



# **EVALUATION OF THE BOARDING HOUSES ACT**

Interval report number 2, 2015

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## 1. Executive Summary

This is the second interval report for the five year evaluation of the *Boarding Houses Act 2012*. This report presents evidence that has been gathered to date in relation to the implementation of the Act, as well as the outcomes for residents and the sustainability of the boarding house sector.

The Act commenced in 2013 and aims to establish a regulatory framework for boarding houses to ensure that boarding house residents are provided with adequate protection and living standards.

This evaluation has both process and outcomes components, and draws on program logic methodology. There are four overarching aims of the evaluation, to:

- assess the effect of the Act on the well-being of residents of boarding houses
- assess whether the rights of residents of boarding houses are better protected following the introduction of the Act
- determine the effect of the Act on the sustainability of the boarding house sector, and
- determine levels and types of collaboration between departments, agencies and community organisations that work with the boarding house sector.

The evaluation involves annual data collections of residents, proprietors, staff who work in the sector, as well as, information from relevant state government agencies. Importantly, the evaluation is producing a comprehensive longitudinal dataset that is generating sound, reliable and robust evidence in relation to the impact of the Act, and particularly the well-being of vulnerable and marginalised people who live in boarding houses.

The interval reports are expected to present evidence that will assist in the successful implementation of the legislation, to ensure that it receives desired results. The interval reports can highlight emerging issues that need to be addressed through policy and program responses.

This second interval report includes comparisons of data between the two annual collections prepared to date.

This report has three main sections, as follows:

1. **Regulatory framework** – reporting on registrations included on the central register that is overseen by NSW Fair Trading; stakeholder (resident, proprietor, agency staff) reports of the implementation of the Act particularly in terms of the role of different organisations in regulating and governing the Act; stakeholder and proprietor knowledge and use of dispute resolution mechanisms; analysis of complaints and enquiries made to NSW Fair Trading; and analysis of data on applications to the NSW Consumer Affairs Tribunal (NCAT).
2. **Rights and standards** – reporting on the use of written occupancy agreements; the extent to which standards set out in the legislation are met; resident and proprietor reports of knowledge of the Act; and, fire safety measures.
3. **Well-being of residents** – reporting on the results of the personal well-being index, boarding house satisfaction index, as well as service use and need.

Key findings in relation to each of the three sections are detailed in the concluding section of this report and are summarised here.

## **Interim findings in relation to regulation and governance of the Act**

While the total number of registered boarding houses in NSW is continuing to increase, from 776 (August 2014) to 885 (June 2015), the capacity of assisted boarding houses reduced between 2013 and 2014 (total occupancy was reported as 470 residents in 2013, declining to 340 residents in 2014).

The implementation of the Act, in terms of local governments meeting their responsibilities under the Act, was variable among the three local government areas included in the fieldwork sites. Some local governments may require further assistance with strategies and resources for governing and enforcing requirements and standards under the Act. While compliance across all requirements and standards is improving, there is no evidence that proprietors are receiving notices or fines for non-compliance.

Although knowledge about dispute mechanisms is increasing for both residents and proprietors, more than 20% of residents reported in 2015 that they don't know who they would seek assistance from if a dispute with their proprietor arose, and about one-third of proprietors were unable to identify the NCAT as the agency responsible for resolving disputes.

There has been a significant increase in the number of enquiries to NSW Fair Trading for information and advice (87 enquiries in 2013, and 295 enquiries in 2014) and few complaints made (five in 2013, and 12 in 2014). There have also been few applications to the NCAT (15 during the period July 1, 2013 to January 31, 2014).

## **Interim findings in relation to rights and standards**

Importantly, proprietors report a significant increase in providing written occupancy agreements to their residents (from 68% in 2014, to 87% in 2015). However, residents only report a slight increase in receiving agreements (from 62% in 2014, to 65% in 2015) which may reflect the possibility that proprietors are providing new residents with occupancy agreements, and survey respondents are a mix of existing and new residents, although the cause of this discrepancy is unclear.

There are some substantial improvements in standards being met since 2014, as follows:

- o Resident knowledge of the Act (increasing from 44% in 2014, to 57% in 2015)
- o Residents who are provided with information about fire safety (increasing from 53% in 2014, to 66% in 2015)
- o Residents are more satisfied with repair and maintenance (increasing from 54% in 2014, to 61% in 2015)
- o Residents are able to lock their room (increasing from 88% in 2014, to 94% in 2015)
- o Proprietor knowledge about the requirement to provide 4 weeks written notice before an increase in occupancy fee (increasing from 54% in 2014, to 71% in 2015) although it should be noted that residents awareness of this standard has only slightly improved (from 14% in 2014, to 19% in 2015).

While there is no evidence that compliance with any of the standards has reduced between the years 2014 and 2015, compliance with some standards has remained the same, or similar, since 2014, as follows:

- o Overall security of the boarding house (69% of residents were satisfied in 2014, compared to 69% in 2015)
- o Residents receiving receipts for money given (78% of residents report receiving receipts in 2014, this compares with 77% in 2015)

- Security deposit to be no more than 2 weeks occupancy fee (19% of residents reported paying 4 weeks security deposit in 2014, this compares to 18% in 2015)
- Security deposit to be returned within two weeks (approximately 2% of proprietors report returning the security deposit in 4 weeks 2014, this compares with 5% who took 4 weeks to return the security deposit in 2015).

### **Interim findings in relation to the impact of the Act on the well-being of residents**

Of note, using the Personal Well-Being Index tool, residents report an improvement in well-being from 2014 to 2015 in all but one well-being indicator where there was a very slight (not significant) decrease. Moreover, results of the boarding house satisfaction scale show that for every single indicator of satisfaction with the boarding house, residents report an improvement from 2014 to 2015.

In terms of service usage and need, residents report high levels of service usage including use of doctors, food services, community and neighbourhood centres, caseworkers, psychologists, psychiatrists and dentists although this may be expected. There is further evidence generated through this evaluation relating to the number of people who live in boarding houses who require assistance with daily living. In 2015, 67 (34%) of residents report that there are two or more people requiring daily care such as help with showering, moving around and taking medication who live in their boarding house. 36% of proprietors surveyed in 2015 report that they perceive that the people living in their boarding house who require daily care (for example psychiatric care related to disability or being frail aged) do not have adequate access to the home and community care services they need. Further, residents report that the use of home care services is relatively low (increasing slightly from 3% in 2014, to 7% in 2015).

The interim findings presented in this report raise issues for further investigation and these analyses will form part of the next interval report. The next report will also draw on data collected in the first part of 2016.

## 2. Background

In October 2012, the Parliament of New South Wales (NSW) passed the *Boarding Houses Act 2012*, to strengthen and regulate boarding houses in NSW. The Act followed a series of reports which highlight the vulnerability of boarding house residents as well as the need for reform of the boarding house industry. The Act was also a result of the long campaign by housing and disability advocates for greater legal rights and protections for boarding house residents.

The Act aims to protect and safeguard the rights of vulnerable and marginalised residents, especially those residents who have an intellectual disability or mental illness, while at the same time seeking to promote the sustainability of the boarding house industry. It is expected that the Act will bring standards for assisted boarding houses into line with community expectations and Australia's commitment to the United Nations Convention on the Rights of Persons with Disabilities.

The Act aims to improve the standards of registered boarding houses through:

- Establishing a publicly available register, maintained by NSW Fair Trading, of registrable boarding housing in NSW
- Increasing inspection powers for local councils
- Introducing occupancy rights for people living in boarding houses including:
  - occupancy agreements must be in writing
  - residents are entitled to quiet enjoyment of premises which are clean, secure and in a reasonable state of repair
  - standards governing payments, penalties, eviction, termination etc.
- Modernising the laws that apply to boarding houses accommodating people with additional needs
- Disputes to be resolved by the NSW Civil and Administrative Tribunal (NCAT).

There are two types of registrable boarding houses covered by the Act. These are:

- **General boarding houses** which accommodate five or more paying residents, excluding the proprietor, the manager and members of their families. General boarding houses do not include hotels, motels, backpackers' hostels, aged care homes or other types of premises excluded by the act.
- **Assisted boarding houses** which accommodate two or more persons with additional needs. A person with additional needs has a disability such as an age related frailty; a mental illness and/or an intellectual, psychiatric, sensory or physical disability, and needs support or supervision with daily tasks and personal care such as showering, preparing meals or managing medication.

The Act commenced in parts, with the provisions relating to the Boarding House Register, shared accommodation standards and initial compliance investigations commencing on 1 January 2013, and the rest of the Act, which largely pertains to assisted boarding houses commencing on 1 July 2013.

Local councils have the primary role in approving new boarding houses and inspecting and enforcing safety and accommodation standards in existing boarding houses. They also have the power to fine operators of unregistered boarding houses or to issue orders for boarding houses to meet certain building, safety and accommodation standards.

Assisted boarding houses are licensed by Ageing Disability and Home Care (ADHC) which is part of the NSW Department of Family and Community Services (FACS).

Prior to the Act, general boarding houses were known as unlicensed boarding houses and were only subjected to regulation by local government in relation to fire safety and building codes. There was no other specific legislation in NSW that governed general boarding houses. Assisted boarding houses, which were known as licensed residential centres, were regulated under the *Youth and Community Services Act 1973 (NSW)*.

The assisted sector grew from the 1960s following the deinstitutionalisation of psychiatric facilities. Many people with an intellectual disability or mental illness were relocated to for-profit accommodation in the form of boarding houses, where they receive various services including meals, washing of clothes, shared living facilities, and assistance with personal care, health and money management (Drake 2013, 2014). These services are delivered by boarding house managers, who are often ex-staff members of deinstitutionalised facilities who set up boarding houses to accommodate the residents that they had previously cared for in the institutions (Drake, 2014b).

An evaluation of the Act, reviewing it against its objectives after five years, is a legal requirement specified in Section 105 of the Act. Newtown Neighbourhood Centre (NNC) and Western Sydney University are undertaking the evaluation.

### **3. Purpose**

There are four overarching aims of the evaluation, to:

1. assess the effect of the Act on the well-being of residents of boarding houses
2. assess whether the rights of residents of boarding houses are better protected following the introduction of the Act
3. determine the effect of the Act on the sustainability of the boarding house sector, and
4. determine levels and types of collaboration between departments, agencies and community organisations that work with the boarding house sector.

### **4. Evaluation questions**

The evaluation questions are as follows:

- Has the Act contributed to the residents of registered boarding houses feeling of safety and well being?
- To what extent do residents of registered boarding houses live in premises that are secure?
- To what extent has the Act impacted on residents of boarding houses capacity to sustain their occupancy?
- To what extent do registered boarding houses meet the set standards?
- To what extent are residents of registered boarding houses using reasonable dispute resolution mechanisms to manage occupancy disputes?
- Have there been changes in the way boarding house proprietors provide services as a result of the Act?
- How many boarding houses are registered?
- What factors contribute to proprietors not registering boarding houses?
- How many residents of boarding houses are there in NSW and what is the rate of change from 30 June 2013?
- What is the level and type of coordination and collaboration between departments, agencies and community organisations?
- To what extent has the introduction of the Act had an effect on homelessness in NSW?

## 5. Structure

This report has three main sections, as follows:

- **Regulatory framework** – reporting on registrations included on the central register that is overseen by NSW Fair Trading; stakeholder (resident, proprietor, agency staff) reports of the implementation of the Act particularly in terms of the role different organisations in regulating and governing the Act; stakeholder and proprietor knowledge and use of dispute resolution mechanisms; analysis of complaints and enquiries made to NSW Fair Trading; and analysis of data on applications to the NSW Consumer Affairs Tribunal.
- 4. **Rights and standards** – reporting on the use of written occupancy agreements; the extent to which standards set out in the legislation are met; resident and proprietor reports of knowledge of the Act; and, fire safety measures.
- 5. **Well being of residents** – reporting on the results of the personal well-being index, boarding house satisfaction index, as well as service use and need.

This structure is consistent with the program logic that underpins the evaluation framework.

This report focuses on presenting the quantitative evidence that is collected through the survey instruments as well as data provided by government agencies. Some qualitative data that has been gathered through in depth interviews with residents, proprietors and agency staff is drawn on to supplement the quantitative data, as needed.

This report is the second interval report and includes data from the annual collection for 2014 and 2015. The report will identify how the legislation is being implemented to date, flag emerging issues, and highlight the outcomes for residents and the sustainability of the boarding house sector. The final report will collate the four years of data gathered and will use this longitudinal dataset to address the four overarching aims of the evaluation.

The evaluation will produce a comprehensive longitudinal dataset, with annual updates over the five year period 2013-2018. There will be four annual data collections, with three interim reports, a draft report and a final report.

**Table 1: Evaluation Reporting Framework**

2014	2015	2016	2017	2018
Annual data collection	Annual data collection	Annual data collection	Annual data collection	Final report
Interval report	<b>Interval report</b>	Interval report	Interval report	

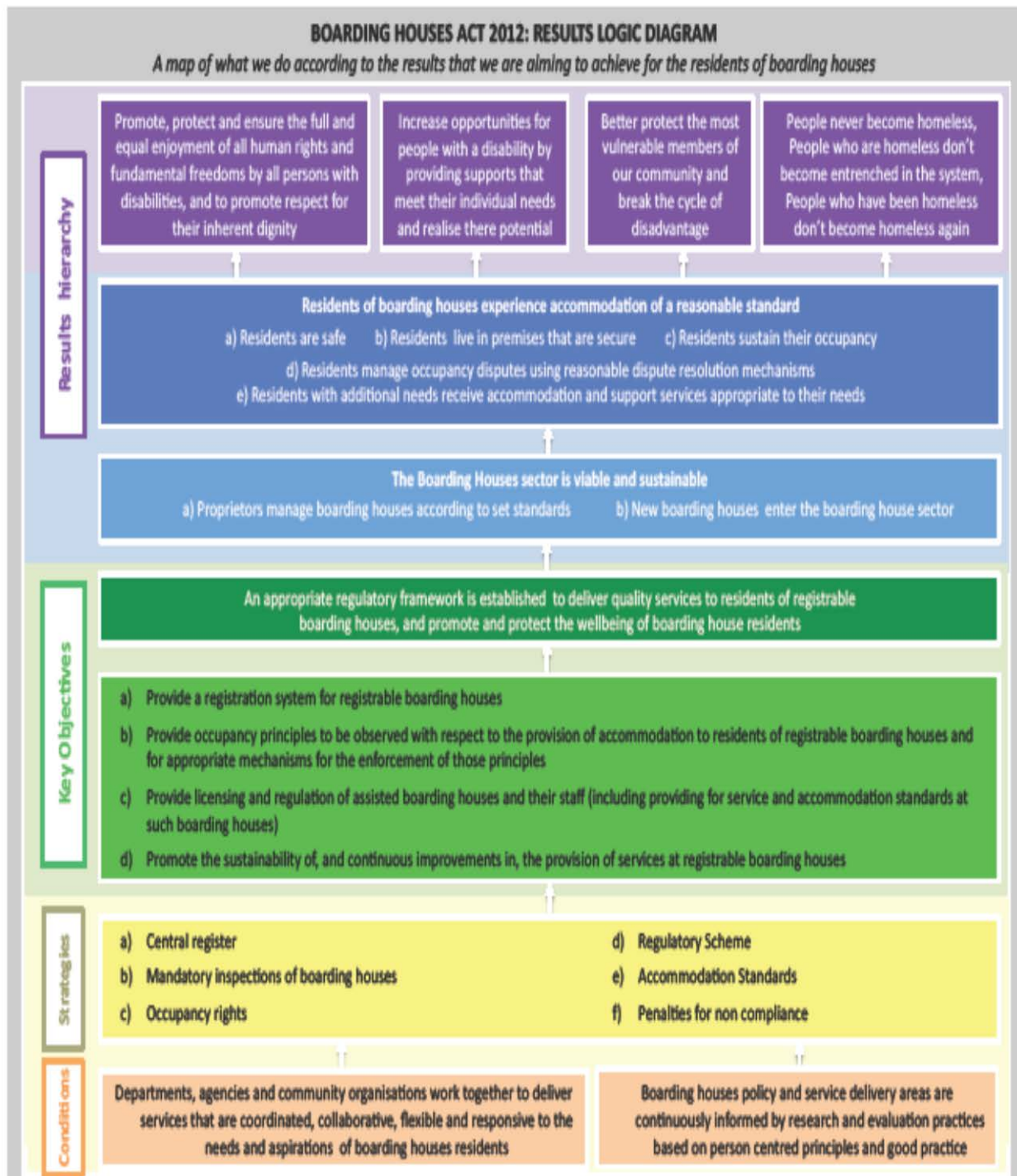
## 6. Evaluation framework

This evaluation is both a process and outcomes evaluation.

- **Process evaluation** component assesses whether the legislation is being implemented as intended, particularly in terms of the compliance of Boarding House Operators. Process evaluations help determine what has worked well, or needs to be refined or eliminated.
- **Outcomes evaluation** component measures the change that has occurred as a result of the legislation. The outcomes component will measure the change the legislation has had for residents and for the sustainability of the boarding house sector.



A results logic diagram was prepared in 2012 by Matrix on Board for this evaluation. The program logic forms the basis for the evaluation framework.



### Three fieldwork sites

Three fieldwork sites were selected to gather data and information: Ashfield LGA, Marrickville LGA and Newcastle LGA. The table below shows the number of registered Boarding Houses in each of the study sites for the years 2014 and 2015.

**Table 2: Number of registered Boarding Houses in three study sites 2014, 2015**

Study site	Number of registered Boarding Houses in 2014	Number of registered Boarding Houses in 2015*
Ashfield LGA	41	48
Marrickville LGA	92	100
Newcastle LGA	50	55

Source: \*Office of Fair Trading Boarding House Register, accessed 27 June 2015

### Data collection methods

The evaluation design involves collecting both quantitative and qualitative data on an annual basis and there are a number of data collection instruments and sources, as follows: state wide survey of proprietors, semi-structured interviews with proprietors across the three case study sites, survey of residents across three case study sites, semi-structured interviews with residents across the three case study sites, focus groups with agency staff (from NGOs and government agencies), as well as data from agency data collections that relates to the implementation of the legislation.

The table below sets out the number of participants in the research by data collection method for the years 2014 and 2015.

**Table 3: Number of research participants by data collection method, 2014 & 2015**

	Residents		Operators		Agency staff
	Surveys	Interviews	Surveys	Interviews	Focus Groups
<b>2014</b>	215	54	57	20	4 focus groups with 35 staff
<b>2015</b>	217	54	94	21	4 focus groups with 24 staff

Agency staff came from a variety of NGOs and relevant government agencies operating in the fieldwork sites and held positions including: inspectors/compliance officers, specialist policy staff, tenancy advisors, outreach and caseworkers, and mental health workers.

Resident survey participants were recruited from the fieldwork sites using a number of approaches, including fieldwork visits where potential participants were invited face-to-face, advertised interview sessions delivered to known boarding houses that included a time and place to attend (e.g. at Newtown Neighbourhood Centre, Salvation Army Oasis Centre in Newcastle, All Saints Petersham). Participants from assisted boarding houses were recruited with the assistance of the Active Linkage Initiative (ALI) staff and advocacy organisations that had direct contact with assisted boarding house residents.

A \$25 payment was offered for each survey, which on average took 15 minutes to complete. Fieldwork was conducted in teams of at least two researchers. The researchers maximised the extent of geographic and demographic mix by going to different locations and different types of boarding house communities (for example student, assisted, new as well as traditional boarding houses).

Most of the residents surveyed were male and this is consistent with the proportion of men and women who live in boarding houses. In 2015, 186 of participants were male and 30 were female which is consistent with the previous year of this evaluation, other studies, and ABS data. Of the 217 participants, 205 resided within general boarding houses and 12 resided in assisted boarding houses. 38 per cent of residents reported living in the boarding house for less than a year, and 39 per cent reported living there between one and five years.

In 2015, a total of 54 individual interviews were conducted with boarding house residents (16 in Ashfield, 26 in Marrickville and 12 in Newcastle). Some of the interviewees were also interviewed in the previous year. Participants were paid \$50 for their time. Interviews were audio recorded and transcribed and analysed thematically.

While the resident survey focused on people residing in the three fieldwork sites, the proprietor survey was state-wide. 771 surveys were distributed to proprietors (600 via email, 171 distributed via mail) across the state. This year, a direct link to the online survey was provided in the email, with the assistance of NSW Fair Trading, and this greatly increased the response rate. For those registered boarding house proprietors that had not provided an email address, surveys were posted in hard copy form in the mail. 94 surveys were completed by proprietors (the response rate for 2015 is approximately 12%). In 2015, 10 (11%) of the proprietors were from assisted boarding houses. The majority were aged over 40, with 19 (20%) aged over 70.

A total of 21 individual interviews were conducted in the fieldwork sites with boarding house proprietors (5 in Ashfield, 12 in Marrickville and 4 in Newcastle). Proprietors were paid \$50 for participating in an interview (some declined the payment). Some interviewees were also interviewed in the previous year. Two proprietors had left the industry since 2014. Two others could not be interviewed this year. Two new assisted boarding house proprietors were recruited. Interviews took place in a wide variety of locations including the boarding house proprietors' homes, public places such as cafes, and at Newtown Neighbourhood Centre and at the Salvation Army Oasis Centre in Newcastle. One was conducted over the telephone. In-depth interviews were audio recorded and transcribed and have been analysed thematically.

Data from local governments (Ashfield, Marrickville, Newcastle), NSW Civil and Administrative Tribunal, NSW Department of Family and Community Services, NSW Department of Fair Trading, NSW Office of State Revenue as well as the Tenants Advocacy and Advice Service was requested and included in the evaluation. The data gathered has not been comprehensive in all circumstances, and efforts will be made to further include agency data in the next interval report.

## **7. Regulatory framework**

This section reports on the number of registered boarding houses included on the central register, the role of agencies in implementing the legislation, dispute resolution mechanisms, complaints and enquiries made to NSW Fair Trading and NSW Consumer Affairs Tribunal data on applications.

## Central register

All registrable boarding houses (both general and assisted) are required to register with NSW Fair Trading for a one-off fee of \$100. Boarding house proprietors are required to provide basic identification information as well as information about the number of residents, beds and bedrooms. Proprietors are required to update the register annually. It is an offence not to register and to provide false and misleading information for the register.

Within 12 months of being registered, a registrable boarding house must undergo an initial compliance investigation by local council (unless the premises have already been inspected in the last 12 months) to determine whether the premises comply with planning, building and fire safety requirements and accommodation standards.

The total number of registered boarding houses has increased from 776 (as at 12 August 2014) to 885 (as at the 27 June, 2015). The number of unregistered boarding houses is not known and difficult to determine. Some estimates have been made by some local councils, but these are difficult to verify.

Data has been provided by FACS which shows the number of assisted boarding houses in 2014 and 2015. This number has reduced, slightly by total number from 22 to 20, but significantly by the overall number of residents residing in assisted boarding houses. The table below displays this information.

**Table 4: Number of Assisted Boarding Houses, 2014 & 2015**

<b>NSW Family and Community Services (FACS) data</b>	<b>2013</b>	<b>2014</b>
Number of assisted boarding houses in NSW	22	20
Capacity	522	412
Actual occupancy	470	340

Inspections of assisted boarding houses occur every 6 to 8 weeks and a full service review occurs at least once every 3 years. A monitoring inspection report is completed after each inspection.

Demand for boarding houses continues to be high, especially in the city locations. Few general boarding house proprietors were concerned about sustaining their business, although some complained about Council directives or planning restrictions.

## Role of agencies

While the Act provides the legislative tool for improving the boarding house sector the responsibility for making it work relies on the participation of everyone involved; proprietors must be willing to comply with the legislation while the appropriate agencies must be willing to enforce it.

While NSW Fair Trading hosts the register, it has no function in relation to enforcing the Act; this is largely the responsibility of local government. Local government plays an important role as the Act requires an initial compliance inspection to be conducted by councils. Within 12 months of being registered, a boarding house must undergo an initial compliance investigation by local council (unless the premises have already been inspected in the last 12 months) to determine whether the premises comply with planning, building and fire safety requirements and accommodation standards. However, it was reported by agencies that work in the boarding house sector that local governments vary in how they respond to their responsibilities under the Act. It appears that local governments are unwilling to

issue orders or fines to proprietors who have unregistered boarding houses and it is not clear if any fines have been issued to date.

One council included in the fieldwork, reported that they did not believe they had the resources to undertake the inspections. As one tenant advocate explained in a focus group interview:

*“Without dedicated funding from the State Government they, like many other Councils, lack the resources to effectively enforce the Act.”*

On the other hand, some boarding house proprietors thought that the councils were actively enforcing the Act to the point where they felt harassed.

*“The enforcement officers. It’s bordering on harassment. We would probably have an enforcement officer there every three weeks. I’m not really sure with private business if that’s, you know, right or wrong... We feel its harassment.”*

Several agency workers expressed concern that no-one has taken ownership of enforcing the registration provisions of the Act. For example, as one agency staff member explained:

*“I think Fair Trading and ADHC have worked quite well together, particularly when the Boarding Houses Act was being drafted and also that sort of information session round that went on when it commenced but certainly like I said before, there is a bit of – there is that sort of discontinuity of oversight of the Act happening between particularly Fair Trading and local councils in terms of the registration requirements.”*

And further:

*“[Fair Trading] are responsible for maintaining the register but don’t have any enforcement authorisation under the Act to make sure that boarding house proprietors are actually compliant with that part of the Act...some local councils quite genuinely are under the assumption that it’s Fair Trading’s responsibility to enforce the registration requirements... [Fair Trading] are going to have to start working a bit closer with local councils to work through some of those challenges and improve on perhaps some of the information sharing that goes on between local government and Fair Trading.*

*We have situations where we have boarding houses registered with Fair Trading and the local councils aren’t even aware that they exist or local councils have their own sort of register of boarding houses within their area that doesn’t match up to the register held by Fair Trading.”*

The evidence from agency workers is that while councils are undertaking inspections to varying degrees, they are not yet enforcing notices for not being registered or meeting other requirements under the Act.

### **Dispute resolution mechanisms**

Part 3 of the Act states that all boarding house proprietors and residents have access to the NSW Consumer Affairs Tribunal (NCAT), formerly called the CTTT, or the resolution of an occupancy principles dispute in those instances where proprietors have tried to resolve the dispute informally. A prerequisite for this is that residents are aware of the CTTT and its functions, and feel confident in its powers.

Residents were asked in the survey, where they would go for advice if they got into a dispute with the owner about their rights. Their responses are outlined in the table below.

**Table 5: Resident reports of where they would go for assistance with disputes, 2014 & 2015**

Agency/organisation identified	2014		2015	
	Number	%	Number	%
Community or neighbourhood centre	48	22%	61	28%
Tenants advice Service/Tenants Union	31	14%	32	15%
Legal Aid	9	4%	20	9%
Case worker	13	6%	12	6%
Tenancy Tribunal/NCAT	26	12%	22	10%
Other	41	19%	21	10%
Don't know/Not sure	47	22%	47	22%

Proprietors were asked if they were aware, under the new legislation, which places handles disputes between proprietors and residents. Their responses for 2014 and 2015 are presented in the table below.

**Table 6: Proprietors knowledge of who is responsible for resolving disputes, 2014 and 2015**

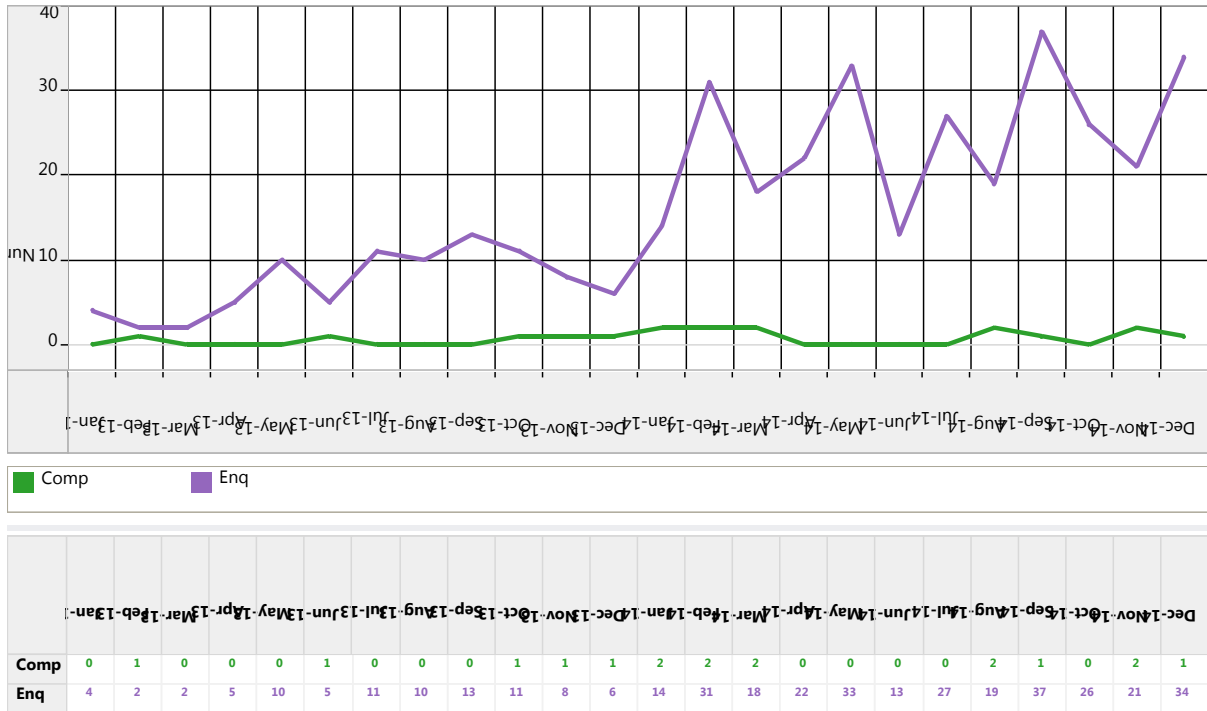
	2014		2015	
	Number	%	Number	%
NCAT	39	65%	57	64%
Don't know	18	30%	29	33%
Local Court	2	3%	1	1%
Land and Environment Court	1	2%	2	2%

Source: Proprietor Survey 2014, 2015

### **Complaints and enquiries made to NSW Fair Trading**

NSW Department of Fair Trading collects data on complaints and enquiries received by their call centre. The Department has provided data for 2013 and 2014 which shows that while there have been few complaints made about Boarding Houses (five and 12 respectively) the number of enquiries about Boarding Houses has increased significantly from 87 enquiries in 2013 to 295 enquiries in 2014. The table below show the number of complaints and enquiries made by month for 2013 and 2014.

**Table 7: Complaints and enquiries made to NSW Fair Trading by month, 2013 and 2014**



This table shows that there are a greater number of persons using this service to gain advice. The table over-page displays what the enquiries and complaints relate to. Most enquiries were for fair trading information (n=129), followed by information regarding rights and responsibility (n=81). Very few enquiries led to complaints.

**Table 6: NSW Department of Fair Trading, Call centre data on complaints and enquiries relating to Boarding Houses, 2013 & 2014**

Product Name	2013		2014	
	Enq	Comp	Enq	Comp
Property - Boarding Houses\Hostels	87	5	295	12
<b>Total</b>	<b>87</b>	<b>5</b>	<b>295</b>	<b>12</b>

Practice Name	2013		2014	
	Enq	Comp	Enq	Comp
FT Administration - Information	38		129	
Rights\Responsibility - Rights\Responsibility Not Listed	20		81	2
Documentation\Agreement - Agreement/Contract	2		17	
Pricing\Charges\Rent\Fees - Reservation fees\Security Deposits	1	1	8	1
Rights\Responsibility - Access\Inspections	3		8	
Pricing\Charges\Rent\Fees - Rent\Occupancy Fees	3		7	
Pricing\Charges\Rent\Fees - Pricing\Charges\Rent\Fees Not Listed			6	
Conduct - Unsatisfactory Conduct			5	
Rights\Responsibility - Repairs\Maintenance	1		5	1
FT Administration - Publications	1		4	
Rights\Responsibility - Lockout	1		4	
Conduct - Conduct Not Listed		1	3	
Rights\Responsibility - Refunds	5	1	3	2
Pricing\Charges\Rent\Fees - Arrears	1		2	
Pricing\Charges\Rent\Fees - Overcharging\Charges Above Quote			2	
Quality - Unsatisfactory Accommodation	1	1	2	
Rights\Responsibility - Cancellations\Cooling Off	2		2	2
Conduct - Bait Advertising			1	
Conduct - Unlicensed\Unregistered	1		1	2
Dispute Resolution - Terms of Contract Dispute	1		1	
Documentation\Agreement - Rental\Fee Increase Notice			1	
Misrepresentation - Misrepresentation Not Listed			1	
Rights\Responsibility - Failure To Supply Information\Documents	2		1	
Safety\Standards - Unsafe Product\Services			1	
Conduct - Harassment\Coercion	1			
Conduct - Misleading\Deceptive				1
Misrepresentation - Quality (Misrepresentation)	1	1		
Rights\Responsibility - Compliance Program	1			
Scams - Scams - Other	1			
Supply - Non\Partial Supply				1
<b>Total</b>	<b>87</b>	<b>5</b>	<b>295</b>	<b>12</b>

Current Outcome Name	2013		2014	
	Enq	Comp	Enq	Comp
Information\Forms\Publications Provided	59		222	
FT Information Only	19		51	
Advised to Lodge Complaint	2		5	
Referred to Government Agency - Other Govt Agency	2		5	
Referred to - Other Division/Branch	2		5	
Unable to Progress Intervention - Unable to Contact Customer or Trad..	2	1	4	1
Referred to - NCAT - Exempted Tenancy Matter			3	
Allegation of Misconduct or Breach (No Redress Requested) - Escalated..		1		
Allegation of Misconduct or Breach (No Redress Requested) - Unjustifi..		1		3
No Redress NCAT &\or Other Options Provided - Unjustified\Lack of Ev..				3
Outside Legislation - No Redress\Options Provided				2
Redress Offered - Accepted		2		3
Referred to Other Agency - Other Agency	1			
<b>Total</b>	<b>87</b>	<b>5</b>	<b>295</b>	<b>12</b>

Complaints with Value		Average Complaint Value		Total Complaint Value	
2013	2014	2013	2014	2013	2014
3	8	\$620.00	\$1,792.38	\$1,860.00	\$14,339.00



## **NSW Consumer Affairs Tribunal Data on applications**

The Tribunal received 15 applications under the Act during the period July 1 2013 to January 31 2014 (three applications lodged in August 2013, three applications lodged in October 2013 and nine applications lodged in January 2014). The applications related to boarding houses in Newcastle (five applications), Sydney (three applications), Penrith (two applications) and Coonamble, Gunnedah, Hurstville, Mudgee, Taree (one application each). The applications were lodged by residents (five applications), former residents (three applications) and proprietors (seven applications) and related to:

- Occupancy agreement (1 application)
- Payment of money (3 applications)
- Compensation (2 applications)
- Access to goods (2 applications)
- Termination of agreement (5 applications)
- Re-hearing application (1 application)
- Other unspecified issue (1 application)

Five of the applications have been finalised: one was withdrawn, one was dismissed, two resulted in general orders, and one resulted in a money order.

## **8. Rights and standards**

This section of the report focuses on the use of written occupancy agreements; the extent to which standards set out in the legislation are met; resident and proprietor reports of knowledge of the Act; and, fire safety measures.

### **Occupancy agreements**

A key right in the Act is that residents are entitled to a written Occupancy Agreement, and proprietors are required to provide one. In 2015, proprietors reported a significant increase in using Occupancy Agreements from the previous year while residents only reported a slight increase:

- For proprietors, 87% of survey respondents indicated they were using an Occupancy Agreement, this compares to 68% in 2014, which is a significant increase.
- For residents, 65% of survey respondents in 2015 indicated they had received a written occupancy agreement. This compares with 62% in 2014.

While there is a discrepancy in the reports of residents and proprietors, it is clear that the use of occupancy agreements is increasing. This discrepancy needs to be investigated further by the researchers and will be analysed further. Results of analyses will be presented in the next interval report.

### **Knowledge of the Act**

In 2015, residents report an increased understanding of the Act with 58% reporting they are aware or at least have some understanding of the Act (this compares with 44% of residents in 2014). The table below details their responses.

**Table 8: Resident reports of Knowledge of the Act, 2014 & 2015**

Indicator of knowledge of the Act	Survey responses			
	2014	2014	2015	2015
Yes, I am aware of the Act	54	25%	69	32%
I have some understanding of the Act	42	19%	56	26%
No, I am not aware of the Act	120	56%	91	42%

Residents were also asked in interviews if they had heard of the Act and to talk about their understanding of the Act. A typical response from residents who had some understanding follows:

*"I've heard of it but haven't really gone into the finer details if you know what I mean."*

Others still had little or no knowledge of their rights under the Boarding House Act:

*"I didn't even know that we had rights until I got that pamphlet that said Boarding House Rights."*

*"I've always been told that in a boarding house you don't have a leg to stand on."*

Some residents were able to identify some basic provisions, such as notice of eviction and timeframes for security deposits being returned after vacating a room, although these were not always accurate. Others commented that the Act had no benefit as if persons tried to assert their rights they would be evicted:

*"I think if he [the proprietor] knew of anything like that [person going to make a complaint] I reckon he'd put them out quick smart because he's that sort of bloke."*

Some residents indicated that the owners have made some improvements due to the Act, for example:

*"When the Boarding Act came in they changed everybody's room to bring them all up to par. They're a little bit more formal about the way it's run."*

While there has been an increase in understanding and knowledge of the act, a significant proportion of residents remain unaware of the Act (42% in 2015).

### **Fire safety**

In the survey, residents were asked if they have been provided with any information about fire safety either verbally or in writing. In 2015, 144 (66%) reported that they had. This compares with 111 (53%) in 2014. Boarding House proprietors were asked in the survey if they have a current fire safety certificate. In 2015, 90 proprietors (96%) report that they do have a certificate (this compares with 55 or 95% in 2014).

### **Standards**

The definition of a reasonable standard is underpinned by the occupancy principles for residents stated in Schedule 1 of the Act. According to these, residents are entitled to:

- Live in premises that are reasonably clean, in a reasonable state of repair and are reasonably secure
- A right to have a quiet enjoyment of the place in which you live
- Know the rules of the boarding house before moving in
- 4 weeks written notice before an increase in the occupancy fee
- Be notified before signing an agreement if there will be a charge for utilities
- Be charged for any utility according to the cost of providing it plus usage by the resident
- Know why an occupancy may be terminated and how much notice will be given before termination
- Be given reasonable written notice of eviction
- Be given receipts for any money given to the proprietor
- Have any security deposit limited to 2 weeks occupancy fee, and repaid within 14 days of the occupancy, less certain allowable deductions

The evidence relating to these standards that has been collected directly through the survey instruments in 2014 and 2015 is reported below.

*Live in premises that are reasonably clean, in a reasonable state of repair and are reasonably secure*

Residents report being more satisfied with repairs and maintenance of the boarding house in 2015 than in 2014. 119 (54%) of residents indicated that they were satisfied or completely satisfied with the repairs and maintenance of the boarding house they live in in 2014 (this compares with 135, 61% in 2015).

More residents are reporting they can lock their room. 190 (88%) reported they can lock their room in 2014 (this compares with 204, 94% in 2015).

Resident reports of satisfaction with the overall security of the boarding house they live in has not changed much. In 2014, 148 (69%) indicated that they were satisfied or completely satisfied with the overall security of the boarding house they live in (this compares with 146, 68% in 2015).

*4 weeks written notice before an increase in the occupancy fee*

Under the Act, proprietors are required to provide 4 weeks written notice before an increase in occupancy fee. Importantly, knowledge has improved substantially about this standard. In 2014, of the proprietors surveyed, only 54% correctly identified that they were aware of the 4 week notice period (this compares with 71% in 2015).

Resident survey results also indicate an increase in knowledge about this standard, although it is less of a significant increase on the year before. In 2014, 29 (14%) of residents surveyed correctly indicated that they were entitled to four weeks notice for a rent increase. By 2015, this had risen to 41 (19%).

Proprietors were also asked if they verbally notify residents about an occupancy fee increase, or if they provide the notice in writing. Compliance with this standard is improving. In 2014, 13 (23%) of proprietors surveyed indicated they provide a verbal notice only, and 43 (77%) providing a written notice. In 2015, 10 (11%) indicated they provided only verbal notice and 84 (89%) report that they provide notice in writing.

*Be charged for any utility according to the cost of providing it plus usage by the resident*

Residents were asked in the survey if the occupancy fee includes utilities (electricity, gas, water). In 2015, 195 (90%) of residents surveyed indicate that the occupancy fee they pay includes utilities.

*Be given reasonable written notice of eviction*

Residents and proprietors were not asked if they receive or provide reasonable notices of eviction. What constitutes reasonable notice is unclear.

Proprietors were asked in the survey if they give verbal or written notice when they want a resident to move out. In 2014, 6 (6%) of respondents indicated they provide verbal notice only, this compares to 5 (9%) in 2015. The remaining proprietors provided either written or both written and verbal notice.

*Be given receipts for any money given to the proprietor*

Under the Act, residents are entitled to receive written receipts for occupancy fees or any other money paid to the proprietor. Residents were asked in the survey if they receive receipts. In 2014, 161 (78%) of residents surveyed report that they received receipts, this compares with 168 (77%) in 2015.

*Have any security deposit limited to 2 weeks occupancy fee, and repaid within 14 days of the occupancy, less certain allowable deductions*

Residents are required to pay no more than 2 weeks security deposit. However, 25 residents (19%) reported that they paid 4 weeks security deposit to the proprietor in 2014, this compares with 25 (18%) in 2015. The table below shows this data.

**Table 9: Resident report of number of weeks security deposit paid to the proprietor of their boarding house, 2014 and 2015**

	2014		2015	
<b>1 week</b>	20	15%	23	17%
<b>2 weeks</b>	87	66%	91	65%
<b>4 weeks</b>	25	19%	25	18%

It is a requirement under the Act that the security deposit is returned within two weeks. In 2015, 53 (63 %) said they returned the security deposit straight away, 21 (25%) said they returned the security deposit within two weeks. 4 (5%) indicated they returned the security deposit within 4 weeks and 6 (7%) indicated they did not know how long it took them to return the security deposit.

## **9. Well-being of residents**

### **Personal well-being index**

In the survey, residents were asked to rank, from 0 (no satisfaction at all) to 10 (completely satisfied), their satisfaction with their well-being for seven indicators. These indicators were drawn from the Personal Well-being Index - Adult (PWI-A) which is a widely used tool for measuring well-being in Australia and overseas.

Residents report an improvement in well-being from 2014 to 2015 in all but one well-being indicator where there was a very slight decrease. The table below shows the results for each indicator.

**Table 10: Personal well-being index, comparison of results for 2014 and 2015**

	<b>2014 mean score</b>	<b>2015 mean score</b>	<b>Difference</b>
Part of the community	7.37	7.30	-0.07
Health	6.96	7.05	+0.09
Life as a whole	6.81	7.02	+0.21
Future plans and prospects	7.34	7.58	+0.24
Achieving in life	6.56	6.84	+0.28
Personal relationships	7.07	7.49	+0.42
Standard of living	6.62	7.07	+0.45

### **Boarding House satisfaction index**

In addition to the personal well-being index, residents were asked to rank, from 0 (no satisfaction at all) to 10 (completely satisfied) their satisfaction with indicators relating to their satisfaction with living in their boarding house. For every single indicator of satisfaction with the boarding house, residents report an improvement.

**Table 11: Boarding House satisfaction indicators, comparison of results for 2014 and 2015**

	<b>2014 mean score</b>	<b>2015 mean score</b>	<b>Difference</b>
Overall experience	7.33	7.74	+0.41
How the boarding house is run	7.20	7.68	+0.48
Overall security	6.93	7.64	+0.71
Repairs and maintenance	6.65	7.35	+0.70

### **Service use and need**

In the survey, residents were asked to indicate the services they had used in the last 3 months.

The table over page ranks the services utilised from highest (doctor or hospital) to lowest (Home Care). Responses were consistent across 2014 and 2015, where service usage was similar and the ranking of services used the most does not alter.

**Table 12: Resident reports of service usage, 2014 and 2015**

Services used	2014		2015	
	Total	%	Total	%
Doctor or hospital	153	71%	169	78%
Food service	113	53%	88	41%
Community or Neighbourhood Centre	86	40%	88	41%
Housing NSW or community housing waitlist	68	32%	61	28%
Caseworker	64	30%	63	29%
Psychologist or psychiatrist	61	28%	73	34%
Dentist	45	21%	53	24%
Other material aid – help paying bills etc	32	15%	27	12%
Drug and alcohol counseling	24	11%	17	8%
Methadone	10	5%	12	6%
Home care	6	3%	15	7%

Residents were also asked which services they would like to use but are not gaining access to. In 2015, 25 respondents indicated they would like access to Housing NSW, 16 required a dentist, 3 required drug and alcohol counseling, 3 required food services and 3 nominated psychologists.

In 2015, 67 (34%) of residents surveyed indicated that there were two or more people with disabilities, or who are very aged or frail, who need daily care such as help with showering, moving around and taking medication, living in their boarding house. This compares with 76 (38%) in 2014 who indicated that there were two or more people needing daily care.

Proprietors were asked if there are people requiring daily care (for example psychiatric care or physical care related to disability or being frail aged) and if they feel they can access home and community care services. In 2015, 47 (64%) of proprietors indicated they felt these residents could access services and 26 (36%) felt they could not.

In the survey, residents were asked if support services staff visited to assist anyone in the boarding house. In 2015, 82 (39%) of respondents indicated they did, and 113 (55%) indicated they did not.

## Conclusions

The evidence associated with the implementation and outcomes of the Act has been presented in this report in three different sections.

### 1. Key findings in relation to the regulatory framework and governance of the Act

The first section, which focuses on the regulatory framework and governance of the Act, sets out evidence in relation to: the registration process through an examination of the central register that is overseen by NSW Fair Trading; stakeholder (resident, proprietor, agency staff) reports of the implementation of the Act particularly in terms of the role different organisations in regulating and governing the Act; resident and proprietor knowledge and use of dispute resolution mechanisms; analysis of complaints and enquiries made to NSW Fair Trading; and analysis of data on applications to the NSW Consumer Affairs Tribunal (NCAT).

Key findings:

- The total number of registered boarding houses in NSW is continuing to increase, from 776 (August 2014) to 885 (June 2015)
- Capacity of assisted boarding houses decreased between 2013 and 2014 (total occupancy was reported as 470 residents in 2013, declining to 340 residents in 2014)
- Implementation of the Act is uneven with inconsistency across local governments meeting their responsibilities under the Act
- More than 20% of residents reported in 2015 that they don't know who they would seek assistance from if a dispute with their proprietor arose, and about one-third of proprietors were unable to identify the NCAT as the agency responsible for resolving disputes
- There has been a significant increase in the number of enquiries to NSW Fair Trading for information and advice (87 enquiries in 2013, 295 enquiries in 2014) and few complaints made (five in 2013, and 12 in 2014)
- Few applications have been made to the NSW Consumer Affairs Tribunal (15 applications during the period July 1, 2013 to January 31, 2014).

### 2. Rights and standards

The second section, about rights and standards, sets out evidence in relation to the use of written Occupancy Agreements, which is a requirement of the Act; resident and proprietor reports of knowledge of the Act; and the extent to which standards set out in the legislation are met.

Key findings:

- Proprietors report a significant increase in providing written occupancy agreements to their residents (from 68% in 2014, to 87% in 2015), although there was only a slight increase in the number of residents reporting receiving agreements (from 62% in 2014, to 65% in 2015)
- Substantial improvements in some standards being met since 2014, are as follows:
  - Resident knowledge of the Act (increasing from 44% in 2014, to 57% in 2015)
  - Residents who are provided with information about fire safety (increasing from 53% in 2014, to 66% in 2015)
  - Residents are more satisfied with repair and maintenance (increasing from 54% in 2014, to 61% in 2015)
  - Residents are able to lock their room (increasing from 88% in 2014, to 94% in 2015)
  - Proprietor knowledge about the requirement to provide 4 weeks written notice before an increase in occupancy fee (increasing from 54% in 2014, to 71% in 2015) although

it should be noted that residents awareness of this standard has only slightly improved (from 14% in 2014, to 19% in 2015)

- While this evaluation has not found any evidence of compliance with standards reducing between the years 2014 and 2015, compliance with some standards has not improved since 2014, as follows:
  - Overall security of the boarding house (69% of residents were satisfied in 2014, compared to 69% in 2014)
  - Residents receiving receipts for money given (78% of residents report receiving receipts in 2014, this compares with 77% in 2015)
  - Security deposit to be no more than 2 weeks occupancy fee 19% of residents reported paying 4 weeks security deposit in 2014, this compares to 18% in 2015)
  - Security deposit to be returned within two weeks (approximately 2% of proprietors report returning the security deposit in 2014, this compares with 5% in 2015).

### **3. Well-being of residents**

The third section, about the impact of the Act on residents' well-being, sets out evidence in relation to: personal well-being index, comparing resident reports of well-being in 2014 and 2015; boarding house satisfaction index, comparing resident report of satisfaction in 2014 and 2015 and residents' use of services and need.

Key findings:

- Residents report an improvement in well-being from 2014 to 2015 in all but one well-being indicator where there was a very slight decrease
- Residents report high levels of service usage including use of doctors, food services, community and neighbourhood centres, caseworkers, psychologists, psychiatrists and dentists.
- Evidence of additional service need for people requiring assistance with daily living who live in general boarding houses. 36% of proprietors report that there are people requiring daily care in their boarding house who do not have adequate access to services. 34% of residents report that there are two or more people requiring daily care such as help with showering, moving around and taking medication who live in their boarding house. Further, residents report that their usage of home care services is reported to be low (increasing slightly from 3% in 2014, to 7% in 2015).