



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

Assisted Boarding Houses Practice Guide

Boarding Houses Act 2012

Boarding Houses Regulation 2013



Document approval

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1 Introduction

The Assisted Boarding House Practice Guide (Practice Guide) gives guidance to Boarding House operators and managers on complying with the *Boarding Houses Act 2012* (BH Act) and *Boarding Houses Regulation 2013* (BH Regulation). It will clarify responsibilities and help operators of Assisted Boarding Houses understand what is required of them.

The Practice Guide will be useful for:

- Licensees, Approved Managers and staff of Assisted Boarding Houses
- residents of Assisted Boarding Houses
- Department of Family and Community Services (FACS) staff
- staff of services involved in supporting Assisted Boarding House residents; and
- families, friends and advocates of residents.

This document is for operators of both pre-existing Assisted Boarding Houses, that is premises that were licensed under the *Youth and Community Services Act 1973*, and potential new Assisted Boarding Houses, so some sections of this Practice Guide will contain information that pre-existing operators already know and have applied in their boarding houses.

The Practice Guide will be reviewed and updated annually to make sure that any further clarification sought by stakeholders on the BH Act and BH Regulation are included as required. A form for your feedback on this Practice Guide is provided at **Appendix 1**.

This Practice Guide also relates to another document, the *Assisted Boarding Houses Authorisation and Monitoring Manual*, which is the operational procedure manual for the Boarding House Compliance Officers employed by the Department of Family and Community Services (FACS).

The Practice Guide will be a more useful document for people involved in running Assisted Boarding Houses, but the *Assisted Boarding Houses Authorisation and Monitoring Manual* is available on the ADHC website at: http://www.adhc.nsw.gov.au/sp/delivering_disability_services/boarding_house_program/boarding_house_program_reports_policies_and_guidelines if you would like to see the processes FACS follows.

For easy reference, the relevant section of the BH Act or BH Regulation is listed on the right hand side of the page throughout this guide.

When referencing the BH Act, “s76” stands for the section of the Act.

When referencing the BH Regulation, “cl10” stands for clause 10 of the Regulation, and “Sch1 Std7” shows the Schedule number and the standard number in the Schedule.

1.1 Contact Details

Boarding House Compliance Unit: 02 9377 6000

If you are deaf, or have a hearing impairment or speech impairment contact us through the [National Relay Service: www.relayservice.gov.au](http://www.relayservice.gov.au).

TTY users phone 133 677 then ask for the phone number for your chosen service.

Speak and Listen users phone 1300 555 727 then ask for the phone number for your chosen service.

Internet relay users connect to the NRS (www.iprelay.com.au/call/index.aspx) then input the phone number for your chosen service.

Email: boarding.houses@facs.nsw.gov.au

2 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 a boarding house 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 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 licensed by FACS are in breach of the BH Act and are called Unauthorised Assisted Boarding Houses in this document.</p>	<p>BH Act s37, 39</p> <p>BH Reg Sch1</p>
Assisted Boarding Houses Authorisation and Monitoring Manual	<p>The operational procedure manual for Family and Community Services (FACS) Boarding House Compliance Officers when dealing with boarding houses. The manual is available on the ADHC website at: http://www.adhc.nsw.gov.au/sp/delivering_disability_services/boarding_house_program/boarding_house_program_reports_policies_and_guidelines.</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	Authorised operator of an Assisted Boarding House means: (a) if the boarding house is an authorised boarding house—the licensee, and (b) if an interim permit is in force with respect to the boarding house—the interim permit holder.	BH Act s44-52 BH Act 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 Boarding Houses Act 2012.	
BH Regulation	The Boarding Houses Regulation 2013.	
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.	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
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.	BH Act s66
FACS	Department of Family and Community Services. ADHC is the lead agency of FACS in relation to Assisted Boarding Houses.	
General Boarding House (See also Assisted Boarding House and Boarding Premises)	<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 this definition are excluded from the BH Act, including</p> <ul style="list-style-type: none"> ■ hotels, motels, B&Bs ■ backpackers hostels ■ serviced apartments for tourists or visitors ■ accommodation for workers in connection with their employment ■ 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 ■ social housing as defined in the Residential Tenancies Act ■ accommodation, including crisis accommodation, provided or funded by the Commonwealth or State Governments. 	
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> <p>(i) an age related frailty</p> <p>(ii) a mental illness within the meaning of the Mental Health Act 2007</p> <p>(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</p> <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 care such as (but not limited to) showering or bathing, the preparation of meals and the management of medication.</p>	BH Act s36
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

<p>Registrable Boarding House</p> <p>(See also Boarding Premises, Assisted Boarding House, and General Boarding House)</p>	<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 Appendix 2.</p>	<p>BH Act s5</p>
<p>Relative</p>	<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 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.</p>	<p>BH Act s4</p>
<p>Staff member</p>	<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>	<p>BH Act s35</p> <p>BH Reg Sch1 Std1-4</p>

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.
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3 Reading and Interpreting the BH Act and BH Regulation

The *Boarding Houses Act 2012* (BH Act) was passed by the NSW Parliament in October 2012 and is available on the NSW Legislation website:

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

Licensees of authorised Assisted Boarding Houses will be provided with a hard copy of the BH Act.

The BH Act divides registrable boarding houses into two categories:

- "general boarding houses" – boarding houses accommodating five or more people for fee or reward
- "assisted boarding houses" – boarding houses accommodating two or more "persons with additional needs", which means people who need daily, ongoing care and support services as a result of having an age-related condition, mental illness or other disability.

The BH Act provides for:

- registration of all "registrable boarding houses" on the Boarding Houses Register administered by NSW Fair Trading
- initial compliance investigations of registered boarding houses by local councils
- the introduction of Occupancy Principles for all residents of registrable boarding houses, and
- a scheme for the authorisation and operation of "assisted boarding houses" which will be administered by ADHC on behalf of FACS.

The provisions of the BH Act relating to the Register of Boarding Houses commenced on 1 January 2013. The remaining parts of the BH Act, including Part 4 which relates to Assisted Boarding Houses, commenced on 1 July 2013.

The *Boarding Houses Regulation 2013* (the BH Regulation) also commenced on 1 July 2013. It makes some additional requirements of operators, mainly relating to authorisation, conditions and standards. The BH Regulation is available on the NSW Legislation website:

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

There are a number of differences between the BH Regulation and the Regulation that was previously in force under the *Youth and Community Services Act 1973*, which was repealed on 1 July 2013.

The BH Regulation places new obligations on Licensees and Approved Managers of existing Assisted Boarding Houses relating to:

- the development of policies such as ethical conduct by staff members, procedures for handling complaints, confidentiality of records, illness, accident and emergency treatment, administration of medication, infectious diseases, and food and nutrition
- staffing arrangements including minimum staffing levels and the requirement for probity checks (employment screening)
- new physical requirements such as the installation of call bells, lockable bedrooms and food preparation areas available to residents
- the development of Transition Plans to comply with single room occupancy and a maximum capacity of 30 residents by 1 July 2018.

This Practice Guide will set out the requirements for Licensees and Approved Managers, and will also tell you when Compliance Notices and Penalty Notices may apply.

The Practice Guide does not provide legal commentary and cannot be used to avoid any obligations created by legislation. Proprietors should seek their own legal advice where required.

4 Registration Requirements

Under Part 2 of the BH Act, all registrable boarding houses must be registered with NSW Fair Trading.

BH Act
s9

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

Registration costs \$100. 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 fined 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.

BH Act
s9(3) &
9(5)

A copy of the NSW Fair Trading Boarding House Registration Form is at **Appendix 2**. 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.

5 Occupancy agreements and Occupancy Principles

An occupancy agreement is a contract between you and the boarding house resident that states the terms and conditions of the occupancy. BH Reg cl22

NSW Fair Trading has information on occupancy agreements and Occupancy Principles on its website, and this is summarised below. BH Act s30-31

The BH Act requires you to enter into a written occupancy agreement with each resident. If you do not have a written agreement, the Occupancy Principles still apply and can be enforced by the resident in the Consumer, Trader and Tenancy Tribunal (CTTT).

From 1 October 2013, the Occupancy Principles automatically become part of all occupancy agreements in registrable boarding houses, whether the principles are written in the agreement or not. An occupancy agreement cannot be inconsistent with the Occupancy Principles.

If there is a dispute with a resident about the Occupancy Principles, which you cannot resolve, you can make an application to the CTTT for a resolution.

The Occupancy Principles are a set of basic rights and responsibilities for residents of boarding houses, and are listed in Schedule 1 of the BH Act. A summary is below: BH Act Sch1

Before residents move in, they have a right to:

- have a written occupancy agreement with the boarding house proprietor
- be informed of how much the occupancy fee will be
- know whether they will be charged for utilities such as gas, electricity or water. The amount charged for these utilities must be based on the cost of providing the utility and a reasonable measure or estimate of how much the resident has used
- be informed of the house rules
- be advised if they have to pay a security deposit and how much it will be. A security deposit cannot be more than the equivalent of two weeks occupancy fee.
- know how and why the occupancy agreement can be terminated, including how much notice will be given.

While a resident is living in the boarding house, they have:

- a right to live in a house that is reasonably clean and secure, and in a reasonable state of repair
- a right to have quiet enjoyment of the place in which they live

- a right to be given receipts for any money they pay the proprietor or manager of the boarding house
- a right to be given four weeks written notice of any increase in the occupancy fee
- a right to have any charges for utilities limited to the cost of providing the utility plus a reasonable estimate or measure of their usage
- a right to not to be 'fined' for a breach of the occupancy agreement and house rules. If a resident breaches the agreement or the house rules they can be asked to leave, consistent with notice periods contained in the occupancy agreement
- a responsibility to try to resolve any disputes they have with the boarding house proprietor or manager. Either party can apply to the CTTT for help if a dispute cannot be resolved.
- a responsibility to give reasonable access to their room for inspections or repairs. A resident must be given written notice that access is required, except in an emergency.

When a resident moves out they have a right to:

- have their security deposit refunded within 14 days of moving out minus any deductions allowed under the Boarding Houses Act. Allowable deductions include unpaid rent, the reasonable cost of repairs for damage caused by the resident or their guests, the reasonable cost of cleaning areas they occupied and didn't leave reasonably clean, and the cost of replacing locks they removed or added without permission.
- be given reasonable written notice of eviction. In deciding how much notice to give a resident, the boarding house proprietor or manager can take into account the safety of other people living or working in the boarding house.

If you evict an additional needs resident, you need to notify FACS within three days of issuing an eviction notice or immediately after evicting them, whichever comes first.

BH Reg
cl18

If you want more information on your obligations, rights or disputes relating to occupancy agreements, please contact NSW Fair Trading.

If you feel a resident needs assistance in understanding their rights, you can help them to contact an advocacy service and/or a local tenants advice service. You can find out the local tenants advice service, and other information on Occupancy Agreements, from the Tenants Union of NSW website: <http://www.tenantsunion.org.au/>

NSW Fair Trading has prepared a Standard Occupancy Agreement which is available on its website. FACS has engaged a provider to develop a Plain English occupancy agreement specifically for Assisted Boarding Houses that Licensees may wish to use.

6 Physical Requirements for Assisted Boarding Houses

There are a number of physical requirements for Assisted Boarding Houses set out in the BH Regulation.

It is an offence to contravene an authorisation condition of an Authorised Boarding House.	BH Act s43
It is also a condition of Assisted Boarding House authorisation that the Licensee ensures that accommodation, staffing and services are provided in accordance with the standards of Schedule 1 of the BH Regulation.	BH Reg cl12

6.1 Display of Licence and other information

You must display your Licence or Interim Permit in a conspicuous position in the boarding house.	BH Act s53 BH Reg cl30
You also need to make sure that all of the following are displayed in a conspicuous position in the boarding house: <ul style="list-style-type: none">■ any Licence Conditions (other than those imposed by the BH Act or BH Regulation) that don't appear in full on the Licence■ a copy of the rules of the boarding house■ 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■ a copy of any current Compliance Notice that has been issued in relation to your Assisted Boarding House.	BH Reg cl15

You must have at least one copy of the BH Act and BH Regulation available on the premises for the use of residents, staff members and visitors.	BH Reg cl15(4)
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6.2 Housing of residents

Pre-existing authorised Assisted Boarding Houses have until 1 July 2018 to comply with the requirements in 6.2.1 and 6.2.2. See also **Section 12**.

6.2.1 Maximum number of residents

The maximum number of residents is 30. Boarding houses previously licensed under the <i>Youth and Community Services Act 1973</i> have until 1 July 2018 to comply.	BH Reg Sch1 Std6
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6.2.2 Sleeping arrangements

The maximum number of residents who can occupy each bedroom is now one, unless a resident has requested to share a bedroom with a particular person, in which case the maximum number of residents who can occupy that bedroom is two. Boarding houses previously licensed under the *Youth and Community Services Act 1973* have until 1 July 2018 to comply.

BH Reg
Sch1
Std7

When you are allocating a room to a new resident, or a resident is moving from a double to a single room or from a single to a double room, you must consult with a legal guardian with a decision making function, if one is appointed. You may also consult with:

- a family member if available
- the person's mental health or other caseworker.

Caseworkers and advocates are also available to give advice.

Bedrooms must have a minimum floor area of 7.5m² for a single room or 11m² for a double room.

BH Reg
Sch1
Std7

Each bedroom must be capable of being locked to ensure the privacy of the occupants.

BH Reg
Sch1
Std7

You should check with your local council to make sure the bedroom door locks are appropriate to meet fire safety regulations.

As a guide, the relevant standard is the Building Code of Australia Ordinance D2.21, which states:

- the egress opening action of a lock must be a single handed downward lever action [that is, the door handle to exit a room must be able to be opened by pushing down on it]
- internal knobs or turn snibs are not permitted. This provision takes into account the need for an emergency opening mechanism to be operable by people with hand or arm related disabilities, burns to their hands, with perspiring or wet hands, or the aged or infirm
- the opening mechanism should be capable of being operated by a nudging action whilst dragging an injured or unconscious person to safety
- key locking in not permissible on the inside of the door
- only one lock per door is permissible
- locks must be fitted at a height of between 900mm and 1100mm from the floor level.

Any master key that would enable a bedroom to be unlocked by someone other than an occupant of the bedroom must be kept in a secure place by the manager of the authorised boarding house.

BH Reg
Sch1
Std7

Provision must be made in relation to additional needs residents to ensure that:

BH Reg
Sch1
Std7

- mattresses and other bedding are clean and comfortable, and
- bed clothing is appropriate to the climate, and
- all bed clothing is kept clean and in good repair, and
- bed linen used by one resident is washed before it is used by another resident, and
- absorbent or waterproof bed sheets are provided to residents who require them.

As a guide, FACS considers that a comfortable mattress is a mattress that is suited to the needs of the resident, is appropriate for any health condition the resident may have and feels comfortable to the resident.

The mattress should be correctly sized for the bed frame or base and designed for the type of support the bed provides. For example, if a bed has a woven wire or spring wire mattress support, the mattress should provide adequate support for a sleeper and allow even distribution of the sleeper's weight to avoid causing the mattress support to sag in a way that comfortable sleep is not possible. A foam rubber/plastic mattress would not be acceptable on a bed with wooden slats.

Bed clothing should be correctly sized to the bed so that sheets, blankets and other coverings can be securely tucked under the mattress to prevent normal sleep movement dislodging them and exposing the sleeper to discomfort.

Bed clothing that is in good repair means that there are no tears, holes or fraying edges that are un-repaired. Any repairs should maintain the integrity of the fabric and its thermal performance.

6.3 State of premises

FACS Boarding House Compliance Officers will discuss these matters with operators on an individual basis.

6.3.1 Cleanliness, maintenance and repairs

The premises and all equipment must be maintained in a clean, safe and hygienic condition and a reasonable state of repair at all times.

BH Reg
Sch1
Std8

All effort must be made to keep the building and grounds pest- and vermin-free.

6.3.2 Light and ventilation

Adequate lighting and ventilation must be maintained in the premises.

BH Reg
Sch1
Std9

6.3.3 Furniture and fittings

Appropriate furniture and fittings must be provided in all rooms and maintained in a reasonable state of repair.

BH Reg
Sch1
Std10

6.3.4 Heating, cooling and other electrical equipment

All heating, cooling and other electrical equipment must be in safe working order and appropriate for the climate and temperature.

BH Reg
Sch1
Std11

6.4 Facilities for residents and staff

6.4.1 Storage facilities

The boarding house must have secure storage facilities for recreation and education supplies, luggage, cleaning materials and outdoor equipment.

BH Reg
Sch1
Std13

Residents must be provided with suitable storage facilities for their personal property.

BH Reg
Sch1
Std22

6.4.2 Toilets and washing facilities

The boarding house must have sufficient clean and safe toilet, hand washing and bathing/showering facilities and a sufficient supply of toilet paper.

BH Reg
Sch1
Std14

6.4.3 Call bells

The boarding house must have sufficient functioning call bells or other communication systems on the premises for emergencies, at minimum one in every hallway or common area on every floor, and one in the kitchen and one in all bathrooms.

BH Reg
Sch1
Std15

Call bells must be regularly tested.

FACS recognises that the size and physical layout of each premises is different, so Licensees may need to do different things to meet this requirement. FACS Boarding House Compliance Officers will work with Licensees and Approved Managers on an individual basis to help:

- FACS will provide a base subsidy of \$300 for call bell installation – for larger premises where a number of call bells will need to be installed FACS may negotiate with the operator to determine the amount of subsidy.
- The Licensee needs to propose a written plan and obtain a quote for call bells which, in their opinion, meets the requirement of the BH Regulation, and submit this plan and quote to FACS.
- FACS will advise the Licensee in writing if the proposal meets the BH Regulation, or give reasons why the proposal does not meet the BH Regulation.

Once FACS has endorsed the plan, the Licensee is to arrange installation of the call bells.

6.5 Communal Space

6.5.1 Living rooms or outside communal spaces

The premises must have at least one appropriately-sized communal living space for the use of residents.

BH Reg
Sch1
Std16

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.

6.5.2 Dining rooms

The premises must have a dining room that comfortably seats all residents who are receiving meals.

BH Reg
Sch1
Std17

6.5.3 Private or quiet rooms

The premises must have a private or quiet room.

BH Reg
Sch1
Std18

This is so that residents can have a space where they can meet guests privately, as people would not normally meet guests in their bedrooms, or the person may share a bedroom. The room may also act as a sick room while the person is waiting for medical treatment.

6.5.4 Food preparation areas

An authorised boarding house must have a food preparation area available for use by additional needs residents that:

BH Reg
Sch1
Std19

- includes a stove, microwave, sink, refrigerator, suitable disposal facilities and hot water supply, and
- is both safe and hygienic for food preparation and storage.

This also relates back to the policy to be developed on food and nutrition (see **Section 7** for more information).

This part of the BH Regulation means that outside of set meal times residents must have access to basic kitchen facilities, fresh water, chilled drinks and facilities for making hot drinks such as tea or coffee, as well as snacks. See **Section 7.3.3** for information on beverages and snacks that should be available to residents between meals.

6.5.5 Laundry

The boarding house must have laundry arrangements for its general laundering plus on-site laundry facilities that can be used by additional needs residents, including at least a laundry tub connected to hot and cold water, and safe, sanitary facilities to store soiled clothes and linen before laundering.

BH Reg
Sch1
Std20

6.5.6 Telephone

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. You may not charge a fee for anyone to use the telephone to ring a free-call number.

BH Reg
Sch1
Std21

FACS considers a reasonable charge for residents to use a telephone to be the same as Telstra public payphone charges for local and long distance calls. Current rates can be found on Telstra's website: www.telstra.com.au, and at October 2013 the call rates most likely to be used by residents are:

- 50 cents for a local call
- 50 cents per 35 seconds for a call to a mobile phone
- 50 cents per 60 seconds for a long distance call up to 85km away
- 50 cents per 45 seconds for a long distance call over 85km away.

7 Policies and procedures

Licensees are now required to develop policies relating to a range of issues:

BH Reg
cl16

- ethical conduct by staff members
- procedures for handling complaints
- confidentiality of records
- illness, accident and emergency treatment
- administration of medication
- infectious diseases
- food and nutrition.

These policies must be readily available at the premises for staff members, residents and visitors to see.

To help Assisted Boarding House Licensees and Approved Managers to comply with this new requirement, FACS has engaged a qualified organisation to:

- develop templates for the policies
- provide advice to Licensees and Approved Managers on what the policies need to cover; and
- work with Licensees to actually write the policies to make sure that the policies comply with the Regulation.

This work commenced in 2013 and will take place over 12-18 months. While detailed procedures in the policies will obviously vary between individual Assisted Boarding Houses it is likely that the templates and overarching principles will be consistent across the sector. Again, FACS or an agency employed by FACS will work with Licensees and provide advice and support on a one to one basis and/or possibly in group sessions.

These policies will be referred to throughout the next two sections of this Practice Guide.

8 Staffing Requirements

8.1 Probity checks on staff

Licensees must satisfy themselves that a staff member (which includes a volunteer or a contractor) is suitable to be involved in the management or operation of the Assisted Boarding House. This includes a requirement that the operator conduct a criminal record check on all staff (including volunteers and contractors) every three years while they remain a staff member (or volunteer or contractor).

BH Act
s84

Under section 84(5) of the BH Act the Licensee must not employ a person if:

- the person refuses to submit to a criminal record check
- they are satisfied that the person has committed a serious criminal offence.

Serious criminal offences are covered in **Section 8.1.2**.

While this section of the BH Act sets out who Licensee must not employ, the Licensee also needs to consider more broadly whether a proposed employee (or volunteer or contractor) is suitable for the position. This is called “probity in employment”.

8.1.1 Criminal record checks – National Police Checks

A National Police Check is a check to see if a particular person has a criminal record. This must be obtained by the person themselves from the National Police Checking Service operated by the NSW Police Force at:

<https://npcoapr.police.nsw.gov.au/asp/dataentry/Introduction.aspx> or by contacting the local police station in person. Cost is \$52 (as at June 2013).

National Police Checks need to be updated every three years.

Licensees must keep copies of current National Police Checks for all staff, volunteers and regular contractors for three years after the check is conducted. You must also give copies of the National Police Checks to FACS if FACS requests them.

BH Act
s84

8.1.2 Seriousness of criminal offences

When you get the National Police Check for a person, if there are any entries on their criminal record you need to determine whether the crime falls within the definition of a “serious criminal offence” under section 35 of the BH Act.

BH Act
s35

A serious criminal offence is:

- murder
- a prescribed sexual offence within the meaning of the *Criminal Procedure Act 1986*,

- any other assault under Part 3 (sections 17 to 93) of the *Crimes Act 1900* for which the person received a sentence of imprisonment.

If one of these crimes is listed on the National Police Check, you must not employ that person or you will be in breach of the BH Act and may be subject to penalties (see **Appendix 3** for penalty details).

In relation to sexual offences, the *Criminal Procedure Act 1986* lists the following sections of the *Crimes Act 1900* as an prescribed sexual offence, so if any of these sections appear on the National Police Check of an employee you must not employ them:

- Section 61B, 61C, 61D, 61E, 61I, 61J, 61JA, 61K, 61L, 61M, 61N, 61O
- Sections 63, 65, 65A
- Section 66, 66A, 66B, 66C, 66D, 66EA, 66EB, 66F
- Sections 67, 68, 71, 72, 72A, 73, 74, 76, 76A
- Section 78A, 78B, 78H, 78I, 78K, 78L, 78M, 78N, 78O, 78Q, 79
- Section 80, 80A, 80D, 80E
- Section 81, 81A, 81B
- Sections 86, 87, 89, 90, 90A
- Section 91, 91A, 91B, 91D, 91E, 91F or 91G

If the crime did not happen in NSW, it may be covered by different laws, and you may need to research the laws or get legal advice. You can contact FACS to help you get this advice.

If there are other crimes appearing on the criminal record check, you need to decide whether these crimes affect the suitability of the person as an employee. This will depend on what you are employing the person to do, for example if they are a cleaner who will not be providing personal care to residents, then you need to decide whether the fact that they stole a car five years ago is relevant to whether they will be a good cleaner. Your decision might also depend on the circumstances around the offence. The best way to find out about the circumstances is to talk to the person about the crimes that appear on their record, and find out a bit more information. Issues to consider could include:

- the nature of the offence
- the number of offences
- the severity of the punishments
- the age at which the offences were committed
- good behaviour bonds and how they were completed
- any mitigating or extenuating circumstances
- general character since the offences.

You should note that it is unlawful to discriminate against someone on the basis that they have a criminal record, and a person who believes they have been discriminated against on the basis of their criminal record can bring an

action with the Australian Human Rights Commission. If in doubt, you should seek advice from the Australian Human Rights Commission by phone on 1300 369 711.

8.1.3 Other checks

There are also other actions and processes that a Licensee could undertake to satisfy themselves that staff members (including volunteers and contractors) are suitable to work in an Assisted Boarding House. This is called “probity in employment”. The following information is adapted from chapter 8 of the *It’s Your Business* document, developed by National Disability Services in partnership with FACS as part of the Good Governance program, which you can find in full on the ADHC website at http://www.adhc.nsw.gov.au/sp/training_and_development/good_governance

The reason why it is important for an employer to conduct appropriate checks on a potential staff member (or volunteer or contractor) are:

- to decrease risk to residents
- to ensure you have the right staff member or volunteer for the work they will be required to undertake
- to decrease the risk of complaints about a staff member
- to decrease the risk of claims or financial loss to the Licensee.

The sorts of processes you might want to use to check that a staff member is a suitable person are:

- having a clear position description and identifying how the applicant’s experience or qualification meets the requirements of the position
- requiring evidence of relevant qualifications, for example a certified copy of a TAFE certificate
- requiring the applicant to provide referees who have recently worked with them, and speaking in detail with at least two of the referees:
- ensure the referee is who they say they are (for example you may want to call the organisation they work for, not the direct line offered)
- explain what job the person is applying for, outline the duties of the position
- ask questions about:
 - how they know the applicant (e.g. is it work-related or are they just a friend)
 - if work-related, were they a manager, an employee or a colleague
 - how long the applicant worked with them
 - what position the applicant held
 - what sorts of work the applicant did
 - what they were like, were they professional, etc.

- whether there is anything that the employer should know about this applicant, anything that might make them unsuitable for the job
- use a probationary period so that if it becomes obvious the staff member is unable to perform the work or poses a risk to the residents, you can let them go without too much difficulty.

Fair Work Australia has resources to assist employers in recruiting and managing staff, including template letters of appointment setting out a probation period on its website at <http://www.fairwork.gov.au/resources/pages/default.aspx>.

8.2 Staffing levels

The Assisted Boarding House must have sufficient staffing levels to meet the needs of all additional needs residents.

BH Red
Sch1
Std1

The BH Regulation requires a minimum of at least one staff member to be present at all times.

Sufficient staff levels can be determined by the Director-General following information provided by a staff needs assessment tool.

At least one staff member on duty needs to have a current first aid certificate and be capable of attending to first aid emergencies expeditiously.

Clause 17 of the BH Regulation also states that:

- a roster showing staff hours may be requested by FACS
- any proposed reduction of staff hours be provided 14 days in advance of any reduction
- FACS may require additional staff members be engaged if they are not satisfied that there are sufficient staff members available.

Staffing levels will be different at each premises depending on how many residents live there and the needs of the residents.

Staffing levels will be assessed on a case by case basis using a needs assessment tool to determine sufficient staffing levels.

Staffing levels may also have to be periodically reassessed as resident needs change.

FACS recognises that the requirement that at least one on-duty staff member hold a current first aid qualification imposes costs on some operators, and will be offering free first aid training for staff of licensed Assisted Boarding Houses in 2013-14.

8.3 Staffing qualifications, skills and training

Staff must be aged over 16 years, and must have the knowledge and skills required to appropriately support people with additional needs, including an

BH Reg
Sch1

understanding of the importance of delivering quality services to people with additional needs. Std2

Staff must be trained in the use of fire fighting equipment.

FACS considers it would be good practice if Assisted Boarding House staff implement person centred approaches in their day to day work with residents.

A “person centred approach” can be defined as an approach to service provision in which staff work with the person, their family and/or support network and assist them to build a vision, to plan and to have choice and control over the important decisions that affect their lives.

Helen Sanderson Associates has previously developed person centred planning tools for FACS, and has more information on person centred thinking and approaches and sample documents on its website:

<http://www.helensandersonassociates.co.uk/>

8.4 Approved Managers and minimum qualifications for managers

Where the Licensee is not an individual or does not intend to act as the manager of the Assisted Boarding House, they must appoint an Approved Manager to oversee the day to day operation of the Assisted Boarding House. BH Act s59-60

The Manager of the Assisted Boarding House must be approved by FACS. BH Act s41(2)
To get FACS approval for new Managers, you need to complete the Approved Manager Authorisation Form at **Appendix 4**.

The penalty for the breach of this condition is listed at **Appendix 3**.

Approved Managers must have the required skills to provide services to people with additional needs in Assisted Boarding Houses and to supervise the overall operation of an Assisted Boarding Houses, and must either have: BH Reg Sch1 Std3

- a degree or diploma in Social Work, health or community work, or
- relevant experience in the management of Assisted Boarding Houses.

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 BH Act s61(2)(b)
- a previous application was refused, or a previous approval was cancelled, revoked or suspended. BH Reg cl9(3)

The Director-General of FACS can revoke an approval for an Approved Manager. If this happens, the Approved Manager must surrender the approval within 28 days using the Surrender of Licence, Interim Permit or Manager Approval Form (**Appendix 5**). BH Act s65

8.5 Use of volunteers

Services may be provided by volunteers, but they do not count in determining staffing levels. BH Reg Sch1 Std4

Volunteers must go through the same probity checks as paid staff members.

9 Residents with additional needs

You need to provide residents with information on fees, services, house rules and any Compliance Notices that have been issued to the Assisted Boarding House, and you must also publicly display this information on the premises (see **Section 6.1**). BH Reg cl15

You also need to provide all residents with a written occupancy agreement (see **Section 5**). BH Reg cl15

Note: it is possible for a boarding house to be set up so residents are actually tenants, in which case, a written residential tenancy agreement would be required. For the purposes of this Practice Guide, it is assumed that residents are boarders and not tenants.

NSW Fair Trading has prepared a Standard Occupancy Agreement which is available on its website. FACS has engaged a provider to develop a Plain English occupancy agreement specifically for Assisted Boarding Houses that Licensees may wish to use.

Before you enter into an occupancy or rental agreement, you need to explain to the resident:

- the number of the room they will be living in
- the services you and your staff will provide to them
- the fees the resident needs to pay for their residency, being rent and any other services
- any reduction in fees that are possible, for example if the resident does work around the premises
- the procedures of the boarding house for handling complaints.

9.1 Screening

Additional needs residents must be screened before they move into an Assisted Boarding House to make sure an Assisted Boarding House is an appropriate housing option for them, and to determine whether they are getting the right amount of support to meet their needs. BH Reg cl14

Residents must be screened using the approved screening tool, and will need to be screened, or re-screened, if:

- they have not previously lived in an Assisted Boarding House
- they have been absent from an Assisted Boarding House for six months or more
- they have previously been admitted to a psychiatric or other hospital, aged care facility or a rehabilitation centre (even if the person was living at an Assisted Boarding House before they were admitted).

If a person seeking to move into an Assisted Boarding House does not pass the screening tool, that is their needs are assessed as being too high to live in an Assisted Boarding House, then they are not allowed to move in. BH Act cl14(3)

If a person is re-assessed and does not pass the screening tool, then you need to work with FACS to relocate the person to more appropriate accommodation within one month of the outcome of the assessment. BH Act cl14(6)

It is possible that a person can move into an Assisted Boarding House if: BH Reg cl14(4)

- they need emergency accommodation (either because of a natural disaster, or if the person's health, safety or welfare may be adversely affected if they are not allowed to stay at the Assisted Boarding House), and
- you notify FACS within one business day that the person is being allowed to stay at the Assisted Boarding House, and
- you take steps to arrange a screening assessment within one business day of the person being allowed to stay at the Assisted Boarding House.

You need to make sure you record the date of the assessment and the name and contact details of the person who conducted the assessment in the additional needs resident personal information register (see **Section 11.1**) BH Reg cl20(1) (c)

9.2 Lifestyle

9.2.1 Clothing, toiletries and personal belongings

Each additional needs resident of an authorised boarding house must: BH Reg Sch1 Std12

- have a supply of personal clothing and footwear that is adequate to allow for laundering and repair and is suited to climate and seasonal conditions, and
- be provided with their own personal toothbrush, toothpaste and soap, and
- be provided with a supply of bath towels and face washers that is adequate to allow for laundering, and
- not be expected or required to share clothing, footwear, toiletries or other items of a personal nature with another person.

An adequate supply of personal clothing to allow for laundering means sufficient clothing is available for the person to change their entire outfit at any time. For example, this might indicate one outfit for current wear, two outfits being laundered and two outfits available in the person's wardrobe as a minimum.

If the person has needs that require multiple changes of clothing each day then the supply of personal clothing will need to be increased to match these needs.

Each person should have a range of personal clothing from which they are encouraged to choose that meet varying climate and seasonal conditions.

A supply of bath towels and face washers that is adequate to allow for laundering would mean that a resident would have one dry towel and face washer available each day and be able to obtain a clean and dry towel and face washer as reasonably required. For example, towels and face washers might be generally laundered weekly, but this should not limit a resident's access to clean and dry replacements for a soiled towel or face washer. If the laundry cycle can't meet this, then a resident should have more than two towels and face washers available.

The type of toiletries provided should be based on individual choice and need, for example dandruff shampoo, appropriate body cleaner for dry skin, toothpaste for sensitive teeth or sanitary hygiene items.

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.

BH Reg
Sch1
Std22

9.2.2 Protection of financial affairs of additional needs residents

The BH Regulation states that:

- each additional needs resident of an authorised Assisted Boarding House must be given support so that he or she has the opportunity to independently operate his or her bank account and manage his or her financial affairs
- if 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 to arrange 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).

BH Reg
Sch1
Std23

The BH Regulation requires that details about any financial management or guardianship orders must be kept in the additional needs resident personal information register (see **Section 11.1**).

BH Reg
cl20(1)
(k) & (r)

At times a resident may require support in making arrangements so that he or she can independently manage their finances, such as assistance with transport to and from the bank, Centrelink or other financial institution. It is acceptable for the Licensee, Approved Manager or other staff to provide this support.

However the Licensee, Approved Manager or other staff member must not undertake banking activities such as withdrawals on behalf of the resident unless authorised by a legally appointed financial manager.

It is acceptable for residents with the capacity to make their own decisions to store bank books, key cards and other valuables securely in a safe on the premises operated only by the Approved Manager, so long as these can be accessed by the resident any time on request. A legally appointed financial manager can also consent to the same arrangement.

An arrangement must be made by the Licensee and/or Approved Manager with the appointed financial manager in relation to the distribution of “comfort” money. Written details of this arrangement must be provided to each resident in a format that is suitable to the individual needs of the resident.

Where a resident is under the Public Trustee it is envisaged that payments of board and lodging will be made directly from the Trustee to the Licensee.

A Licensee, Approved Manager or other staff may not become a Centrelink authorising person or organisation to enquire or act on behalf of a resident.

If you have concerns about a person’s management of their money, contact an ADHC Boarding House Caseworker or another relevant service provider who may be able to assist the resident with money management skills.

9.2.3 Information about available support services

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.

BH Reg
Sch1
Std24

See also **Section 9.4.**

9.2.4 Personal relationships

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.

BH Reg
Sch1
Std25

9.2.5 Recreation

The boarding house must have a balance of indoor and outdoor equipment, such as televisions, DVD players, radios, books, games, outdoor seating and lounges, to meet residents recreational needs.

BH Reg
Sch1
Std26

9.3 Health and wellbeing

9.3.1 Medication for additional needs residents

The BH Regulation sets out requirements for the storage, distribution and administration of medication to additional needs residents. These requirements must be carefully followed in the case of residents who are unable to self-administer their medication or who need supervision or assistance to administer their medication.

BH Reg
cl27

It is important to note that some residents may be able to administer some or all of their own medications. The Licensee should consult the resident's doctor to determine his/her capacity to self-administer, and written information from the doctor to say the person is capable should be stored in the resident's health records along with the prescriber's guidelines. See also **Section 11.2** for information on how prescriber's guidelines need to be kept for all residents.

You need to provide secure lockable storage facilities for medication for additional needs residents who are able to personally administer their own medication.

BH Reg
cl28(6)

Storage of medication for additional needs residents who cannot administer their own medication

Any medication held at an Assisted Boarding House on behalf of a resident with additional needs must be kept securely in a storage facility that:

BH Reg
cl28(1)

- is secured so that people who are not authorised to access the medication cannot do so, and
- is kept locked at all times when not in immediate use.

When the medication storage facility is unlocked, the medication must be kept under direct supervision of an authorised staff member of the Assisted Boarding House.

BH Reg
cl28(2)

Any medication kept in the storage facility must be stored in sealed receptacles, and if there is any food present in the storage facility the medication must be kept separate from it.

BH Reg
cl28(3)

Any medication that needs to be stored at or below a particular temperature must be stored at the appropriate temperature in a lockable storage facility as per the other requirements of medication storage.

BH Reg
cl28(4)

You may not alter any label on any container of prescribed medication, the only person who can do this is the person who dispensed the medication. This includes writing someone's name in large letters in on the medication's

BH Reg
cl28(5)

label – you need to make sure the instructions on the label are clear and easy to read.

You must not keep prescription medication on the premises for an additional needs resident if: BH Reg
cl28(7)

- the person no longer lives there, or
- the medication has passed its expiry date, or
- the resident, a person responsible for the resident or the resident's treating doctor or nurse practitioner has advised that the person no longer needs that medication.

Any medication that has passed its expiry date or is no longer required by a resident 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. BH Reg
cl28(8)

Any prescribed medication stored on behalf of an additional needs resident must be returned to that person if they move out of the Assisted Boarding House, or destroyed. BH Reg
cl28(9)

Distribution and administration of medication for additional needs residents

Prescribed medication administered at an Assisted Boarding House to an additional needs resident must only be administered by a staff member in accordance with the directions of the person who prescribed it, regardless of the method of administration. BH Reg
cl29(2)

Where prescription medication is to be administered to a resident when required according to the resident's needs, the resident's doctor or nurse practitioner must provide written directions on: BH Reg
cl29(3)

- when the resident may be given the medication (i.e. the circumstances)
- the procedures to be followed for administration of the medication
- the circumstances in which a further dose may be administered, and the required time period between doses
- the maximum dose that may be given
- the circumstances in which you should contact the doctor or nurse practitioner in relation to the administration of the medication.

These written directions must be kept with the resident's health records.

Non-prescribed medication that is distributed by the Assisted Boarding House must be distributed in accordance with the product instructions, unless advised otherwise by the person's treating doctor or nurse practitioner. BH Reg
cl29(4)

<p>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 right resident, at the right dose, in the correct way, at the correct frequency and at the right time.</p>	<p>BH Reg cl29(5)</p>
<p>If a staff member has any concerns about whether or not a medication is appropriate, they must check with the treating doctor or nurse practitioner, or a pharmacist, first before administering the medication.</p>	<p>BH Reg cl29(6)</p>
<p>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.</p>	<p>BH Reg cl29(7)</p>
<p>A staff member who administers prescribed medication must ensure any instructions for the administration of the medication (such as “swallow whole”) are followed.</p>	<p>BH Reg cl29(8)</p>
<p>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:</p> <ul style="list-style-type: none"> ■ any failure of administration, whether due to refusal or otherwise, or ■ any error in medication administration. 	<p>BH Reg cl29(9)</p>
<p>A resident can personally administer 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 do so.</p>	<p>BH Reg cl29(10)</p>
<p>If it is possible, you should get a registered pharmacist, medical practitioner or nurse practitioner to repack and label individual doses into a dose administration aid, such as a blister pack or Webster pack, for all residents.</p>	<p>BH Reg cl29(11)</p>
<p>If a resident is responsible for administering their own medication and you have reason to believe that the resident has maladministered or failed to administer the medication, you must take reasonable steps to ensure that the health practitioner who prescribed the medication is notified, and any mental health or general emergency services are notified if needed.</p>	<p>BH Reg cl29(12)</p>

If a resident is responsible for administering their own medication and you have reason to believe that the person is failing to comply with recommendations or advice from their doctor or nurse practitioner, you must take reasonable steps to discuss the matter with both the resident or a person responsible for the resident and, where appropriate, the practitioner who prescribed the medication.

BH Reg
cl29(12)

If a resident is going to be absent from the Assisted Boarding House for a period of time, you need to make arrangements for the medication they will need during their absence to be provided to them for administration during their absence. When doing this, note that no medication may be repacked by any other person than a registered pharmacist, medical practitioner or nurse practitioner.

BH Reg
cl29(13)

This section also relates to clause 16 of the Regulation and to the policy to be developed on administration of medication, which FACS will help operators to develop (see **Section 7** for more information).

A medication administration form template that you may find useful is at **Appendix 6**.

9.3.2 Health monitoring

Additional needs residents must be given the opportunity to choose their own health care providers and supported to make appointments and access their services.

BH Reg
Sch1
Std 30

This requirement may be satisfied if:

- preferred health care providers are identified in each resident's health records and
- residents are assisted with making appointments and with transport arrangements to attend appointments, and
- residents are encouraged to access health care promptly if their health appears to be suffering.

Where an additional needs resident suffers an injury or is ill at the boarding house, the Licensee, Approved Manager or other staff member present must:

BH Reg
Sch1
Std 31

- take immediate steps to administer emergency first aid and, if required, seek urgent medical or dental treatment
- monitor the resident until they recover or until a person responsible takes charge of the resident.

Staff must also:

- notify the person responsible for a resident as soon as possible of any injury, illness, medical treatment, significant deterioration of health, or any other health issue experienced by the resident while they are on the premises
- follow medical advice in relation to the management of the injury or illness.

9.3.3 Infection control

Licensees now need to have a policy on infection control, which FACS will help to develop (see **Section 7** for more information). In the meantime, the following information should be considered a guide.

The most effective way to ensure infection control is to treat all bodily fluids as though they are infectious. Gloves must be worn wherever there is a likelihood of coming into contact with bodily fluids.

Personal Hygiene

- Wash hands at the beginning and end of each service and before and after eating, drinking, smoking and going to the toilet
- Wash hands before handling food
- Wash hands following handling garbage or disposing of waste
- Wash hands after blowing the nose or coughing if you have a cold or flu, or after touching a cold sore
- Wash hands after handling animals
- Check for cuts and abrasions on exposed parts of the body and cover with a waterproof dressing
- Frequent and effective hand washing is the single most important part of Infection Control:
 - Wash hands for 10-15 seconds using soap and water (suitable for all routine procedures and for food handling)
 - You can also clean hands for 1-2 minutes using an antiseptic skin cleaner (following contact with blood or body fluid).

Use of Disposable Gloves

- Powdered latex gloves must not be used
- Staff must wear disposable gloves for any tasks that may bring them into contact or the risk of contact, with blood or bodily fluids or with an infectious skin condition, or when applying ointments. Dispose of gloves after use by double bagging and wash hands thoroughly
- The use of gloves does not eliminate the need for hand washing.

Good Practice Cleaning Procedures

- Wear rubber gloves to safely undertake general household tasks, e.g. cleaning wet areas, using chemicals
- Ensure gloves are clean and in good condition
- Rubber gloves used for cleaning bathrooms and toilets are not to be used in other areas
- Keep the cleaning cloths used for the bathroom separate from other household cleaning cloths and wash after use
- Items and surfaces are to be washed and scrubbed to remove all visible contaminants and then a disinfectant used according to the instructions set out on the label of the particular product
- Appropriate household chlorine bleach may be used as a disinfectant with the bleach freshly diluted in water to give 1% solution (i.e. 5ml bleach to 500ml water).

Linen

- Wearing disposable gloves, place all soiled linen directly into a laundry basket or laundry bag
- Do not place soiled linen on floor, bench tops or bedside tables
- Keep soiled linen away from clothing and clean linen.

Laundry

- All staff handling dirty laundry should wear gloves (all used linen should be treated as potentially infectious)
- Routine washing procedures are adequate for linen or clothing
- Full wash cycle and drying cycle should be completed
- Do not overfill washing machine or dryer
- Soaps and detergents loosen soil and have anti-microbial action
- If hot washing has been selected on a machine, appropriate hot water detergent must be used
- Blood soiled articles should be washed in cold water for removal of blood and then washed in hot wash to eliminate any potential pathogens. Remove any solid matter first using paper towels or tissues
- If the hot wash cannot reach the temperature of 71 degrees Celsius a commercial sanitiser should be used with the detergent to neutralise germs.

Infectious diseases

Transmission of an infectious disease may occur through one or more ways including physical contact with infected individuals, liquids, food, body fluids, contaminated objects, and airborne inhalation. Transmissible diseases which are transmitted through contact with an ill person or their secretions, or objects touched by them, are especially infective, and are sometimes referred

to as contagious diseases. To reduce the spread of infections ensure:

- A quiet room convenient to bathing and toilet facilities should be available for use as a sick or quiet room if residents normally share a bedroom
- A person suspected of having an infectious disease should rest in their bedroom or the quiet room until seen by their doctor. This will reduce the risk of the infection spreading to other residents
- Staff must ensure they follow good hygiene practices and wash hands before and after attending to the sick resident. Disposable gloves must be worn at all times and disposed of appropriately
- The quiet room must be kept clean at all times paying particular attention to disinfecting table tops, door handles, bed heads.

9.3.4 Food and nutrition

Additional needs residents who are unable to provide themselves with meals and food that meet their dietary needs and daily requirements must be provided with healthy meals that take into account their health, dietary needs and cultural, religious and dietary preferences, and a menu plan that involves:

BH Reg
Sch1
Std32
(2)

- a discussion of dietary needs and cultural, religious and dietary preferences with each resident,
- kitchen staff being informed of those preferences and menus being planned that take these into consideration, and
- the acquisition of food and supplies that reflect the planned menu.

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:

BH Reg
Sch1
Std32
(3)

- menus are planned with reference to published dietary guidelines or, when necessary, the advice of a qualified dietician or nutritionist,
- menus are rotated regularly to ensure variety,
- residents have ready access at all times to drinking water and other beverages and refreshments,
- meals are provided at appropriate and acceptable times.

The aim of these parts of the BH Regulation is to ensure that additional needs residents can prepare their own meals or beverages if they wish to; and if they do not or cannot prepare their own meals, they are provided by the Assisted Boarding House staff with a diet that maintains their health, is varied, and has a menu which takes into account their preferences.

This section of the Practice Guide also relates to the policy on food and nutrition required for each Assisted Boarding House, that FACS will help operators to develop (see **Section 7** for more information). FACS has engaged a provider to develop a package of resources for Assisted Boarding Houses including:

- menus
- recipes (including good practice guides for portion sizes, etc.)
- shopping guide
- guidance on preparing meals for special dietary requirements.

The provider will also give training to Assisted Boarding House staff on preparing healthy meals.

In the meantime, Licensees and Approved Managers can follow the brief guidelines below.

Assisted Boarding House staff and operators should give residents the opportunity to have input into planning meals and refreshments, as well as the times they are served, taking into account individual resident activities.

Adequate variety, quality and quantity indicates that residents must be able to, if they choose, consume each day the portions of fresh food including fresh fruit, fresh vegetables and grains (including baked goods) and protein (whether animal, dairy or vegetable in origin) recommended for health in the [Australian Dietary Guidelines](http://www.nhmrc.gov.au/guidelines/publications/n55) (2013) published by the National Health and Medical Research Council (<http://www.nhmrc.gov.au/guidelines/publications/n55>). FACS can provide Licensees and Approved Managers with printed copies of the documents on this website, including Australian Guide to Healthy Eating chart and Healthy Eating for Adults brochure.

A variety of food means that residents do not have to eat the same food at each meal, or at each type of meal (e.g. each breakfast, lunch or dinner) or have the same dishes presented more than once a week.

As a guide, FACS considers “a reasonable variation in menus” to be a monthly rotation of menus, with a different meal each day during the month and seasonally appropriate meals prepared.

For good practice on adequate meals and dietary requirements, NSW Health offers a free support resource called the Get Healthy Information and Coaching Service www.gethealthynsw.com.au which provides a confidential telephone service that helps people make lifestyle changes in relation to healthy eating, being physically active, and achieving and maintaining a healthy weight.

Assisted Boarding Houses must also have a food preparation area available for use by additional needs residents (see **Section 6.5.4**), that can be used by residents to prepare their own meals or refreshments in between meals.

BH Reg
Sch1
Std19

Outside of set meal times residents must have access to basic kitchen facilities, fresh water, facilities for making hot drinks such as tea or coffee, chilled drinks, and fresh fruit and healthy snacks such as crispbreads and yoghurt etc.

When you are providing food and drink for residents, you need to keep in mind the individual needs of residents and any health or addiction issues, or any interactions with their medications.

9.3.5 Safety

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.

BH Reg
Sch1
Std 33

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.

BH Reg
Sch1
Std 34

FACS has engaged a provider to give first aid kits and first aid training to staff of pre-existing Assisted Boarding Houses in 2013-2014.

9.4 Authorised Service Providers

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 counselors from local NGOs
- 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 or similar.

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 another appropriate staff member to arrange an appropriate time 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, e.g. if the Approved Manager or staff refuse entry at the arranged time, the service provider can contact FACS to seek formal authorisation of relevant staff members as Authorised Service Providers under section 77 of the BH Act.

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. 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 3**).

9.5 Incidents and deaths

The Authorised Manager of an Assisted Boarding House must notify FACS of certain incidents involving residents, including deaths (regardless of their cause), allegations of sexual assault, a range of physical assaults and any accident involving a resident on the premises of the boarding house which results in the resident needing medical, dental or hospital treatment.

BH Act
s83(1)
BH Reg
cl26

See **Section 10.1** for more detail on this and information on how to report these matters to FACS.

This section also relates to the policy to be developed on illness, accident and emergency treatment, which FACS will help operators to develop (see **Section 7** for more information).

10 Reporting requirements

Licensees and Approved Managers are required to report a range of incidents to FACS, and in some cases to the police.

BH Act
s83

BH Reg
cl26-29

10.1 Incidents or deaths involving residents with additional needs

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

BH Act
s83(1)

BH Reg
cl26

- the death of a resident
- 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
 - 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 the police as soon as is reasonably practicable after becoming aware of the incident.

BH Act
s83(2)

You must notify FACS as soon as reasonably practicable after the attendance of police at the premises to investigate an incident involving an additional needs resident.

BH Reg
cl27(3)

A manager who does not report as required is guilty of an offence (see **Appendix 3** for penalty details).

BH Act
s83(3)

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

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

An incident report form is at **Appendix 7**.

A Client Death Notification Form is at **Appendix 8**. If you need any help completing the form, please contact the Specialist Accommodation Programs team on 9377 6000.

10.2 Children and young persons

You need to notify FACS in writing within seven days of when a person under 18 years of age becomes a resident of the Assisted Boarding House.

BH
Reg
cl13

This applies to young people/children with additional needs and those without additional needs.

Young people or children with additional needs can only enter an Assisted Boarding House if they have been screened in using the screening tool (see **Section 9.1**).

If FACS is notified that a child or young person with additional needs has entered, or is being considered for entry into an Assisted Boarding House, staff from FACS (ADHC and/or Community Services) will meet with the child or young person and their family or support persons to discuss other accommodation options that may be more appropriate for them.

If you have any concerns about a child or young person's safety or wellbeing, and that they are at risk of harm from abuse or neglect, contact the Community Services Child Protection Helpline on 132 111 (TTY 1 800 212 936).

10.3 Additional reporting requirements

You need to notify FACS within three days of issuing an eviction notice for an additional needs resident, or immediately after evicting them, whichever comes first.

BH Reg
cl18

You can contact the Boarding House Compliance Unit by phone on 02 9377 6000 or by email at boarding.houses@facs.nsw.gov.au

You need to notify FACS within seven days of any of the following:

- if any people aged under 18 years move into the Assisted Boarding House BH Reg cl14
- if the Assisted Boarding House has been issued with a planning non-compliance notice by your local Council. BH Reg cl28
- if you change your contact details BH Reg cl 29
- if any significant changes occur that may affect your capacity to operate the Assisted Boarding House
- if the Licensee is a company or unincorporated body, of any significant changes in the circumstances of a person involved in the control or management of the company or unincorporated body, e.g. bankruptcy of a Director or CEO
- if the corporation is being wound up or in other external administration.

You also need to report any changes to your original NSW Fair Trading registration details to NSW Fair Trading within 28 days of the annual return period, i.e. the 12 month anniversary of your registration date. BH Act s10(1)

If you cease to operate as an Assisted Boarding House, you need to surrender the boarding house Licence to FACS within 28 days using the Surrender of Licence, Interim Permit or Manager Approval Form at **Appendix 5**. BH Act s50(2)

You need to notify NSW Fair Trading within 28 days if you cease to operate as a boarding house. BH Act s11

11 Records

The BH Regulation sets out what records Licensees need to keep. Most of these are similar to or the same as records that were required under the now repealed YCS Act.

BH Reg
cl19-25

The main principle applying to all the Clauses is that any information relating to residents should be stored in a locked cabinet, and residents must be able to access this personal information when they want to. This relates back to the policy to be developed on confidentiality of records that FACS will help operators to develop (see **Section 7** for more information).

The information should not be shared with other parties other than those with lawful reason.

Under the BH Act you need to keep the following records:

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

11.1 Additional needs resident personal information register

The additional needs resident personal information register needs to have certain information kept in it, and it needs to be in a form approved by FACS. A template is at **Appendix 9**.

BH Reg
cl20

11.2 Additional needs resident health records

You need to keep the following health records for each additional needs resident:

BH Reg
cl21

- any written authorisation for the administration of any medication to the resident by a member of staff, and any doctor or nurse practitioner's instructions relating to its administration
- for medication that is administered to the resident on the premises of the boarding house by a member of staff of the boarding house or a doctor or nurse practitioner:
 - the name of the medication
 - the date, time and dosage administered
 - the names and signatures of the persons who checked the dosage

and administered the medication

A Medication Administration Form template is at **Appendix 6**.

- any written particulars provided by the resident or a person responsible for the resident advising the Licensee or Approved 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
- any written consent to the carrying out of medical treatment on the resident given by a guardian of the resident
- 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. This can be covered by the Assisted Boarding Houses Incident Report Form (**Appendix 7**).
- 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. This can be covered by the Assisted Boarding Houses Incident Report Form (**Appendix 7**).
- if the resident dies while he or she resides in the authorised boarding house, the details surrounding the resident's death.

11.3 Occupancy and rental agreement records

You need to keep in your records:

- a copy of the occupancy agreement and of any written amendments to the agreement
- if the agreement or amendments are not agreed in writing, a record of the date, parties to and terms of the agreement or amendments.

See **Section 5** for more information on occupancy agreements and Occupancy Principles.

11.4 Staff information records

In addition to the National Police Checks (see **Section 8.1.1**), you also need to keep the following information on file for each staff member:

BH Reg
cl23

- full name and the residential address
- date of birth
- the date on which they commenced work
- the position(s) in which they are employed to work during the their employment
- any relevant qualifications they hold (including first aid qualifications)
- the date on which they ceased to be employed to work at the Assisted Boarding House.

11.5 Complaint information records

You need to keep the following complaint information records about any complaint relating to an additional needs resident:

BH Reg
cl24

- 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
- details of any action taken in response to the complaint
- whether the complaint was resolved.

This relates to the policy to be developed on procedures for handling complaints that FACS will help operators to develop (see **Section 7** for more information).

Licensees and Approved Managers are required to establish a complaints policy which is made available to all residents to ensure that they understand and are aware of how they can make a complaint and how it will be dealt with.

For guidance on complaint handling please see http://www.adhc.nsw.gov.au/contact_us/complaints_procedure which is the current process for managing feedback and complaints within ADHC.

The essential elements of a complaints policy are:

- Residents and representatives of residents, including advocates, are free to raise and have resolved with the Licensee and Approved Manager or an external agency, including FACS, any complaint or dispute they may have about the Assisted Boarding House without fear of retaliation.
- Residents are to be provided with an explanation (spoken and written) on how to make a complaint and the process used to resolve them, and to have matters explained to them.
- Licensees, Approved Managers and staff are encouraged to listen carefully to a complaint to be able to assist the resident, or to consider any changes that might address the complaint.
- In some cases, a resident may need the assistance of an advocate to properly make a complaint, and to have matters explained to them, which may help address aspects of their complaint. Residents are to be provided with information on external agencies which can assist them with the complaints process, for example the Official Community Visitor scheme or the NSW Ombudsman.

FACS considers a suggestion box to be a good system that encourages residents and their advocates to provide feedback and become involved in the Assisted Boarding House, which again partly relates back to the complaint handling policy to be developed (see **Section 7** for more information).

The availability of a private phone (required by Clause 21 in Schedule 1) is a way to ensure residents have a private space and the means by which they can access external agencies to assist them with complaint processes.

The NSW Ombudsman provides a complaint handling toolkit for community service organisations that shows how you can meet the *Community Services (Complaints Reviews and Monitoring) Act 1993* (CS-CRAMA).

It may be an offence under CS-CRAMA if a person making a complaint suffers any retribution as a result of making the complaint, such as eviction from the premises or restricted access to the premises.

11.6 Fire safety procedure records

You need to keep the following fire safety procedure records:

- any emergency evacuation plans prepared for the boarding house
- fire safety certificates and statements for the boarding house
- the dates for evacuation tests that have been carried out
- the dates and reasons for any actual evacuations.

BH Reg
cl25

A Fire Drill Record template is at **Appendix 10**.

12 Transition Plans for pre-existing Assisted Boarding Houses

Under the BH Act, any licence that was valid under the YCS Act at the time the BH Act commenced is valid under the new BH Act.

Pre-existing Assisted Boarding Houses are exempt from two significant standards of Schedule 1 of the BH Regulation until 1 July 2018:

BH Reg
Sch1
Std5

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 single room or 11 square metres for two residents
 - rooms are capable of being locked.

Until 1 July 2018, pre-existing Assisted Boarding Houses will need to continue complying with the licence conditions issued under Clause 5 of the YCS Act relating to the maximum number of residents and sleeping arrangements.

Licensees of pre-existing Assisted Boarding Houses must submit a transition plan in outlining the steps they will take to meet Standards 6 and 7. The first transition plan is due on 1 July 2014, and an updated version with progress reports must be submitted on 1 July every year after that until 30 June 2018. Each transition plan will include a date by which steps are to be taken.

BH Reg
Sch1
Std5
(4)-(6)

FACS has developed a transition plan template for pre-existing Authorised Assisted Boarding Houses to plan and report annually on their actions to meet the two new standards. This template is at **Appendix 11**.

BH Reg
cl13

FACS will work with Licensees and Approved Managers to talk about ways in which they can work towards compliance with Standards 6 and 7 under Schedule 1 of the BH Regulation by 1 July 2018.

All other standards in Schedule 1 of the BH Regulation apply immediately to pre-existing Assisted Boarding Houses. However FACS appreciates that it may take some time for boarding house operators to understand their new obligations and to become fully compliant. Boarding House Compliance Officers will work with each Assisted Boarding House towards compliance with the new standards by the end of 2018.

13 Compliance Notices and Penalty Notices

Under the BH Act FACS can issue Compliance Notices and Penalty Notices for breaches of the BH Act, BH Regulation or Licence Conditions.

FACS has appointed enforcement officers, known as Boarding House Compliance Officers, to monitor authorised Assisted Boarding Houses for compliance with the BH Act and BH Regulation. See **Section 14** for more information on the role of Boarding House Compliance Officers. BH Act s67

It is important to note that 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.

It is an offence under the BH Act to hinder or obstruct a Boarding House Compliance Officer in the execution of their functions, or to fail to comply with any lawful requirement made by the Boarding House Compliance Officer. BH Act s68

The Director-General of FACS has the power to request the copies of any documents or records that licensees are obliged to keep. Boarding House Compliance Officers can make copies of any documents. BH Act s70

13.1 Compliance Notices

If Boarding House Compliance Officers find evidence of a breach of the BH Act, BH Regulation, or any Licence Conditions (such as number of residents 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 will:

- give details (“particulars”) of the alleged breach BH Act s79
- set out ways that the Licensee or Approved Manager needs to resolve the area(s) of non-compliance BH Reg cl5
- provide a reasonable period to remedy the non-compliance.

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. BH Act s80

FACS will only consider prosecution when all reasonable attempts to work with the Licensee to address the breach have failed, and/or where there is a risk of harm to the health, safety and wellbeing of a resident.

You have the right to contest the issuing or variation of a Compliance Notice. BH Act s87

Under the *Administrative Decisions Tribunal Act 1997 (NSW)*, FACS must advise you in writing of the Compliance Notice, and must also advise you 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)*. The outcome of the internal review must be communicated to you within 21 days of your request for review.

You then have the right under section 87 of the BH Act to apply to the Administrative Decisions Tribunal for an external review of FACS' decision. An application to the Tribunal must be made within 28 days of receiving notice of the decision.

13.2 Penalty Notices

If a Boarding House Compliance Officer is of the opinion that a breach of the BH Act, BH Regulation or Licence Conditions has occurred, 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 penalty set in the BH Act. A Penalty Notice cannot be issued for any offence under the BH Act that is not listed in this schedule (see **Appendix 3**). BH Reg Sch2

Enforcement actions can be publically recorded on the NSW Fair Trading Boarding Houses Register. The issuing of a Penalty Notice is an "enforcement action". BH Reg cl5

FACS has contracted with the State Debt Recovery Office (SDRO) to process and accept payment for Penalty Notices.

If the penalty is not paid to SDRO, FACS can initiate a prosecution. At court, a higher penalty may be imposed for the relevant offence (see **Appendix 3**). BH Act s98(5)

14 Boarding House Compliance Officers and Boarding House Caseworkers

14.1 How FACS staff will work with you

	Boarding House Compliance Officer	Boarding House Caseworker
Primary Legislation	Boarding Houses Act 2012 Boarding Houses Regulation 2013	Disability Services Act 1998
Primary Relationship	Licensees and Managers	Residents
Purpose of Role	To assist compliance in Assisted Boarding Houses by undertaking a range of tasks including monitoring, full service reviews, education and support activities and, where necessary, the issue of notices (compliance and penalty) as prescribed by legislation.	To assist residents of Assisted Boarding Houses with accessing the services or supports they need on a temporary or ongoing basis. This may include needs such as guardianship (financial or decision making), health care (including mental health), or recreational/educational needs.
Powers of Entry	Boarding House Compliance Officers can attend any Assisted Boarding House and enter without consent for the purpose of inspecting the premises for compliance with the Boarding Houses Act 2012. See Section 76 of the Boarding Houses Act 2012 for more information.	Boarding House Caseworkers, as authorised service providers, can attend any Assisted Boarding House and enter without consent for the purpose of arranging or supplying support services to a resident. See Section 77 of the Boarding Houses Act 2012 for more information.
Code of Conduct	Both Boarding House Compliance Officers and Boarding House Caseworkers are bound by the FACS Code of Conduct which requires a courteous response with clients and the community, and behaviour that respects the rights and dignity of other people. This includes operators, staff and residents or Assisted Boarding Houses. They also have a duty of care to clients and colleagues, which	

Boarding House Compliance Officer		Boarding House Caseworker
	<p>requires them to take reasonable steps to ensure the health and safety of themselves and others. This includes reporting matters where there is reason to believe there is risk of harm. As government employees, Boarding House Compliance Officers and Boarding House Caseworkers are also required to ensure that all decision making is unbiased, based in facts, and open to review.</p>	
<p>How we will work with Assisted Boarding Houses</p>	<p>Boarding House Compliance Officers may attend Assisted Boarding Houses on appointment, or by request of a Licensee or Manager, to provide assistance with compliance matters.</p> <p>Boarding House Compliance Officers will continue to monitor Assisted Boarding Houses unannounced at a minimum of once every six to eight weeks, or more often if required. Full Service Reviews will also be completed a minimum of once every three years.</p>	<p>Boarding House Caseworkers will usually attend Assisted Boarding Houses on appointment. This may mean an appointment with the Resident or with the Licensee or Manager. These appointments will be made to ensure the availability of the people involved.</p> <p>Boarding House Caseworkers may also facilitate case conference meetings. The purpose of these meetings is generally to bring a range of support services together with the resident to discuss a support plan or a specific need.</p>
<p>When you will need to contact us</p>	<p>To discuss anything related to compliance obligations under the Boarding Houses Act or Regulation.</p> <p>To make a suggestion or complaint.</p> <p>When a resident asks you to contact us about a compliance issue.</p>	<p>To discuss anything related to a resident's support needs.</p> <p>When a resident asks you to contact us about his/her support needs.</p> <p>To discuss residents who may need to move to alternative accommodation.</p>
<p>How Boarding House Compliance Officers and Boarding House Caseworkers will work</p>	<p>Boarding House Caseworkers and Boarding House Compliance Officers will meet at least every three months to discuss sector-wide issues and support processes. Other meetings may be arranged where necessary to support a specific situation, such as an assisted boarding house opening or closing, or in the case of a significant change to licence details.</p> <p>Boarding House Caseworkers and Boarding House Compliance Officers also communicate on a regular basis outside of arranged</p>	

Boarding House Compliance Officer		Boarding House Caseworker
together	meetings, and may sometimes do joint visits.	

14.2 Your health and safety obligations to FACS staff and service providers

Under the *Work Health and Safety Act 2011* you have an obligation to ensure, so far as is reasonably practicable, that workers and other persons at your workplace are not exposed to health and safety risks.

This obligation extends to visitors, including FACS staff and other service providers who enter the Assisted Boarding House as part of their work.

This means that when FACS staff visit your premises, whether they are Boarding House Compliance Officers or Boarding House Caseworkers, you need to tell them of any potential health and safety issues, for example if there is a damaged floorboard in the premises, or if there is the potential risk of harm from a resident.

If you do not notify visitors of dangers that you know of (or should reasonably have known of), you may be in breach of the *Work Health and Safety Act 2011* and you may be subject to penalties or legal proceedings under that Act.

You can get written resources and information from WorkCover about your obligations under the *Work Health and Safety Act 2011*, or from its website at <http://www.workcover.nsw.gov.au/newlegislation2012/general-risk-management/Pages/default.aspx>.