Ageing, Disability and Home Care,
Family and Community Services
Boarding House Reform Program

Dear Sir/Madam,

Re: Boarding Houses Act 2012 – Submission on the draft Boarding Houses Regulation 2013 and proposed Standard Occupancy Agreement

The Consumer, Trader and Tenancy Tribunal (CTTT) has reviewed the draft Boarding Houses Regulation 2013, Regulatory Impact Statement and draft Standard Occupancy Agreement for residents of general boarding houses.

In line with its role as an independent and impartial arbitrator, the Tribunal does not generally comment on matters of policy except in so far as policy decisions may have implications for the Tribunal’s operational processes and for the expeditious and effective resolution of disputes.

The Tribunal notes that it is not proposed to make the Standard Occupancy Agreement mandatory in the Regulations. It is understood that the primary reason for introducing a standard agreement is to guide the parties in formalising the occupancy arrangements. As a result, Section 29 of the Boarding Houses Act 2012 provides for the Commissioner to approve a standard form of occupancy agreement and further provides in subsection 29(5) that “An occupancy agreement that is in or to the effect of the applicable standard form of occupancy agreement for the class of registrable boarding house, parties or agreement concerned is taken to give effect to the occupancy principles in the manner required by or under this Part.”

The Tribunal is of the view that in cases where parties may decide to draft their own versions of the agreement, disputation could arise about whether those agreements are fully compliant with the occupancy principles. It may also result in uncertainty for both parties should the dispute come to the Tribunal. The use of a standard agreement would be more likely to result in an expeditious resolution of the dispute. Subsection 29(6) provides for the regulations to require the use of the standard form of the agreement. This would ensure a pre-defined basis for agreement between the parties during the occupancy. For this reason the Tribunal strongly supports making the use of the standard occupancy agreement mandatory.

The Tribunal raises no other issues in relation to the proposed Boarding Houses Regulation and Standard Occupancy Agreement.

Thank you for the opportunity to comment on these reforms.

Yours sincerely,

Stuart Westgarth
Chairperson
15 April 2013