Inquiry into boarding houses in New Zealand

Interim report of the Social Services Committee

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Recommendation

The Social Services Committee is considering the results of its inquiry into boarding houses in New Zealand, and recommends that the House take note of its interim report.

Introduction

In February 2011 we received a briefing on homelessness in New Zealand from the New Zealand Coalition to End Homelessness. We resolved to inquire further into one aspect of homelessness, the use of boarding house accommodation. We therefore initiated an inquiry into boarding houses in New Zealand, and adopted the following preamble and terms of reference:

Last year the Residential Tenancies Amendment Act 2010 was enacted. The Act extended the coverage of the principal Act to boarding house tenancies, and introduced a number of rights and obligations for boarding house landlords and tenants. In this context, the terms of reference for the inquiry are to

- consider the legislative and regulatory frameworks that apply to boarding houses
- determine whether the current frameworks provide adequate protection to vulnerable tenants.

We received 22 submissions from professional and non-governmental organisations, service providers, landlords, and individuals, and we considered advice from the Department of Building and Housing, the Department of Internal Affairs, and the Ministry of Health.

The situation in New Zealand

In conducting this inquiry, we encountered a number of obstacles to examining boarding houses. The definition of “boarding house” used by Statistics New Zealand differs from that set out in the Residential Tenancies Act 1986, which also differs from that in the Housing Improvement Regulations 1947. They differ as to the minimum number of residents, the need for communal facilities, and the rights and obligations of the landlord. We also heard that, because there is no registration requirement or licensing regime for boarding houses, it can be difficult to determine how many boarding houses are operating. We understand that, while the 2006 census identified 177 occupied boarding houses, the Department of Building and Housing has a database listing over 500.

There are several different types of boarding house: some cater for students or workers on short-term contracts, and there are also upmarket boarding houses. However, the typical boarding house in New Zealand will usually be occupied by tenants (usually male) who have no other accommodation options, many of whom have substance abuse, mental health, or emotional issues. While some boarding houses are managed well, others fall
short of the most basic standards that could be expected. It is these boarding houses that were primarily of interest to us in this inquiry.

Several pieces of legislation and regulatory frameworks relate to boarding houses and are available to local and central government for enforcement purposes. The Residential Tenancies Act defines the rights and obligations of residential landlords and tenants, sets out dispute resolution procedures, and establishes a fund in which bonds are held. The Building Act 2004 sets out the minimum performance standards for new or renovated buildings; while the Local Government Act 2002 gives territorial authorities general bylaw-making powers to protect and maintain public health and safety. The Fire Service Act 1975 requires owners of boarding houses accommodating more than five people to have a fire evacuation scheme unless the building has a sprinkler system. The Health Act 1956 allows local authorities to issue cleansing and closure orders for properties that have become a health threat. The Housing Improvement Regulations 1947 include provisions to prevent overcrowding in boarding houses, and allow (but do not require) local authorities to keep a register of boarding houses.

**Key issues**

As the inquiry progressed, we decided that certain key issues needed further consideration: the minimum building and health and safety standards; monitoring and enforcement of compliance by central and local governments; and information and education for landlords and tenants.

**Minimum standards and legislation**

Most submitters considered that the quality of some boarding houses was so poor that they did not comply with the building and health and safety standards. Submitters generally agreed that these standards themselves are adequate if compliance is enforced. The legislation relating to boarding houses is fragmented and in some respects outdated. This is apparent in the inconsistent definitions of “boarding house” used in the Residential Tenancies Act and the Housing Improvement Regulations.

We believe that further consideration should be given to whether current minimum standards for boarding houses are appropriate, and the ways that the relevant legislation could be updated and made consistent.

**Monitoring compliance**

Submitters expressed concern about the living conditions in some boarding houses, where it appeared that landlords were not adhering to legislative requirements. Although the Department of Building and Housing maintains a database of 500 boarding houses, it does not know how many of these properties do not meet minimum building and health and safety standards, how many of the landlords comply with their legal obligations, or how many of the tenants are aware of their rights. We heard that boarding houses in the middle and at the upper end of the market display few problems, but that building and health and safety problems, including dangerous and insanitary conditions, can be found in those at the lower end.

Legislation provides local authorities with adequate powers to manage issues with boarding houses, but they are not required explicitly to focus on boarding houses. Under the
Building Act, the Health Act, and the Local Government Act, local authorities can monitor boarding house owners’ compliance with building and health and safety standards. The Building Act allows territorial authorities to address issues with buildings that could place tenants at risk, but councils’ approaches to the issue vary. Broadly, the Health Act gives powers to territorial authorities to inspect their districts regularly to determine if any conditions are likely to be injurious to the health of its citizens. Under the Local Government Act, local authorities can create bylaws for the licensing and inspection of boarding houses. We heard arguments that local authorities should take a proactive approach to dealing with boarding houses.

Compliance might be improved by the introduction of a compulsory registration system; however, local authorities already have the power to register boarding houses should they wish, and the costs of a compulsory registration system are difficult to estimate because the number of boarding houses is unknown. We consider that the merits of taking a more proactive approach to ensuring compliance or establishing a compulsory registration system could usefully be examined further.

**Information and education**

We heard about a general lack of understanding of landlords’ and tenants’ rights regarding boarding houses. The department has relied on its website and contact centre to communicate with and provide advice to boarding house landlords and tenants, but it is developing a new approach to delivering advice, information, and education in the boarding-house sector. This will involve working with tenancy advocacy groups to inform tenants of their rights and landlords of their responsibilities.

More collaboration between central and local government is desirable, and coordinating mechanisms are needed to share information on issues relating to boarding houses, flag boarding houses of specific concern, and ensure that the appropriate agencies take responsibility for providing assistance and advocacy in particular cases. Government departments could also develop risk-based standards for local authorities to apply to boarding houses but the issue of enforcement remains problematic. We would wish to see this issue given further consideration.

**Concluding comment**

This inquiry has found a number of significant issues that are worthy of pursuing further, which we have identified in this report. Unfortunately, the dissolution of the 49th Parliament will occur before there is time to consider adequately and make appropriate recommendations on these matters. We therefore encourage the Social Services Committee of the 50th Parliament to reinstate this as an item of business, and give the subject further consideration.

**New Zealand Labour minority view**

Labour first called for an inquiry into homelessness in November 2009. We are disappointed that the significant delay in getting the inquiry established has meant that the scope of the inquiry had to be limited to boarding houses and that it will now not be completed in this Parliament. We urge the new Social Services Committee to extend the scope of the inquiry so that the broader issue of homelessness can be investigated as was originally intended.
Appendix

Committee procedure

We called for public submissions on the inquiry. The closing date for submissions was 24 June 2011. We received 22 submissions, and heard 13 submissions.

The Department of Building and Housing, the Department of Internal Affairs, and the Ministry of Health provided advice.

Committee members

Katrina Shanks (Chairperson)
Jacinda Ardern
Chester Borrows
Tim Macindoe
Todd McClay
Dr Rajen Prasad
Jami-Lee Ross
Su’a William Sio
Metiria Turei

Moana Mackey replaced Dr Rajen Prasad and Gareth Hughes replaced Metiria Turei for this item of business