



Boarding Houses and the Law

A legal guide for people living in
boarding houses in NSW

Acknowledgements

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This Guide is intended to replace The Boarders and Lodgers Legal Information Kit published by Redfern Legal Centre in 2011.

Disclaimer

This Guide is relevant for NSW, Australia only and is correct at February 2018.

The information in this Guide is general and not intended to be a substitute for legal advice. Every specific situation is different so you may need individual advice. Further advice for boarders and tenants is available from your local Tenants' Advice and Advocacy Service or Community Legal Centre (see **Useful Contacts and Resources** at the end of this Guide). There are also factsheets at www.tenants.org.au and a Guide to Share Housing at www.sharehousing.org

This Guide can be downloaded at rlc.org.au

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Legislation referred to in this Guide

Anti-Discrimination Act 1977 (NSW)

Boarding Houses Act 2012 (NSW)

Civil and Administrative Tribunal Act 2013 (NSW)

Civil and Administrative Tribunal Regulation 2013 (NSW)

Civil and Administrative Tribunal Rules 2014 (NSW)

Competition and Consumer Act 2010 (Cth) Schedule 2 (the Australian Consumer Law)

Environmental Planning and Assessment Act 1979 (NSW)

Environmental Planning and Assessment Regulation 2000 (NSW)

Fair Trading Act 1987 (NSW)

Local Government Act 1993 (NSW)

Local Government (General) Regulation 2005 (NSW)

Public Health Regulation 2012 (NSW)

Residential Tenancies Act 2010 (NSW)

Residential Tenancies Regulation 2010 (NSW)

Uncollected Goods Act 1995 (NSW)



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About this Guide

This Guide is for people living in boarding houses in NSW. It is also for community workers assisting people who live in boarding houses.

Before 2012, there was no law in NSW that set out the rights and responsibilities of boarders and lodgers. The *Boarding Houses Act 2012* introduced regulations and protections for residents of boarding houses, but it doesn't apply to everyone.

This Guide covers:

- What places are and aren't covered by the *Boarding Houses Act*
- The rights and responsibilities of people who live in and operate boarding houses
- Common issues in boarding houses and how the law might resolve them
- Sample letters and resources, and
- Contacts for organisations where you might be able to get more assistance.

Although the information in this Guide is applicable to people living in assisted boarding houses, there are other regulations that apply to these boarding houses that this Guide does not cover. For further information, see Chapter 6 of this Guide.

This Guide also refers to other laws that can apply to boarding houses such as consumer law, planning law and discrimination law.

If this Guide doesn't cover your living situation, you can find out more information in the *Share Housing Guide* at www.sharehousing.org. Further information for tenants can be found online at www.tenants.org.au.

This is a general guide and you may need to get legal advice about your specific situation.

Terms used in this Guide

People who live in boarding houses can be called boarders, lodgers, residents or occupants. In this Guide, we use the term **boarding house residents** as this term is also used in the *Boarding Houses Act 2012*.

For the person who owns the boarding house, we use the term **proprietor**, even though in some cases that person might be known as the landlord or owner. The proprietor might have a manager, caretaker or real estate agent who is responsible for the day-to-day running of the boarding house.

Chapter 1: What type of renter are you?

Boarding Houses come in different shapes and sizes and there are different laws that can apply.

This Chapter explains what laws might cover you. It explains some of the differences between being a tenant, a boarding house resident or a consumer under the law.

What is a boarding house?

Generally speaking, a boarding house is a place with multiple rooms or beds available for rent.

A boarding house could be called a rooming house, a lodging house, a hostel or it might not have any name. It could look like a normal house, apartment or warehouse. Some share houses are treated like boarding houses under the law.

The laws that could apply to you

There are different laws that can apply to you if you live in a boarding house.

If you're having a dispute about the place you live in, or trying to figure out whether you should sign an agreement to move in to a new place, the first step is to work out what type of renter you are and what laws cover you.

If you live in a boarding house, you could be:

- a **TENANT** covered by the *Residential Tenancies Act 2010*
- a **BOARDING HOUSE RESIDENT** covered by the *Boarding Houses Act 2012*
- a **CONSUMER** covered under consumer protection law
- none of these, meaning your rights are determined by general contract law.

The *Boarding Houses Act* applies to most people living in boarding houses. It will apply to you if the property you live in meets the legal definition of a **general boarding house** or an **assisted boarding house**.

Some people living in boarding houses have tenancy rights. The *Residential Tenancies Act* could apply to you, especially if the proprietor (or caretaker) doesn't live onsite.

Most people living in boarding houses will at least be covered by consumer protection laws. But for some people living in share accommodation there may be no specific laws that apply to their living situation. These situations are discussed in more detail later in this Chapter.

What if my agreement says something else?

You might have signed or been offered an agreement that is called a “sharehousing agreement”, a “license agreement” or a “lodging agreement”.

You might also have signed an agreement that specifically states that you are not a tenant or a boarding house resident and the *Residential Tenancies Act* and *Boarding Houses Act* don’t apply to you.

These terms and labels do not dictate what laws apply to you. You can still be a tenant or a boarding house resident even if your agreement says you are something else.

What if I don’t have a written agreement?

You don’t need to have a written agreement for the *Boarding Houses Act* or consumer law to apply.

You also don’t need to have a written agreement for the *Residential Tenancies Act* to apply **unless** you rent from a head-tenant who also lives in the property.

Why does it matter?

What type of renter you are will determine your rights and responsibilities including:

- how much notice you must be given to leave
- how much notice you must be given before the rent can be increased
- how much bond you can be asked to pay
- how you can be charged for water, gas and electricity
- your rights to have repairs done
- what happens if you break your agreement early
- whether the NSW Civil and Administrative Tribunal (NCAT) can resolve your dispute.

Main Differences: tenant or boarding house resident

Issue	Tenant	Boarding House Resident
Agreement		
Form of agreement	Can be written or oral. A tenant can go to NCAT for an order for a written agreement (s 14, 16 RTA)	Proprietor must provide agreement in writing (s 28 BHA)
Proof of payment	Landlord must provide a ledger within seven days of request	Proprietor must give rent receipts
House rules	None	Must be notified of house rules before moving in
Extra terms	Additional terms can't be inconsistent with standard terms. Some terms are prohibited: s 19 RTA	Terms cannot be inconsistent with the occupancy principles
Bond		
Maximum amount	Four weeks' rent	Two weeks' occupation fee
Holder required to lodge bond?	Yes, with Rental Bond Board	No
Dispute about bond?	Can go to NCAT	Can go to NCAT – occupancy principles dispute (s 32 BHA)
Notice of eviction		
Must be in writing	Yes	Yes
For breach of agreement	14 days	Must be "reasonable"
Periodic or rolling agreement, no reason	90 days	Must be "reasonable"
You want to give notice	Varies – commonly 14 or 21 days ¹	No minimum notice; may depend on the agreement
If you don't move out, is an order from NCAT needed?	Yes	No
A notice can be invalidated if it is retaliatory	Yes	No
Rent increase		
Amount of notice	60 days if periodic agreement	Four weeks' notice
Inspections		
Amount of notice	Depending on the purpose, between 2–7 days ^{1,2}	Must be "reasonable"
Utility charges		
Method of charging	Can only be charged if separately metered	Can be charged if charges are based on cost of providing the utility

¹ See Tenants' Union of NSW factsheet: <http://tenants.org.au/factsheet-09-you-want-to-leave>

² See Tenants' Union of NSW factsheet: <http://tenants.org.au/factsheet-08-access-and-privacy>

Are you a tenant?

Generally speaking, tenants under the *Residential Tenancies Act* have stronger and more certain legal rights than other types of renters.

Even if the place you live in is called a boarding house, it's possible that you are a tenant.

Under the *Residential Tenancies Act*, you are a tenant if you have an agreement to live in a place and pay rent or some other type of payment (including your labour if you work in return for your accommodation). But there are a number of exceptions to this rule (See below **Agreements that are not tenancy agreements**).

To be a tenant, it's not necessary that your agreement be in writing. It can be an oral agreement.³

What makes a tenancy agreement different from other types of agreements for accommodation is the degree of control the tenant has over the property.⁴ If the landlord gives up their daily control over the property (for example, the landlord doesn't live in the boarding house or enforce house rules), it is more likely that you are a tenant.

It isn't always easy to work out if your agreement or a living situation meets the definition of a tenancy. You might need to get individual advice or a decision from NCAT.

Some indications that your agreement is a tenancy agreement:

- Your landlord doesn't live in the boarding house and there isn't an agent or caretaker that lives there.
- You can lock your room and the landlord (or their agent or caretaker) doesn't have the right to come and go as they please.
- There are no house rules or the house rules can't be enforced because the landlord (or their agent or caretaker) doesn't keep a close eye on things.
- There are no goods or services provided (such as cooking or cleaning products, toilet paper, soap or cleaning services).

TIP: If you are the caretaker at a boarding house or you work in return for accommodation, it's likely you are a tenant.⁵

³ *Residential Tenancies Act 2010*, s 13(2). But see *Residential Tenancies Act 2012*, s 10.

⁴ See, for example, *Pupuke v Stratford* [2016] NSWCATAP 7; *Pryor v Costa & Maroulis* (Tenancy) [2005] NSWCTT 555 at [32]-[34]; *Ellis v City Woman's Hostel* (RTT 97/022789, 15 June 1998).

⁵ *Residential Tenancies Act 2012*, s 9.

Agreements that are not tenancy agreements

Some types of agreements aren't tenancy agreements.

You are not a tenant if:

- You live in tourist accommodation (a hotel, backpackers', most Airbnbs, or serviced apartments), residential care or a nursing home.
- You live in student accommodation (more information on this can be found on page 13).
- Your agreement is for crisis or refuge accommodation, to board or lodge with a person, or is a residence contract at a retirement village.⁶
- You live with a head-tenant, and:
 - > they have a residential tenancy agreement with the owner, AND
 - > your name is not on that agreement, AND
 - > you do not have a written agreement with your head-tenant.⁷

Are you a resident under the *Boarding Houses Act*?

If you are not a tenant, it is possible that you are a boarding house resident covered by the *Boarding Houses Act*.

The *Boarding Houses Act* covers two types of boarding houses: general boarding houses and assisted boarding houses.

Assisted boarding houses are for people with additional support needs and are discussed in **Chapter 6: Assisted Boarding Houses**.

A general boarding house is a place that provides beds for use by five or more residents for a fee.

Definition of a general boarding house

A general boarding house is a place that provides **beds** for use by **five or more residents** for a **fee**.

You are covered by the *Boarding Houses Act* if the place you live in meets this definition. There are a few exceptions (see next page).

⁶ For a full list of these exclusions see *Residential Tenancies Act 2012*, ss 7, 8 and 10. See also *Residential Tenancies Regulations 2012*, Part 4.

⁷ *Residential Tenancies Act 2012*, s 10. For more information about this common sharehouse situation see the *Sharehouse Survival Guide* (www.sharehousing.org).

The five-bed minimum

The five-bed-minimum can't include beds used by the proprietor, their manager or relatives.⁸

Five or more residents need to be paying a "fee" to live in the boarding house. This will usually be the occupation fee (ie. the rent) but it could be any fee or reward (such as a resident agreeing to do repair work on the boarding house in return for a place to stay).

The property won't meet the definition of a general boarding house if:

- beds aren't provided, or
- some people can stay there for free (leaving less than five beds for "paying residents"), or
- none of the residents are using the place as their principal place of residence (ie. the place where they ordinarily live).

Accommodation not covered by the *Boarding Houses Act*

There are types of accommodation and agreements that are not covered by the *Boarding Houses Act*.

A property is not covered if it is:

- Tourist accommodation, such as a hotel or backpackers' hostel (but if longer-term accommodation is provided and people use the place as their normal residence, it might still be covered).
- Accommodation for employees provided in connection with their employment.
- A residential aged-care facility.
- Refuge or crisis accommodation.⁹

⁸ *Boarding Houses Act 2012*, s 5.

⁹ For other exclusions, see *Boarding Houses Act 2012*, s 5(2).

Student Accommodation

Certain types of student accommodation are excluded from the *Residential Tenancies Act*. They include colleges and halls of residence that are within the grounds of an educational institution, are owned by the institution or are provided under a written agreement between the institution and the accommodation provider.¹⁰

The *Boarding Houses Act* also excludes any accommodation at a government or non-government school, or any premises used by an educational body to provide accommodation for students.

The legal status of a person in student accommodation will depend on who provides the accommodation and where it's situated. Whether there's a contract between the provider and an institution isn't always easy to find out.

You should read any student accommodation agreement carefully. Some agreements have harsh terms about finding another person to move in if you want to move out before the end of a term or semester.

Most student accommodation will be covered by consumer law.

If you're having a dispute in student accommodation and you need some advice about your renting status, contact your local Tenants' Advice and Advocacy Service or your local Community Legal Centre (see **Useful Contacts and Resources** at the end of this Guide).

¹⁰ See *Residential Tenancies Regulation 2010*, reg 20.

Consumer claims

There are other laws that may cover your living situation if you are not a tenant or a boarding house resident.

You may be considered a **consumer** and the person who rents to you a **supplier**. A consumer can make a claim, for example, for money they are owed by the supplier or to get the supplier to provide goods or services.¹¹

A supplier is a person who is “carrying on a business”. There’s no fixed definition of what that means, but the person should, at a minimum, be repeatedly renting out rooms for money.¹² The goods or services must be supplied in **trade or commerce**, so again, the renting of rooms should be more than a one-off and should be part of a commercial relationship. If your proprietor or landlord has an ABN or a business name, this would help to show that they are engaging in trade or commerce (but they don’t need to have this in order to be engaging in trade or commerce).

Consumers can bring claims to the NSW Civil and Administrative Tribunal (‘NCAT’) just like tenants and boarding house residents can.

Example of how consumer laws might help when other laws don’t apply

A person renting a room in a house with three other people isn’t covered by the *Boarding Houses Act* and, if the landlord also lives in the house, probably isn’t covered by the *Residential Tenancies Act*.

This person could make a claim as a consumer for the return of their security deposit. They would have to show that the landlord was carrying on a business of renting rooms.

If you’re thinking about making a claim as a consumer, you should seek advice from a Tenancy Advice and Advocacy Service or Community Legal Centre (see **Useful Contacts and Resources** at the end of this Guide).

¹¹ *Competition and Consumer Act 2010* Sch 2 (The Australian Consumer Law); *Fair Trading Act 1987* (NSW), Part 6A.

¹² *Hope v Bathurst City Council* (1980) 14 CLR 1.

You are not a tenant, boarding house resident or a consumer

If none of the above applies to you, your rights and responsibilities are contained in your agreement and normal contract law applies. Any notice you give to leave or are given to leave should be in accordance with that agreement, or should be 'reasonable'. If the owner gives you notice to leave and you don't, they can use reasonable force to eject you or they can lock you out of the boarding house.

Not being covered by these laws usually means you can't go to NCAT to resolve a dispute, you would have to apply to a court instead. This makes it harder and more expensive to claim back money (like your bond) and to get back your goods if you leave them behind.

What if you are not sure?

If you think you may be a tenant you can apply to the NSW Civil and Administrative Tribunal (NCAT) for an order declaring you to be a tenant.¹³

Each situation is different, and if you're not sure whether you're a tenant, a boarding house resident or a consumer you can contact a Tenants' Advice and Advocacy Service for advice (see **Useful Contacts and Resources** at the end of this Guide).

Who is this guide for?

This rest of this guide is designed for residents of boarding houses covered by the *Boarding Houses Act*. If this does not apply to you, you will find information about:

- **Tenants' rights:** at tenants.org.au, and in the *Tenants' Rights Manual*
- **Share housing:** in the *Share House Survival Guide* at sharehousing.org.

¹³ Residential Tenancies Act 2010, s 11.



Chapter 2: Moving in to a Boarding House

This Chapter gives important tips about what you should do before moving into a boarding house.

Before you move in

Some people prefer living in a boarding house because they need less money up-front than for a tenancy. Living in a boarding house might be more flexible and can be short or long term.

You can find advertisements for boarding house rooms on websites like domain.com.au or realestate.com.au, or you may be able to call or visit the boarding house in person and ask about rooms.

If you are signing an agreement to live in a boarding house you should:

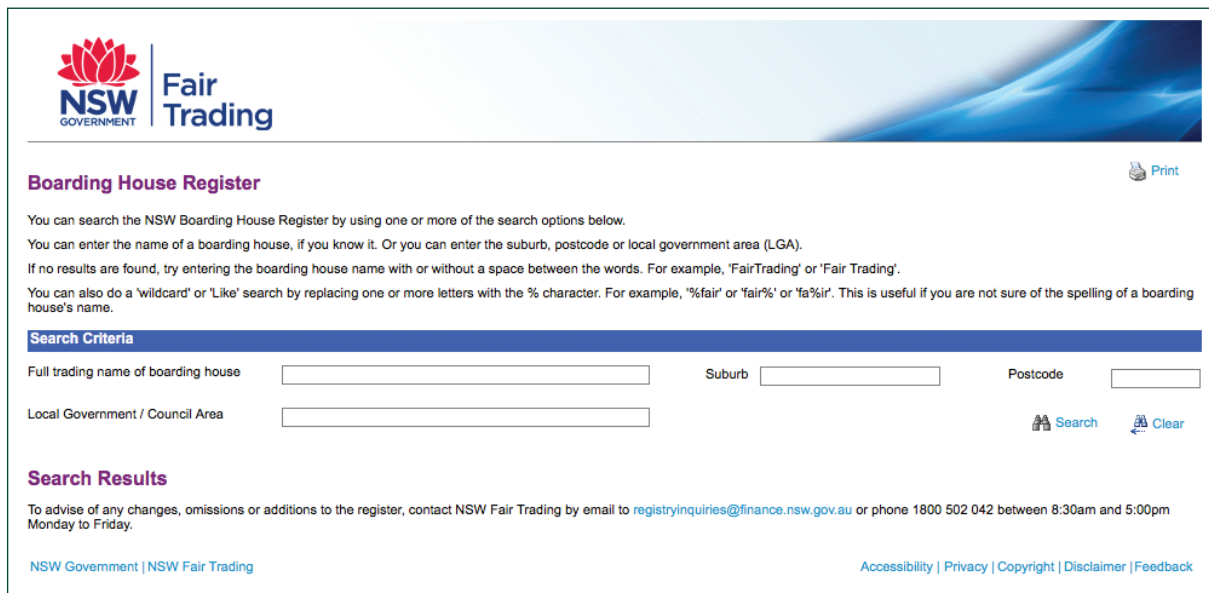
- Decide what type of accommodation suits your needs and whether you want the proprietor to provide you with meals and/or to clean your room.
- Work out how long you want to live there, and
- Inspect the rooms and common areas you will be using before deciding to move in.

Ask to see a copy of your occupancy agreement and any house rules before you decide to move in. It is important that you check your agreement carefully before you sign it. **Make sure you keep a copy!**


The Register of Boarding Houses

All properties that meet the definition of a general or assisted boarding house (see page 11) must be registered on the Register of Boarding Houses. You can go online to see all the boarding houses that are registered, including their addresses and the names and addresses of the proprietors. The register should also contain details of any enforcement action that has been taken against the owner.

The Register of Boarding Houses is kept by NSW Fair Trading, and can be searched on its website.



The screenshot shows the 'Boarding House Register' search interface on the NSW Fair Trading website. At the top left is the NSW Government logo and 'Fair Trading' text. The page title is 'Boarding House Register' with a 'Print' icon. Instructions explain search options: by name, suburb/postcode/LGA, or using wildcards. A 'Search Criteria' section contains input fields for 'Full trading name of boarding house', 'Suburb', 'Postcode', and 'Local Government / Council Area'. 'Search' and 'Clear' buttons are on the right. Below is the 'Search Results' section with contact information for NSW Fair Trading and a footer with links for Accessibility, Privacy, Copyright, Disclaimer, and Feedback.

Boarding House Register  Print

You can search the NSW Boarding House Register by using one or more of the search options below.



You can enter the name of a boarding house, if you know it. Or you can enter the suburb, postcode or local government area (LGA).

If no results are found, try entering the boarding house name with or without a space between the words. For example, 'FairTrading' or 'Fair Trading'.

You can also do a 'wildcard' or 'Like' search by replacing one or more letters with the % character. For example, '%fair' or 'fair%' or 'fa%iir'. This is useful if you are not sure of the spelling of a boarding house's name.

Search Criteria

Full trading name of boarding house Suburb Postcode

Local Government / Council Area  Search  Clear

Search Results

To advise of any changes, omissions or additions to the register, contact NSW Fair Trading by email to registryinquiries@finance.nsw.gov.au or phone 1800 502 042 between 8:30am and 5:00pm Monday to Friday.

[NSW Government](#) | [NSW Fair Trading](#) [Accessibility](#) | [Privacy](#) | [Copyright](#) | [Disclaimer](#) | [Feedback](#)

The Boarding House Register, available on the NSW Fair Trading website at: <http://parkspr.fairtrading.nsw.gov.au/BoardingHouse.aspx>

Once a boarding house is registered, the Local Council must inspect it within 12 months to ensure that it complies with planning laws (including building and fire safety regulations).¹⁴ Failure to comply with these laws, or the property's development approval, could lead to the closure of the boarding house (for more information on what happens if your boarding house has to stop operating see **Chapter 4: Issues in Boarding Houses**).

A boarding house must be registered if it provides **beds for five or more people for a fee**.

If the boarding house where you live is not registered, but fits the definition, you are still covered by the *Boarding Houses Act*.

If you think a boarding house is not registered or the information on the Register is wrong or out of date, you should report it to NSW Fair Trading by email to registryinquiries@finance.nsw.gov.au or by phone on 1800 502 042. Boarding house proprietors who don't register can be fined.

¹⁴ *Boarding Houses Act 2012*, s 16.

Questions before moving in

Is the property covered by the *Boarding Houses Act*? (Does it provide beds for five or more people for a fee?)

Is the building and room clean and is it in reasonable repair?

Is the room furnished?

Is there a lock on your room door? Who has a key?

How long does the agreement go for?

If the proprietor wants you to leave, how much notice will you be given?

If you want to leave, how much notice do you have to give?

How much is the rent or occupancy fee and how often is it paid? (weekly, fortnightly or monthly).

How is rent paid and does this work for you?

Will you be asked to pay a security deposit (bond)? How much?

What is provided? Cleaning? Soap and toilet paper? If not, how do the residents organise buying these products and sharing household chores?

Does the rent cover the cost of utilities such as electricity, gas, water or telephone? If these are extra, how are they calculated?

What are the house rules? For example, are there restrictions on when you can have visitors?

Is the boarding house on the Register of Boarding Houses?



Chapter 3: Your agreement

This Chapter explains the rules about what can and can't be included a boarding house occupancy agreement.

All occupancy agreements and house rules must be consistent with the 'occupancy principles'.

A boarding house proprietor must give you a written occupancy agreement to sign when you move in.¹⁵

There is a standard form occupancy agreement published by NSW Fair Trading and available on its website.¹⁶ A proprietor does not need to give you the standard form agreement, but many proprietors use it, and it is a good indication of what sort of things your agreement should cover.

If you don't have a written agreement you are still covered by the *Boarding Houses Act* (provided your boarding house meets the definition of a **general boarding house** [see page 11] or **assisted boarding house** [see page 53]), and your proprietor must comply with the occupancy principles. If you aren't given a written agreement, it is possible to seek an order from the NSW Civil and Administrative Tribunal that your proprietor prepare and enter a written agreement with you (see **Chapter 5: Disputes**).¹⁷

TIP: Keep a copy of your agreement, bond and rent receipts and any letters, emails or texts between you and your proprietor. This will help if you have a dispute about what type of agreement you have, or what you've paid.

Occupancy Principles

The *Boarding Houses Act* contains a set of occupancy principles that apply to all boarding house residents. When it comes to managing your accommodation, your proprietor has to comply with these principles.¹⁸ This applies whether the principles are written in your agreement or not. Any term in your agreement or house rule that is inconsistent with any of the occupancy principles is void and can't be enforced.¹⁹

The following is a summarised version of the principles.

15 *Boarding Houses Act 2012*, s 28(1)(a).

16 http://www.fairtrading.nsw.gov.au/biz_res/ftweb/pdfs/Tenants_and_home_owners/Standard_form_occupancy_agreement.pdf

17 *Boarding Houses Act 2012*, s 33.

18 *Boarding Houses Act 2012*, s 31(1).

19 *Boarding Houses Act 2012*, s 31(4).

Occupancy Principles

1. State of premises

You are entitled to live in premises that are reasonably clean, in a reasonable state of repair, and reasonably secure.

2. House rules

You are entitled to know the house rules before moving in.

3. Penalty fees

You cannot be required to pay a penalty fee for a breach of the occupancy agreement or the house rules. For example, you cannot be charged a fine or 'late fee' for paying your rent late.

4. Quiet enjoyment

You have the right to quiet enjoyment of the premises. This means that the proprietor can't come and go from your part of the premises (subject to Principle 5 below), they can't unreasonably stop you from occupying the premises (subject to Principles 9 and 10 below) and they are responsible to try and ensure the other residents don't cause unreasonable noise or nuisance.

5. Inspections

The proprietor can enter your premises at a reasonable time on reasonable grounds to carry out inspections or repairs and for other reasonable purposes.

6. Increasing your rent

You are entitled to four weeks' written notice before the proprietor increases the occupancy fee.

7. Other charges

The proprietor can charge you for utilities (electricity, gas, oil and water) if:

- a) you were told about the charges before or when you moved in, and
- b) the amount charged is based on the actual cost to the proprietor and a reasonable measure or estimate is used to decide your share of the cost.

8. Security Deposits

The proprietor can charge two weeks' security deposit (or a bond) and can only ask you to pay this on or after the day you move in (or the day you start your agreement).

The proprietor must return the deposit to you within 14 days of you moving out. They can only keep it to cover the costs of:

- a) damage to the property that you or a guest of yours caused (but not for fair wear and tear, and the repair costs need to be reasonable)
- b) any rent you owe
- c) cleaning
 - > but only if you have not left the premises in the same condition as when you moved in, and
 - > the cleaning costs need to be reasonable
- d) changing the locks
 - > if you changed them without permission, and
 - > the costs need to be reasonable.

9. Terminations

When you move in you should be told why and how your agreement can be ended. You should also be told how much notice will be given for being evicted for different reasons.

10. Notice of eviction

You can't be evicted without reasonable notice and it must be given in writing.

In determining what is reasonable notice, the proprietor can take into account the safety of other residents, the proprietor and the boarding house manager.

11. Alternative dispute resolution

Both you and the proprietor should try to resolve disputes using reasonable dispute resolution processes. This can include going to a Community Justice Centre for mediation.

12. Written receipts

You must be given a written receipt for any money you've paid to the proprietor or their agent.

Inconsistency with the occupancy principles – some examples

A boarding house occupancy agreement cannot contain terms that are inconsistent with the occupancy principles.

Some terms would clearly be inconsistent with the principles, such as:

- A term that says you must pay \$10 extra for every day your rent is late (Occupancy Principle 3).
- A term that you must pay four weeks' bond (Occupancy Principle 8).

Depending on the situation, the following terms could be inconsistent with the principles:

- A term that the manager can conduct weekly inspections to check the cleanliness of your room (Occupancy principle 5).
- A term that you cannot have visitors or that there is a curfew (Occupancy Principle 4).

If you think that a term of your agreement is inconsistent with the principles, you can make an application to NCAT. For more information, see **Chapter 5: Disputes**.

Unfair contract terms

In addition to the rules set by the occupancy principles, the Australian Consumer Law²⁰ (ACL) prohibits unfair terms in contracts.

The term must be part of a standard form contract and must be unfair because it:

- creates a significant imbalance in the parties' rights and obligations, and
- is not reasonably necessary in order to protect the interests of the party who would be advantaged by the term, and
- would cause detriment (for example a financial cost or loss) to a party if it were to be relied on.²¹

Some examples might be:

- A term that says that if you end your agreement early you have to pay excessive fees to your proprietor.
- A term that requires you to find another occupant before you can end your agreement and move out.
- A term that allows your proprietor to throw away your goods when you move out or requires you to pay excessive fees for leaving them behind.

If you are having a dispute about whether a term in a contract is unfair, you should seek advice from a Tenants' Advice and Advocacy Service or a Community Legal Centre. See **Useful Contacts and Resources** at the end of this Guide.

20 *Competition and Consumer Act 2010* (Cth) sch 2 ('Australian Consumer Law') applies nationally and in all States and Territories. Its application in NSW is provided under Part 3 of the *Fair Trading Act 1987* (NSW).

21 *Competition and Consumer Act 2010* (Cth) sch 2 ('Australian Consumer Law'), s 24.

House Rules

Many boarding houses have house rules that cover things like noise, guests, smoking, and using common areas. The occupancy principles state that you are entitled to know the rules of the boarding house before you move in.²² House rules are usually not part of your agreement, but they still have to be consistent with the occupancy principles.

Some examples of house rules that would likely be inconsistent with the occupancy principles are:

- A rule banning visitors (Occupancy Principle 4).
- A rule imposing a curfew on residents (Occupancy Principle 4).
- A rule that the proprietor or caretaker can enter your room at any time (Occupancy Principles 3 & 4).
- Rules that impose fines, penalties or “set fees” like a cleaning fee if you break one of the house rules (Occupancy Principle 3).
- A rule that you forfeit your security deposit if you break one of the house rules (Occupancy Principle 3).

23 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 2).



Chapter 4: Issues in Boarding Houses

This Chapter covers the main issues that can arise in Boarding Houses.

It deals with:

- 1. Money**
- 2. Cleanliness, repairs, security**
- 3. Peace, Privacy and Quiet Enjoyment (including harassment and injury)**
- 4. Giving notice**
- 5. Eviction**
- 6. Getting your security deposit back**
- 7. Getting your goods back**

Money

Security deposit or bond

A bond in a boarding house is usually called a security deposit. The owner can only ask you to pay two weeks' rent as the security deposit and you must be given a receipt.²³ The owner does not have to lodge your bond with the Rental Bond Board (administered by NSW Fair Trading).

Sometimes an owner will ask you to pay a deposit as well as some rent in advance. If this happens, ask for a receipt that records what the amount is for and what date you are paid up to.

There is more information about claiming your deposit back when you move out later in this Chapter.

Occupancy fee or rent

The rent you must pay is usually called an occupation fee in a boarding house. Your agreement should include a weekly, fortnightly or monthly occupation fee. The proprietor is not allowed to charge you a penalty fee for being late with your occupation fees.²⁴ Unlike under a tenancy agreement, you do not need to be a certain number of days behind in your fees before you can be given a termination notice.

²³ *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principles 8 and 12).

²⁴ *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 3).

Increasing the fees

If the owner wants to increase the occupation fee they have to give you four weeks' notice of the increase.²⁵ Usually if your agreement is for a set time, the fee will only be increased after that period of time ends. There's no cap on the size of the increase or the number of increases you can get.

Utility Charges

Utility charges are an amount that you may be charged in addition to your occupancy fee for utilities such as water, gas and electricity.

Proprietors can set their own methods for charging utilities and they can use estimates of your use of utilities so long as those estimates are reasonable. You cannot be charged more than your fair share of utility charges and your proprietor is not allowed to make a profit from charging utility fees.²⁶

Written Receipts

You have a right to be given a written receipt for any money you pay to your proprietor or anyone on their behalf (such as the caretaker or manager).²⁷

Where possible, it is best to pay in a way that you can track your payments rather than with cash (for example by bank transfer). These records will be important if you have a disagreement about what has been paid.

Cleanliness, Repairs, Security

The occupancy principles give you a right to live in premises that are:

- reasonably clean
- in a reasonable state of repair, and
- reasonably secure.²⁸

What is reasonable might depend on a number of factors (including how much rent you pay) and will be measured against what is considered to be a reasonable standard for the purpose of boarding house accommodation.

25 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 6).

26 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 7). It is unlawful for proprietors to sell you gas and electricity unless they have an exemption: *National Energy Retail Law* (NSW), s 88. Any exemption is likely to come with a condition that residents can't be charged more than the normal retail price of electricity and gas.

27 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 12).

28 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 1).

Repairs and retaliation

Although the occupancy principles say that the property must be in a reasonable state of repair, it may be difficult to exercise this right in practice. Boarding house residents are often concerned that if they report repairs to the owner or take action in NCAT the proprietor will give them notice to leave.

There are no specific protections for boarding house residents who are given a notice to leave in retaliation for asking for repairs. However, you may be able to argue that the notice to leave was not 'reasonable notice' or that you should be given a longer notice to leave (Occupancy Principle 1).

One option to get repairs done might be for several people in your building to put in applications to NCAT at the same time and ask that they be heard together so that you aren't singled out. A Tenants' Advice and Advocacy Service might be able to assist you to do this.

Another option is to try to involve your Local Council, especially if you think the lack of repairs is a health and safety issue for residents. Some Local Councils may allow you to remain anonymous.

Don't stop paying your occupancy fee or reduce your occupancy fee because of repair problems unless it has been agreed with the owner. Otherwise, you might be evicted for being behind in your rent. Get any agreement to reduce your occupation fee in writing.

If there's a repair problem, you should:

1. Report it to the manager or owner.
2. Write a letter requesting repairs (see **Sample Letter 1** on page 56).
3. If the owner does not do the repairs, consider lodging an application with NCAT for their failure to comply with the occupancy principles.
4. Consider reporting it to your Local Council, especially if it's a health and safety issue.

You can ask for some of your occupancy fee to be refunded to you and/or compensation if the property (including common areas such as kitchens and living areas) is not kept in a reasonable state of repair or cleanliness.

Under the Australian Consumer Law, a proprietor who is renting rooms as a business gives you guarantees as a consumer. One of those guarantees is that the accommodation they are providing is fit for the purpose of boarding house.²⁹

See **Chapter 5: Disputes** for information about taking action in NCAT.

²⁹ *Competition and Consumer Act 2010* (Cth) Ssch 2 ('Australian Consumer Law'), s 55.

Standards for cleanliness, facilities and overcrowding

Apart from the *Boarding Houses Act*, there are several other laws that regulate the use, health and safety of boarding houses. Boarding Houses are subject to local government regulations, environmental planning laws and instruments, and the building code. These laws are generally about the relationship between the proprietor of the boarding house and the Local Council, ensuring that the proprietor is complying with their responsibilities for zoning, use and safety of accommodation. As a resident in a boarding house, it can be useful to know what these standards are, and what action the Council can take if they aren't met.

The *Local Government (General) Regulation 2005* (NSW) sets standards for places of shared accommodation, and this includes all boarding houses.³⁰

General cleanliness
<ul style="list-style-type: none">■ All parts of the boarding house (including furniture, fittings, beds and linen) must be kept in a clean and healthy condition, and free from pests or bugs.■ Bins must be kept covered and waste must be put in appropriate bins. <p>Note that the occupier also has a responsibility to take reasonable measures to keep the premises free from fleas, other disease-carrying insects, rats and mice (except any such animals kept as pets).³¹</p>
Furniture and fittings
<ul style="list-style-type: none">■ Furniture and fittings must be provided and kept in good repair.
Kitchen facilities
<ul style="list-style-type: none">■ Facilities and utensils for storing or cooking food must be kept in a clean and healthy condition, in good repair, free from foul odours and, as far as possible, free from dust, flies, insects and pests.■ The kitchen floor must have a surface that doesn't allow water or damp to get through.
Light and ventilation
<ul style="list-style-type: none">■ The boarding house must receive adequate light and airflow.■ All dividing walls used in dormitories and rooms must be properly constructed and provide adequate airflow.
Overcrowding
<ul style="list-style-type: none">■ The Council sets the maximum number of people who are allowed to live in each bedroom and in the whole premises.■ For short-term accommodation, under 28 consecutive days, each room or cubicle must usually have 2 square metres for each person sleeping in it.■ If the accommodation is for more than 28 days, then each room or cubicle must usually have 5.5 square metres for each person sleeping in it.³²
Beds, storage and curtains
<p>If residents board or lodge for seven days or longer the owner must provide:</p> <ul style="list-style-type: none">■ an adequate number of beds (each with a mattress, pillow and bedding),■ adequate storage space,■ blinds or curtains to screen bedroom and dormitory windows for privacy.

³⁰ *Local Government (General) Regulation 2005* (NSW), reg 83(1)(b). Standards set out in Schedule 2, Part 1.

³¹ *Public Health Regulation 2012* (NSW), reg 45.

³² *Public Health Regulation 2012* (NSW), reg 46.

Smoke alarms and fire safety

Local environmental planning laws require that all boarding houses have smoke alarms that meet Australian Standards.³³ The number and location of smoke alarms required depends on the size and layout of the building.³⁴

If the boarding house is registered (see page 17), the Local Council must inspect the premises within 12 months of registration or of a change of the proprietor of the boarding house to check that it complies with building and fire safety requirements.³⁵

What if the Boarding House doesn't meet the Standards?

Local Councils inspect and enforce safety and accommodation standards in existing boarding houses. The Council has powers to conduct inspections under the *Boarding Houses Act* for other reasons including to inspect works done under a council permit or to carry out a search warrant.³⁶

A Local Council can:

- issue fines³⁷
- order the proprietor to fix issues with fire safety or repairs³⁸
- order the proprietor to stop using the property as a boarding house.³⁹

That means the Council might help if the problem is about general cleanliness or safety in the place and you want it fixed, but the Council does not have power to order a refund of your occupancy fee or compensation (you would need to go to NCAT about these things).

If you think your boarding house should be registered or that it does not comply with the standards above you can ask your Local Council to come and inspect it and take action (see **Useful Contacts and Resources** at the end of this Guide).

If you think that a boarding house is operating illegally and it is in the City of Sydney Local Government Area, you can report it to the City of Sydney Local Council through its website.⁴⁰

33 *Environmental Planning and Assessment Regulation 2000* (NSW), reg 186B.

34 For further rules about fire safety and smoke alarms see *Environmental Planning and Assessment Regulation 2000* (NSW), Part 9, and see: <http://www.planning.nsw.gov.au/Policy-and-Legislation/Buildings/Safety-Campaigns/Smoke-alarms> (see factsheet on 'shared accommodation buildings').

35 *Boarding Houses Act 2012* (NSW), s 16.

36 *Environment Planning and Assessment Act 1979* (NSW), s 119D and *Local Government Act 1993* (NSW) s 200.

37 *Environmental Planning and Assessment Act 1979* (NSW) s 125 and *Local Government Act* ss 626-628.

38 See *Environmental Planning and Assessment Act 1979* (NSW) and s 121B and *Local Government Act 1993* (NSW), s 124.

39 See *Environmental Planning and Assessment Act 1979* (NSW) and s 121B and *Local Government Act 1993* (NSW), s 124.

40 See: <http://www.cityofsydney.nsw.gov.au/live/report-local-issues/unauthorised-accommodation>

What happens if the Boarding House has to stop operating?

Disputes between a boarding house proprietor and a Council can be drawn out, but because all notices about it go to the proprietor (and not the residents), you might not know there is an issue for some time. The Council can give an order that the proprietor cease using the property as a boarding house, and can apply to the Land and Environment Court if the proprietor breaches that order. If there are serious risks to health or fire safety hazards, the boarding house could be shut down quickly.

If a Council is going to issue an order (such as an order that the proprietor stop operating the property as a boarding house or demolish an unauthorised bedroom) it must consider residents who would be made homeless. They have to consider whether residents will be able to get satisfactory alternative accommodation in the local area, and should provide residents with information and assistance.⁴¹

When deciding what action to take against the owner and how quickly to take any action, a court can consider whether residents have been given assistance to find alternative accommodation. The court can order that residents be informed of any orders that are made and can delay the order that the use as a boarding house cease to give residents a chance to find alternative accommodation.

Peace, Privacy and Quiet Enjoyment

Quiet Enjoyment

Occupancy Principle 4 says that a resident is entitled to quiet enjoyment of the premises. Quiet enjoyment means the right to occupy your room and use the communal areas without unreasonable interference from your proprietor.

The sorts of things that might be a breach of this occupancy principle are the proprietor or manager:

- preventing you from accessing your room
- trying to unreasonably or repeatedly evict you
- interfering with the supply of utilities
- restricting your access to the facilities promised to you
- allowing excessive noise, or
- moving or removing your goods.

⁴¹ *Environmental Planning and Assessment Act 1979* (NSW) s 121G and *Local Government Act 1993* (NSW) s 131A.

Living with other people and sharing facilities usually means making some compromises. The house rules might ban certain things that you consider would infringe on your privacy, such as a rule banning parties. Whether a certain house rule or practice infringes on your right to quiet enjoyment might need to be determined by NCAT.

See **Chapter 5: Disputes** for information about taking action in NCAT.

Inspections and access to your room

Occupancy principle 5 says that the proprietor is allowed to enter your room:

- at a reasonable time
- on reasonable grounds, and
- for reasonable purposes such as inspections and repairs.⁴²

Unless there is an emergency, the proprietor (or the caretaker/manager or tradespeople) should give you notice before entering your room. They don't have to give you written notice, but your occupancy agreement may set out how much notice you must be given.

NSW Fair Trading's standard occupancy agreement suggests the following reasons for access and notice periods:⁴³

Reason for access	Suggested notice period
In an emergency or to carry out emergency repairs or inspections	Immediate access
To clean	24 hours
To carry out repairs	24 hours
To show the room if you are moving out	24 hours
To carry out inspections	48 hours

When the local council inspects the boarding house they are not required to give any notice to the residents, only to the proprietor.

Violence and harassment

If you experience violence or harassment you should call your local police station. If it is an emergency call 000. You can also get advice from a Community Legal Centre (see **Useful Contacts and Resources** at the end of this Guide). They can also refer you to domestic violence advice and support services.

42 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 5).

43 http://www.fairtrading.nsw.gov.au/biz_res/ftweb/pdfs/Tenants_and_home_owners/Standard_form_occupancy_agreement.pdf

Personal injury

If you are injured due to a problem with your accommodation you may be able to make a personal injury claim against the proprietor. Make sure you get a doctor's letter at the time you are injured, and where possible take photos of the problem with your accommodation and your injury. Personal injury is a specialised area of law. You can contact the Law Society Solicitor Referral Service on 02 9926 0300 to get details of personal injury solicitors in your area.

You want to move out

There is no occupancy principle that outlines how much notice you must give if you want to move out. However, before you leave you should check whether your agreement says you have to give notice in writing, and if so, how much.

It's a good idea to give notice in writing even if your agreement doesn't say you have to. In this case you should give your proprietor reasonable notice. Your rent period would in most cases be reasonable (e.g. if you pay rent weekly, a week's notice). If the proprietor seriously breaches your agreement you could give a shorter notice.

Leaving before the end of your agreement

Some occupancy agreements are for a set period of time. Agreements like this might have terms about having to pay a fee for reletting your room or paying rent until someone new is found.

Any charges should be fair and reasonable – the proprietor is not allowed to recover more money from you than they have lost. For example, you may be able to get the charges lowered by helping to find someone to move in to your old room.

A term imposing an unfair or high penalty for leaving early could be void. See 'Unfair terms in your agreement' at page 24.

If you are not sure about whether you have to pay certain charges when you move out, contact your local Tenants' Advice and Advocacy Service for advice (see **Useful Contacts and Resources** at the end of this Guide).

Steps you could take to make sure you get your security deposit back:

1. Take everything you own with you.
2. Leave your place clean.
3. Take photos of your room on the day you leave.
4. Make a time with the proprietor or manager to do a check of your room.
5. Pay any occupancy fees or utility charges you owe. You could offer to forfeit part or all of your deposit to cover these.

Eviction

Your rights

- To be told when you move in the reasons why you could be evicted and how much notice you will be given.⁴⁴
- Not to be evicted without reasonable notice.⁴⁵
- To receive notice of eviction in writing.⁴⁶

But ...

- There is no set meaning of 'reasonable' notice, and if you think the notice is unreasonable, you may have to challenge it by making an application to NCAT.
- A proprietor does not need an order from a court or tribunal to evict you.
- You don't necessarily have to have breached your agreement to be evicted.
- There isn't much protection if you stand up for rights and, because of this, your proprietor wants to evict you.

Getting notice

A proprietor can't just tell you to leave or change the locks. They must give you a written notice to end your occupancy. The notice should include your name and details, a reason (if there is one) and the date you have to move out.

If you have an agreement to stay until a certain date, you shouldn't be evicted until after that date unless you have breached the agreement. You might be owed compensation if you are.

What's reasonable notice?

You must be given reasonable notice before your proprietor can evict you.

What's reasonable will depend on the reason your agreement is ending. Other factors might also come into play such as how long you've lived in the boarding house. If you've seriously breached your agreement or caused injury to another resident, the notice could be immediate even if you are a long-time resident.⁴⁷

44 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 9).

45 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 10(1)).

46 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 10(1)).

47 *Boarding Houses Act 2012* (NSW) sch 1 (Occupancy Principle 10).

Common reasons for being given a notice to leave are:

- getting behind on the rent or occupancy fee
- breaching the occupancy agreement or the house rules
- damaging the property
- violent or aggressive behavior.

If the proprietor wants your room back for their own reasons (such as renovating or redeveloping the property) then you should be given a longer amount of notice.

What if my boarding house is being redeveloped?

If you are being evicted because the proprietor is demolishing, redeveloping or changing the use of the boarding house (such as turning it into apartments), you should contact your Local Council to see if the proprietor has permission to do this. If they do not, you should ask them to investigate.

Depending on where the boarding house is located and when it was built, the Council may be able to refuse permission to redevelop if it means there will be less low-cost housing in the area.⁴⁸ If a development application has been made to the Council, you can lodge submissions and objections. Many Councils have information on their websites about how to do this (see **Useful Contacts and Resources**).

The standard form occupancy agreement lists some situations where a proprietor might terminate an agreement and suggested notice periods they should give.⁴⁹ A proprietor can use these notice periods, or use their own (so long as they are 'reasonable').

The standard occupancy agreement suggests the following notice periods:

Reason for termination by proprietor	Suggested notice period
Violence or threats of violence to anyone living or visiting the premises	Immediate
Willfully causing damage to the premises, or using the premises for an illegal purpose	1 day
Continued and serious breach of the occupancy agreement or house rules and following a written warning	3 days
Continued minor breach of the occupancy agreement or house rules following a written notice	1 week
Non-payment of the occupation fee	2 weeks
Any other reason, including vacant possession required and a "no grounds" termination	4 weeks

⁴⁸ See *State and Environmental Planning Policy (Affordable Rental Housing) 2009* (NSW), cl 50.

⁴⁹ A copy of NSW Fair Trading's standard occupancy agreement can be found at : http://www.fairtrading.nsw.gov.au/biz_res/ftweb/pdfs/Tenants_and_home_owners/Standard_form_occupancy_agreement.pdf

Reason for termination by resident	Suggested notice period
Serious breach of occupancy agreement by proprietor	1 day
Minor breach of occupancy agreement by proprietor	1 week
No grounds/any other reason	1 week

Just because a certain notice period is written in your agreement doesn't mean it's reasonable. For example, the suggested notice period for ending an agreement for no reason is four weeks – if your agreement says two weeks, that would be unreasonable in most circumstances.

You can also argue that you should be given more notice than the suggested notice period in the standard form agreement. For example, if you have lived in the boarding house for several years and the proprietor doesn't have a good reason to evict you, reasonable notice for you might more than four weeks.

If you think the notice you've been given is unreasonable, you can try to negotiate with the proprietor or manager. If they won't change the notice, you can apply to NCAT for an order that the proprietor give you reasonable notice.⁵⁰ You may need to make this application very quickly and request an urgent hearing (see **Chapter 5: Disputes and Sample Letter 3** on page 58).

If you do not move out when the notice period ends you can be evicted. Your proprietor does not need to apply to NCAT or take any further legal steps to evict you.

Getting your security deposit back

Your security deposit

When you leave, the proprietor must refund your security deposit within 14 days.

The proprietor is only allowed to keep money for:

- **Repairs:** The reasonable costs of repairs needed because of damage caused by you or someone you invited in. This does not include damage that is 'fair wear and tear'.
- **Rent:** Any occupation fees or other charges (like utility charges) you owe under the agreement when you leave.
- **Cleaning costs:** If you leave the property less clean than when you moved in.
- **Locks:** The cost of replacing any locks you changed, removed or added without getting permission first.

⁵⁰ *Boarding Houses Act 2012* (NSW), s 32(4).

Repairs

The proprietor can only take money out of your deposit for repairs if:

- you or your guest caused damage to the property or things provided with the property (like appliances or furniture)
- that damage is more than ‘fair wear and tear’
- the costs are reasonable.

Fair wear and tear

‘Fair wear and tear’ means deterioration or minimal damage that occurs over time, even when you have taken reasonable care and looked after the place. This can be caused by exposure, time or just by ordinary use. For example, you would not be responsible for curtains that have faded in the sun or for small scuff-marks on floorboards that are consistent with the normal use of the room.

Cleaning

The proprietor can only withhold money for cleaning if it’s necessary to bring the property back to the same state as when you rented it. Take photos when you move out so you can prove that your room was clean. It’s also a good idea to ask the proprietor or caretaker to inspect your room with you just before you leave.

If the proprietor won’t return your deposit

If your proprietor has not repaid your security deposit to you within 14 days of you moving out, or has made deductions that you do not agree with, send them a letter of demand asking to be paid. See **Sample Letter 2** at page 57.

If you do not receive the money you can apply to NCAT for an order that your security deposit is repaid.⁵¹ You usually must make this application within 28 days of moving out and asking for the return of the security deposit (See **Chapter 5: Disputes**).⁵²

Your goods when you move out

Sometimes when you move out you won’t have enough time to sort out all your belongings. You should try your best to take everything with you especially your valuables, photos and important documents (including your occupancy agreement if you have one).

If you can’t take everything with you try to take photos of what you leave behind and arrange a time to come back. If the proprietor won’t agree or respond, you can apply to NCAT for an order that the proprietor gives you access so that you can collect your belongings.⁵³

⁵¹ *Boarding Houses Act 2012* (NSW), s 32(4)(c).

⁵² *Civil and Administrative Tribunal Rules 2014* (NSW), rule 23(3).

⁵³ *Boarding Houses Act 2012* (NSW), s 32(4)(i).

Unlike the *Residential Tenancies Act*, the *Boarding Houses Act* doesn't have rules about how long the proprietor has to keep certain types of goods after you move out. The *Uncollected Goods Act 1995* (NSW) gives the following rules for disposing of possessions.

Value of goods	What the proprietor must do ⁵⁴
Perishable goods	Perishable goods are things that will not last long, like food. The proprietor has to tell you that they are going to throw the goods out. They have to give you a reasonable time to pick them up then they can throw them out
Less than \$100	The proprietor must tell you that they are going to get rid of the goods. They must keep them for 28 days from when they warn you before they can throw them out.
Between \$100 and \$500	The proprietor must write to you and anyone else who says they own the goods. They must keep the goods for three months after they write to you. If you do not respond they can only sell the goods by public auction or by private sale for a fair value. They must return any money they get to you, minus the cost of storage or sale.
Between \$500 and \$5,000	The proprietor must write to you and anyone else who says they own the goods. They must keep the goods for six months after they write to you. They must then publish a copy of the notice they sent you in a daily newspaper circulating throughout NSW. If they do not hear from you they can only sell the goods by public auction 28 days after the notice is published. They must return any money they get to you, minus the cost of storage or sale
Over \$5,000	Goods worth more than \$5,000 can only be sold or thrown out with an order from the Local Court.

The proprietor doesn't have to give you a notice if they cannot communicate with you or if they don't know the goods are yours. You should make sure you give them your contact details when you go.

The proprietor can't keep your goods because you owe them money. If the proprietor refuses to give you back your things, you may be able to apply to NCAT or a court to recover your goods or get compensation for them (See **Chapter 5: Disputes**).

If your proprietor sells your things and gets less than it cost to store the goods they can claim the difference from you.

⁵⁴ *Uncollected Goods Act 1995* (NSW), Part 3.



Chapter 5: Disputes

In this section we cover the ways to resolve a dispute between you and the boarding house proprietor or manager.

The main topics are:

1. Dispute resolution procedures
2. Going to the NSW Civil and Administrative Tribunal (NCAT).

This section also covers what options you might have if your dispute is not covered by the *Boarding Houses Act*.

Dispute resolution

If you have a dispute, it is always a good idea to try to negotiate with your boarding house proprietor as a first step. The occupancy principles say that you should try to resolve your dispute by using reasonable dispute resolution procedures.

The sorts of ways you might try resolve your dispute are:

- talking to the proprietor or manager
- sending a letter outlining the issues and the proposed resolution
- participating in a mediation through a Community Justice Centre
- applying to NCAT.

Keep a copy of all letters or emails you send to the proprietor, these will be important if you have to take your dispute to NCAT.

Ask for help

If you can't sort out your issue with the boarding house proprietor, see if you can get some help from an advocate or a community worker: see **Useful Contacts and Resources** at the end of this Guide.

The NSW Civil and Administrative Tribunal (NCAT)

NCAT is a forum for resolving disputes. Disputes about boarding houses are heard in the Consumer and Commercial Division of NCAT. NCAT is not as formal as a court and it uses conciliation as a first step to resolve disputes.

A resident (or a former resident) can bring an application to NCAT if there is an ‘occupancy principles dispute’.

An “occupancy principles dispute” is when there’s a dispute about how the Occupancy Principles apply to the resident or former resident (for more information about the Occupancy Principles, see **Chapter 3: Your agreement**).

You can apply to NCAT for things like the proprietor:

- Not giving you proper or reasonable notice of an eviction (Occupancy Principle 10)
- Not returning your security deposit (Occupancy principle 8(2))
- Asking you for more than 2 weeks’ fee as a deposit (Occupancy principle 8(1))
- Charging you for utilities at an amount that is not based on your use (Occupancy Principle 7(1)(b))
- Allowing someone else to use your room (Occupancy principle 4)
- Not keeping the property in a reasonable state of repair (Occupancy Principle 1)
- Not giving you access to your belongings after you move.⁵⁵

You can’t apply to the NCAT for things like:

- Getting the proprietor to register the boarding house on the Boarding Houses Register
- The proprietor increasing the rent beyond what you can afford (as long as they give you four weeks’ written notice)
- The proprietor not lodging your security deposit with the Rental Bond Board
- The proprietor or manager enforcing house rules (unless those rules are inconsistent with the occupancy principles).

⁵⁵ *Boarding Houses Act 2012* (NSW), s 32(4)(i).

Orders that NCAT can make

To resolve an occupancy principle dispute, NCAT can make any of the following orders:

- An order stopping the proprietor from doing something they are not allowed to do under the occupancy principles⁵⁶
- An order requiring a proprietor do something they are required to do under the occupancy principles⁵⁷
- An order for the payment of money (including repaying occupancy fees or security deposit)⁵⁸
- An order for compensation⁵⁹
- An order that the proprietor enters into a written occupancy agreement with a resident⁶⁰
- An order that the proprietor gives access to a former resident to collect any belongings they left behind⁶¹.

Before starting an application in NCAT, you should consider:

- Whether you've taken all the steps you can to resolve the dispute
- Whether the dispute you have is one about the occupancy principles or something else
- What order you want NCAT to make and whether it has the power to make it
- Whether you still want to live in the boarding house and the risk that the proprietor will evict you in retaliation for making the application
- Whether you are the only person affected, or whether other residents in the building might also make applications at the same time.

Keep in mind ...

Even after the introduction of the *Boarding Houses Act*, the legal rights of boarding house residents are generally weak. You might not be protected if your proprietor tries to evict you in response to you taking legal action.

Your best option might be to negotiate with your boarding housing proprietor outside of NCAT.

56 *Boarding Houses Act 2012* (NSW), s 32(4)(a).

57 *Boarding Houses Act 2012* (NSW), s 32(4)(b).

58 *Boarding Houses Act 2012* (NSW), s 32(4)(c).

59 *Boarding Houses Act 2012* (NSW), s 32(4)(d).

60 *Boarding Houses Act 2012* (NSW), s 33.

61 *Boarding Houses Act 2012* (NSW), s 33(4)(i).

How to apply to NCAT

You need to:

1. Fill out an NCAT application form setting out what you are asking for and why
2. Lodge it with a NCAT, NSW Fair Trading or Services NSW office in person, by post or online⁶²
3. Pay the application fee – \$49 or \$12 for concession holders (as of February 2018).⁶³

The correct form to use is the Boarding House Application form. You can get a copy of this form on the NCAT website⁶⁴ or at your local NCAT Registry. At the back of the form there are instructions about what orders you can ask for.

You are the **applicant** and the proprietor (ie. the owner, not the manager) is the **respondent**. If you don't know the name of the proprietor, you can check your agreement or the Boarding Houses Register.⁶⁵

The proprietor could be a person or a company. The Boarding Houses Register should have the address for the proprietor if you don't know it. Where the form asks for the respondent's details, you should write the proprietor's address that appears on the Boarding Houses Register. For more information about the Boarding Houses Register see page 17.

If you don't know the proprietor's address and there isn't a manager that lives onsite and accepts mail on behalf of the proprietor, you might have difficulty completing the application form. You might be able to find the address through a land title search, company search, local council records or the electoral roll.

NCAT can make an order against a person who does not attend, but will need to be satisfied that the person was notified that there was a hearing they had to come to. You do not have to include all of your evidence with your application form. You can bring it on the day of your hearing.

Urgent hearings

If your NCAT application is about something urgent (like you being evicted without reasonable notice) you should request an urgent hearing. To do this, clearly mark your application **URGENT** and include a cover letter explaining why you need an urgent hearing. The NCAT Registry will consider your request and allocate a hearing date (usually one to seven days after your application is received).

You cannot request an urgent hearing if you are lodging your application online.

A sample cover letter requesting an urgent hearing can be found at page 58 of this Guide.

⁶² The NCAT online application form doesn't work well for boarding house disputes. It is recommended that you use the paper form.

⁶³ The current application fees can be found on NCAT's website: http://www.ncat.nsw.gov.au/Pages/apply_to_ncat/fees_and_charges/fees_and_charges.aspx.

⁶⁴ See NCAT's website at http://www.ncat.nsw.gov.au/Pages/cc/Divisions/General/boarding_houses.aspx

⁶⁵ The Boarding Houses Register can be found at <http://parkspr.fairtrading.nsw.gov.au/BoardingHouse.aspx>

The hearing

After you lodge your application you'll receive a 'notice of conciliation and hearing', which will have a date and a time for you to attend.

The first time you attend NCAT you'll be asked to try to come to an agreement at a conciliation. NCAT can make this agreement into legally binding orders. If you don't reach an agreement with the proprietor, your dispute will go to a hearing.

In some cases the hearing will occur on the same day as the conciliation. You should therefore be ready to argue your case, with all the evidence you need to prove it.

However, often the hearing will be set down for another day. NCAT might make orders about the exchange of evidence. Each party will be required to give a copy of their evidence to the other side and to NCAT on a date before the next hearing. You must exchange all the evidence you want to use at the hearing by the date ordered by NCAT otherwise you may not be able to use it on the hearing day.

Examples of evidence that you may need to prove your case could be your written agreement, photos, text messages or emails between you and the proprietor, or a written statement from you or a witness. Make sure you make an extra copy of everything for you to use on the day.

Enforcing the orders

If you're successful either at the conciliation or hearing, you'll receive NCAT orders that the proprietor has to comply with, usually with a deadline. If the proprietor doesn't comply with them, you can make an application to renew your case and bring them back to NCAT.⁶⁶

If your orders say that the proprietor has to pay you money this can be enforced by the Local Court. The Local Court has powers to take wages or money from the bank accounts of the person who owes you, to tell the Sheriff to seize and sell their property or to make a person come to the Court to give details of their financial situation.

The process to enforce money orders is on the NCAT website.⁶⁷ There's also a step-by-step guide available from Law Access.⁶⁸

66 NCAT's Renewal of Proceedings form can be found at: http://www.ncat.nsw.gov.au/Pages/ncat_decisions/enforcement_of_orders/renewal_of_proceedings.aspx

67 See: http://www.ncat.nsw.gov.au/Pages/ncat_decisions/enforcement_of_orders/certified_money_orders.aspx

68 See: http://www.lawaccess.nsw.gov.au/Pages/representing/Local_courts_small_claims/owed_money/after_court/Enforcing_NCAT_orders.aspx

The *Boarding Houses Act* doesn't cover my dispute – what can I do?

If the place you are living in doesn't meet the definition of a boarding house, or the kind of dispute that isn't covered by the occupancy principles, you may need to find a different way to enforce your rights. Following is a summary of the options you have to resolve your dispute. Bringing a legal action will involve risk and cost, so it's important to seek legal advice before making a claim.

1. Consumer Guarantees

What are they?	Consumer guarantees are a set of basic standards for goods and services supplied to a consumer. For services, the guarantees are that they will: <ul style="list-style-type: none">■ be delivered with due care and skill, and■ be fit for the purpose specified, and■ be supplied within a reasonable time, and■ match the description given by the supplier.
When might this help me?	Example: If facilities are in such disrepair that they are not 'fit for the purpose' you rented them for. Example: If you are promised meals or other services by the proprietor and these are not provided or aren't provided to a sufficient standard.
The Law	<i>Competition and Consumer Act 2010</i> Sch 2 (The Australian Consumer Law (ACL)), Part 3-2 Division 1 (esp Subdivision B); and Part 5-4 Division 1 Subdivision B.
What do I have to show?	That you have paid a person for a service (like the provision of rental accommodation). That the person rented the room to you while "in trade or commerce". This doesn't necessarily mean that they need to have a business name and an ABN. It will depend on the situation, but they should at least be repeatedly renting out rooms for money. That the person has failed to comply with the relevant guarantee. For certain remedies, that the failure to comply with the guarantee is a 'major failure'.
What orders could I get?	An order that the proprietor: <ul style="list-style-type: none">■ remedy the failure in the services that have been supplied in a reasonable time, or■ in some circumstances, refund some or all of your occupation fees, or■ in some circumstances, compensate you for loss. Whether you can get compensation or refund of fees will depend on whether the failure to comply with the guarantee is a 'major failure', whether the problems can be remedied, and/or whether the supplier refuses to remedy the problem. In addition to the above orders, courts can make orders to end or vary your contract.
Where do I go?	You can make a claim that your proprietor has breached a consumer guarantee in NCAT. You can do this by either making a "consumer claim" application to NCAT or asking NCAT to consider it as part of another application (such as a boarding house or tenancy application). Otherwise, you will need to go to court. The court you go to will depend on the amount you're claiming.
Time limits	You will have three years from when the dispute first arose to make a consumer claim application to NCAT. In most cases, you have six years to apply to a court.

2. Misleading or deceptive conduct

What is it?	It is unlawful for a person, in trade or commerce, to engage in misleading and deceptive conduct.
When might this help me?	<p>If you've been misled or deceived by the proprietor about your accommodation or other services.</p> <p>Example: Before you moved in, the manager showed you around the boarding house and told you things like:</p> <ul style="list-style-type: none">■ The common areas will be cleaned weekly, or■ There is a maximum of 10 residents, or■ The renovations to the kitchen will be finished in two weeks, and these things turn out to be false.
The Law	<i>Competition and Consumer Act 2010</i> Sch 2 (The Australian Consumer Law (ACL)), s 18.
What do I have to show?	<p>That the person rented the room to you while "in trade or commerce". This doesn't necessarily mean that they need to have a business name and an ABN. It will depend on the situation, but they should at least be repeatedly renting out rooms for money.</p> <p>You will have to show what the conduct was and why it is was misleading and deceptive.</p> <p>The conduct can be overt (by doing or saying something) or it could be by omission (by not doing or saying something).</p>
What could I get?	<p>An order that the proprietor:</p> <ul style="list-style-type: none">■ perform work or supply services on certain terms, or■ cannot charge you for certain amounts, or■ in some circumstances, refund some or all of your occupation fees, or■ in some circumstances, compensate you for loss. <p>In addition to the above orders, courts can make orders to end or vary your contract.</p>
Where do I have to go?	<p>You can make a claim of misleading and deceptive conduct in NCAT. You can do this by either making a "consumer claim" application to NCAT or asking NCAT to consider it as part of another application (such as a boarding house or tenancy application).</p> <p>Otherwise, you will need to go to court. The court you go to will depend on the amount you're claiming.</p>
Time limits	<p>You have three years from when the dispute first arose to make a consumer claim application to NCAT.</p> <p>In most cases, you have six years to apply to a Court.</p>

3. A claim that a term of your agreement is unfair

What is it?	When you're negotiating with someone to rent a place, you might not have any say in what terms they offer but some of these terms could be void and not legally enforceable if they are considered unfair terms under the law.
When might it help me?	Some examples of unfair terms for which you might take action are: <ul style="list-style-type: none"> ■ a term that says that if you end your agreement early you have to pay excessive fees or charges to your proprietor, ■ a term that requires you to find another occupant before you can end your agreement and move out,⁶⁹ ■ a term that allows your proprietor to throw away your goods when you move out or requires you to pay excessive fees for leaving them behind.
The Law	<i>Competition and Consumer Act 2010</i> Sch 2 (The Australian Consumer Law (ACL)), Part 2–3.
What do I have to show?	The term must be part of a standard form, consumer contract. The term must be unfair because it: <ul style="list-style-type: none"> ■ creates a significant imbalance in the parties' rights and obligations, and ■ is not reasonably necessary in to protect the interests of the party who would be advantaged by the term, and ■ would cause detriment (for example a financial cost or loss) to a party if it were to be relied on. <p>If you are bringing a claim in NCAT (the most likely scenario), you will need to show that the person is carrying on a business of renting rooms. This doesn't necessarily mean that they need to have a business name and an ABN. It will depend on the situation, but they should at least be repeatedly renting out rooms for money.</p>
What could I get?	If you have suffered a loss or paid money under a term that is unfair, you can get an order for compensation or a refund of the money. You could also get an order that you don't have to pay money in compliance with the unfair term. In addition to the above orders, courts can make orders to end or vary your contract.
Where do I have to go?	You can apply to NCAT for some orders about an unfair term (including compensation and refunds). You can do this by either making a "consumer claim" application to NCAT or asking NCAT to consider it as part of another application (such as a boarding house or tenancy application). Otherwise, you will need to go to court. The court you go to will depend on the amount you're claiming.
Time limits	You have three years from when then dispute first arose to make an application to the tribunal. In most cases, you have six years to apply to a Court.

⁶⁹ But see *O'Byrne v Pycinska, INET Group Pty Ltd (General)* [2013] NSWCTTT 251, where a term that a lodger (before the BHA) either find a new person or forfeit their security deposit was not considered an unfair term.

4. A claim for the return of uncollected goods

What is it?	This is about getting an order to allow you to recover your goods if you've moved out and your proprietor refuses to give them back to you.
When might it help me?	When you have moved out and couldn't take all of your possessions with you and your proprietor refuses to return them. When the <i>Boarding Houses Act</i> doesn't cover you (for information on getting an order to collect your goods under the <i>Boarding Houses Act</i> see page 38).
The Law	<i>Local Court Act 2007</i> .
What do I have to show?	You have claimed your goods from the proprietor (for example, by writing them a letter). Your proprietor has not returned your goods or made them available for you to collect.
What could I get?	An order that your proprietor return your goods or allow you to collect them. You might also seek an order for compensation for the value of the goods in case it turns out that the goods can't be recovered (because they have been sold, thrown out, etc.).
Where do I go?	If the value of your goods (plus any compensation claimed) is \$10,000 or less, you can lodge in the Small Claims Division of the Local Court. If your claim is between \$10,000 and \$100,000 you can lodge in the General Division of the Local Court.
Time limits	You must apply to the Local Court no later than six years after the proprietor fails to return your goods.

5. A claim to get compensation for goods that you couldn't get back

What is it?	This is about getting compensation for the value of your goods when you can't get them back from your proprietor.
When might it help me?	When the proprietor: <ul style="list-style-type: none">■ won't let you collect your goods (and the court doesn't think it's appropriate to make an order allowing you to recover your goods), or■ has thrown your goods out, or■ has sold your goods to someone else.
The Law	<i>Uncollected Goods Act 1995.</i> <i>Local Court Act 2007.</i>
What do I have to show?	That your proprietor disposed of your goods: <ul style="list-style-type: none">■ without your permission, and■ without giving you the required amount of notice, or■ without a court order.
What could I get?	<ul style="list-style-type: none">■ An order for an amount of money equivalent to the value of your goods.■ An order for the proceeds of the sale of your goods if they were sold. Your proprietor could have a claim against you for the costs incurred for storing and selling your goods.
Where do I go?	A claim can be brought in the Local Court. If your claim is for \$10,000 or less, you can lodge in the Small Claims Division of the Local Court. If your claim is between \$10,000 and \$100,000 you can lodge in the General Division of the Local Court.
Time limits	You must apply to the Local Court no later than six years after the proprietor fails to return your goods.

6. A discrimination claim

What is it?	In some circumstances, it is unlawful for providers of services and accommodation to discriminate against other people.
When might it help me?	<p>If the proprietor (or the manager or agent) discriminates against you because of your age, race, disability, gender, gender-identity, sexual orientation, marital status or your carer's responsibilities.</p> <p>Or if you are discriminated against because you are related to, or associate with, a person with these characteristics.</p> <p>Example: Because of your disability, you need a grab rail installed in the bathroom and your proprietor refuses to do this.</p>
The Law	<p><i>Anti-Discrimination Act 1977</i> (NSW).</p> <p>Note: Commonwealth anti-discrimination laws might also apply to your situation.</p>
What do I have to show?	<p>Direct discrimination – you have been treated less favorably because you have one of the above characteristics.</p> <p>Indirect discrimination – you have been treated the same as other people but this same treatment has placed you at a serious disadvantage because you have one of the above characteristics.</p>
What could I get?	<ul style="list-style-type: none">■ An order directing the proprietor to stop the discriminatory behaviour■ Compensation.
Where do I go?	<p>The first step is to make a complaint to the Anti Discrimination Board of NSW. If your complaint does not resolve the matter, you can then apply to the Administrative and Equal Opportunity Division of NCAT.</p>
Time limits	<p>You must make a complaint to the Anti-Discrimination Board within one year of the discriminatory treatment.</p>

The Small Claims Division of the Local Court

If you can't take your case to NCAT, you may have to go to court.

If your total claim (including the value of any goods you want to recover) is \$10,000 or less, you can file a statement of claim in the Small Claims Division of the Local Court.

The Small Claims Division of the Local Court is less formal and technical than other courts and it is common for people to represent themselves. The rules of evidence do not apply.

The fee to file a statement of claim in the Small Claims Division of the Local Court is \$99 (as of February 2018). Depending on your case, you may also need to pay other court fees. In some limited circumstances, you may be able to get a waiver or postponement of these fees.

If you win your case, your court fees and some other costs can be claimed from the losing party (up to capped amount). If you lose your case, you may have to pay the other party's costs of defending your claim (up to a capped amount).

Even if you are successful in court, if the proprietor doesn't pay the money ordered you will have to take further legal action or pay a debt recovery company to have the order enforced.

There is no guarantee that you will be successful in getting your money back.

You should seek legal advice from your local Community Legal Centre if you are considering going to court.

Chapter 6: Assisted Boarding Houses

An **assisted boarding house** is a boarding house that has two or more residents who have additional needs.⁷⁰ Additional needs include a mental illness, disability or age related needs which means that a person requires care or support services to help with daily tasks and personal care (for example showering, cooking meals and help with medication).⁷¹ Not all residents in assisted boarding houses need to have additional needs.

As with general boarding houses, certain types of accommodation, such as motels and backpackers hostels are excluded from the meaning of assisted boarding houses.

Most of the information in Chapters 1–5 of this Guide applies to people living in assisted boarding houses. Assisted boarding houses must be registered on the Boarding Houses Register and the Occupancy Principles must be complied with. Residents of assisted boarding houses can take their dispute to NCAT if they believe the Occupancy Principles have not been complied with.

The *Boarding Houses Act* contains added protections to ensure that the rights of people with additional needs living in assisted boarding houses are protected and that their accommodation meets certain minimum standards.

Assisted boarding houses are licensed and monitored by the NSW Department of Family and Community Services. Before the *Boarding Houses Act* they were called Licensed Residential Centres.⁷²

Exemptions include nursing homes, mental health facilities, aged care facilities, retirement villages, social housing and group homes for people with disabilities funded by the government.

When doing inspections of any boarding house, council officials are encouraged to identify residents with additional needs and notify the Department of Family and Community Services.

For further advice about assisted boarding houses see the **Useful Contacts and Resources** section of this Guide.

⁷⁰ *Boarding Houses Act 2012* (NSW), s 37(1).

⁷¹ *Boarding Houses Act 2012* (NSW), s 36(1).

⁷² For useful information about FAC's involvement with people who live in assisted boarding houses see: http://www.adhc.nsw.gov.au/sp/delivering_disability_services/boarding_house_program

Useful Contacts and Resources

Your local Tenants' Advice and Advocacy Service

Will often provide advice and assistance to boarding house residents.

02 9698 5975 (Inner City Sydney)

02 9559 2899 (Inner West Sydney)

02 9386 9147 (Eastern Sydney)

02 8198 8650 (Northern Sydney)

02 8833 0933 (Western Sydney)

Find your local service at www.tenants.org.au

Tenants' Union of NSW

Produces factsheets and runs an advice hotline for boarding house residents.

www.tenants.org.au

1800 767 126

Your local Community Legal Centre

May be able to give advice and assistance.

www.clcnsw.org.au (to find your local Centre)

02 9212 7333

Newtown Neighborhood Centre

Assists people living in boarding houses in Sydney's Inner West through its Boarding House Outreach Service.

www.newtowncentre.org

02 95091800

People With Disability Australia

Provides information and non-legal advocacy for people with a disability living in boarding houses.

www.pwd.org.au

1800 422 015 or 02 9370 3100

Link2Home

Provides information and referrals for emergency accommodation.

1800 152 152 (24 hours)

Useful Contacts and Resources

NSW Civil & Administrative Tribunal (NCAT)

For applications, factsheets and information about hearings.

www.ncat.nsw.gov.au/

1300 006 228

NSW Fair Trading

For more information and factsheets on the laws and regulations that apply to boarding houses.

www.fairtrading.nsw.gov.au

13 32 20

Online Register of Boarding Houses

To find out if your boarding house is registered or to find the contact details of your boarding house proprietor.

<http://parkspr.fairtrading.nsw.gov.au/BoardingHouse.aspx>

Boarding Houses Act and other Legislation

For the full copy of the Act, Regulations and other legislation

www.legislation.nsw.gov.au or www.austlii.edu.au

Department of Family & Community Services (FACS)

Responsible for the licencing and monitoring assisted boarding houses.

www.adhc.nsw.gov.au

02 9377 6000

Local Council

To make complaints about health and safety issues in your boarding house. To find information about the development approval of your boarding and any development applications.

www.olg.nsw.gov.au (to find your Local Council)

02 4428 4100 (Office of Local Government)

Community Justice Centres

For free mediation and dispute resolution services.

www.cjc.justice.nsw.gov.au

1800 990 777

Sample Letter 1: Letter asking for repairs

[Proprietor's name]

[Proprietor's address]

[Date]

Dear [Proprietor's name],

Repairs needed at [address of boarding house]

I spoke to you [or name of caretaker/manager] on [date] about the following repairs, maintenance and cleaning that need to be carried out at this property.

- [List the repair or maintenance problems here]
-

Nothing has been done to sort out these problems.

Occupancy principle 1 of the *Boarding Houses Act 2012* (NSW) says the premises must be reasonably clean, in a reasonable state of repair and reasonably secure. The matters I have set out above mean that you are in breach of this occupancy principle.

Please carry out the repairs, maintenance and cleaning necessary to sort out these problems as soon as possible.

If the necessary work hasn't been done by [date] I will have to apply to the NSW Civil and Administrative Tribunal for an order that you carry out the work. I may also seek compensation.

Yours sincerely

[Your name]

[Your address]

Sample Letter 2: Demand for Return of Security Deposit

[Proprietor's name]

[Proprietor's address]

[Date]

Letter of Demand

Dear [name of proprietor],

I am writing about the refund of my security deposit.

On [date you moved out] our agreement ended and I moved out of room [number] at [address of boarding house].

When I moved in I paid you \$[amount of security deposit] as a security deposit. You have not returned this money.

Please pay me \$[amount of security deposit] within 14 days of the date of this letter.

If I do not receive full payment within 14 days, I will apply to the NSW Civil & Administrative Tribunal for an order that the money be paid to me.

Yours sincerely

[Your name]

[Your address]

Sample Letter 3: Requesting an Urgent NCAT hearing

The Registrar
NSW Civil and Administrative Tribunal
[address of nearest NCAT Registry*]

Dear Registrar,

Re: REQUEST FOR URGENT HEARING

Please find my NCAT application and application fee enclosed.**

On [date], my boarding house proprietor told me [give further details about any threats the proprietor has made to evict you, eg. "that I have two days to move out of my room"].

In my application, I ask NCAT to make an order that my proprietor comply with the Occupancy Principle that says I cannot be evicted without reasonable notice.

I have nowhere to go and without the urgent intervention of NCAT, I believe my proprietor will evict me in contravention of the *Boarding Houses Act 2012*.

Yours sincerely

[Your name]

[Your address]

*The address of the Sydney NCAT Registry Office is:
Level 14, Civic Tower
66 Goulburn Street
SYDNEY NSW 2000

**You need to also include a copy of your completed Boarding Houses Application form and the relevant application fee. NCAT Boarding House application forms are available for download at www.ncat.nsw.gov.au.

For urgent applications, you should lodge your application and the application fee in person at, or by express post to, your nearest NCAT Registry Office.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



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