

#5 INCLUDE BOARDERS AND LODGERS

THE PROBLEM

Boarders and lodgers live in the most precarious housing, and don't have the same basic rights and protections in legislation as any other tenant would have.

THE FACTS

In WA, boarders, lodgers and their landlords currently rely on common law rights and remedies, and outdated public health legislation that still refers to inn keepers. This is costly, time-consuming and complex. Boarders are currently required to make application under the minor or general case procedure in the Magistrates Court, which is more expensive than the residential tenancies legal stream. The court process can be a barrier to justice where people are having a dispute under a boarding agreement.

Owners, housing providers and boarders all complain about uncertainty regarding what is required for compliance with the common law principles, and of the distinction between a tenant and a boarder.

Consultation with housing providers, residents and community organisations revealed substantial weaknesses and concerns with the current legislation, in particular^[1]:

- uncertainty about minimum property and room standards, including cleanliness, responsibilities for damage and maintenance
- no formal requirements for either party to respect another's peace, comfort and privacy
- disputes over house rules, where parties can't agree on what is reasonable
- no requirements to lodge a bond, potentially leaving both parties vulnerable if there is a dispute
- fear among boarders of retaliatory eviction if they enforce their rights
- no minimum requirements around the form of agreements, leading to unfair terms, or issues arising from agreements which didn't cover the basic details
- termination of agreements with very short notice. While this may be necessary in some circumstances, it can be unfair in others
- difficulties retrieving belongings after unilateral eviction

“Being a lodger is the cheapest accommodation I can somewhat afford... I feel like when you are a boarder, you have to have a job for you to be accepted into someone's house. If you don't, then they look down at you.”



No Minimum Standards



Lack of Privacy



House Rule Disputes



No Bond Requirement



Unfair Agreements

THE SOLUTION

Boarding accommodation must be understood as a means of addressing the housing needs of people on very low incomes without access to other housing options. Boarders and lodgers need the same (improved) basic rights and protections as other tenants in WA.

New laws are required in WA that provide boarders and lodgers, as well as their landlord or housing provider, with adequate consumer protections. All other Australian jurisdictions have introduced laws for boarders by incorporating amendments into their existing Residential Tenancies Legislation,

or by way of separate legislation. It is time for WA to do the same.

The Legislation should establish minimum rights and responsibilities for both boarders, and the housing providers, and also introduce standard terms for boarding agreements.

Boarders and accommodation providers also need access to affordable, accessible and efficient means to resolve disputes.

The legislation should include different standards for different kinds of boarding accommodation, for example if

someone is renting out one room in their home, or for a lodging house or student accommodation halls, so that the laws are reasonable and meet the varying needs in this diverse sector.

MAKE

RENTING

FAIR

makerentingfairwa.org.au

[1] Shelter WA & Tenancy WA joint submission to the Department of Commerce, Boarders and Lodgers C-RIS January 2017
Quotes: Make Renting Fair WA survey responses (2019)