as a resident of the centre”. UnitingCare CYPF recommends that the regulations be amended to exclude the accommodation of children and young people in boarding houses. In order to ensure this provision is complied with by operators, monitoring and compliance mechanisms should include screening for the presence of children and young people and include steps to ensure that children and young people are provided with appropriate accommodation for their age.

It should be noted that by not specifically disallowing the accommodation of children and young people in licensed boarding houses the Government may be in breach of the Children and Young Persons Care and Protection Act (the Care and Protection Act) 1998. Section 8(a) and Section 9(1) of the Care and Protection Act provides for children and young persons to receive such care and protection necessary for their safety, welfare and well-being and that for any action or decision concerning a child or young person, their safety, welfare and well-being should be paramount.

The best way to protect children and young people in boarding houses is to prevent them from residing in them in the first place.

The Dilution of existing licensing standards

UnitingCare CYPF supports PWD’s recommendations for ensuring current standards defined in the Notice of Licence Conditions are not undermined by the incoming regulation.

Bedroom size
Schedule 1, Section 7 of the draft regulations states that the relevant application for minimum bedroom size in assisted boarding houses is the Public Health Regulation 2012 which stipulates 5.5 square metres should be the minimum bedroom size provided per person. UnitingCare CYPF believes that the appropriate instrument in this instance is the Notice of Licence Conditions ‘A’ and ‘B’ which provides for 7.5 square metres per person. The reduction of 2 square metres per person in bedroom space is significant, leaves very
little space when furnished and does not factor in individual needs for mobility and personal space.

**Personal storage**
The draft regulations remove requirements under the *Youth and Community Services Regulation 2010* (YACS) for personal storage space and a lockable bed-side cabinet. We agree with PWD that lack of personal and secure storage could undermine provisions for helping residents to independence and lead to staff managing the storage and access to items.

**Communal living space**
Schedule 1, Section 16 of the draft regulations diminish requirements set by the “B” Notice of Licence Conditions that stipulates recreation spaces need to be internal and at a minimum of 3 square metres per resident. The regulation does not specify a minimum size for the communal living space, or that this should be indoors. Given that communal recreation spaces encourage the engagement of residents in activity and participation, we believe that the proposed regulations could have significant impacts on the mental health and well-being, activity and independence of residents.

**Laundry Facilities**
Schedule 1, Section 20 of the draft regulations erodes the provisions in the Notice of License Conditions by not requiring the provision of laundry facilities on site, instead providing that if they do not exist on site, that laundry must be arranged “through another facility, service or arrangement”. We agree with PWD that laundry facilities on site are an essential element for helping residents with independent living skills and general independence.

UnitingCare CYPF recommends that the regulation is amended accordingly to protect those standards mentioned above and as outlined in the Notice of License Conditions.

**Comment on other sections of the draft regulation**

**Maximum capacity**

UnitingCare CYPF supports PWA’s recommendation that Schedule 1, Section 6 be amended so that the maximum capacity of an assisted boarding house is capped at six instead of the proposed minimum of 30. We agree that larger boarding houses promote a sense of institutionalisation of residents and compounds identified issues amongst residents such as lack of privacy and risk of abuse.

**Shared bedrooms**

UnitingCare CYPF supports PWD’s recommendations that Schedule 1, Section 7 (1) b (i) (ii) is amended so that the option of shared bedrooms “where the residents know each other and have requested a shared bedroom” is removed. We agree that there is a high risk operators will use the threat of reduced capacity to “encourage” residents to “choose” shared rooms, and that those in relationships preference their own rooms and space. If the Government is serious about tackling the sense of institutionalisation of residents in boarding houses, it is essential that residents are provided with their own rooms.
Accessibility

It is essential that boarding house premises comply with minimum accessibility standards given that the definition of those persons with additional needs under the Boarding Houses Act 2012 includes those with physical access needs. We support PWD recommendation 39 that Schedule 1, Part 2, Division 2 and 3 must be amended accordingly to ensure application of accessibility standards both into and around the premise and associated facilities within the premise.

Options for implementation of Regulation

Whilst UnitingCare CYPF understands that the implementation of new regulation may take some boarding house managers time to comply with, the proposed transition period of five years is far too long to wait. We believe that the regulations (with our proposed amendments) go some way to protecting vulnerable people residing in boarding houses and need to be implemented as a matter of urgency.

For this reason, UnitingCare CYPF supports option D for the immediate implementation of regulations by services. Uniting Care CYPF would support an amended version of Option C if the transition period is reduced from five years to two years.

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