

FAIR TRADING STATEMENT OF REGULATORY INTENT
Code of Conduct for the Short-term Rental Accommodation Industry –
Exclusion Register

Purpose

This statement sets out the compliance and enforcement approach that NSW Fair Trading will take regarding the exclusion register set out in the Code of Conduct for the Short-term Rental Accommodation Industry (the code).

Background

The mandatory code established under the *Fair Trading Act 1987* and the *Fair Trading Regulation 2019* creates obligations on all participants in short-term rental accommodation arrangements, including booking platforms, hosts, letting agents and guests.

Under Part 4.2 of the code, NSW Fair Trading is required to keep and administer an exclusion register that is publicly available.

Recording a guest, host (or host in relation to a specified premises) on the exclusion register is a disciplinary action available to Fair Trading under the code where two strikes are recorded in a two year period. Where an industry participant is listed on the exclusion register, this means that they are excluded from the industry for five years.

The code creates obligations on hosts, guests, booking platforms, letting agents and facilitators not to facilitate or engage in short-term rental accommodation arrangements with those who have been recorded on the exclusion register. Non-compliance with these obligations can attract enforcement action from NSW Fair Trading.

NSW Fair Trading and the Department of Planning, Industry and Environment are examining ways for the exclusion register to be integrated with the premises register that is expected to commence operation in mid-2021.

Transitional arrangements apply from 18 December 2020 to 1 June 2021

NSW Fair Trading recognises that participants will need time to adapt to the new obligations under the code and that public facing elements of the exclusion register are not yet available.

To support industry participants, Fair Trading will take an educational approach to compliance and enforcement on certain obligations regarding the exclusion register. This approach will last until 1 June 2021. This means that during this period, Fair Trading will not penalise industry participants for not complying with obligations under clauses 2.2.7, 2.2.8, 2.3.7, 2.3.8, 2.3.9 and 2.4.14 of the code to not facilitate or enter into short-term rental accommodation arrangements with persons listed on the exclusion register. Fair Trading is adopting this approach as compliance with these clauses requires public access to the exclusion register. The public-facing element of the exclusion register is not expected to become accessible until mid-2021.

NSW Fair Trading will, however, enforce the exclusion register-related obligations on hosts and guests provided under clauses 2.4.12, 2.4.13 and 2.5.7. These clauses require that hosts and guests do not enter into short-term rental accommodation arrangements if they or their premises have been listed on the exclusion register. Fair Trading is enforcing these clauses because hosts and guests would be notified if they were listed on the register, even if it is not publicly available. Since the host and guest will be aware of their own listing on the exclusion register, they need to meet the requirement of not entering into any short-term rental accommodation arrangements.

The code requires hosts and guests to comply with planning laws. The enforcement of planning laws will remain with local councils. An option of issuing a strike for deliberate and persistent breaches of these laws is available at the discretion of the Commissioner for Fair Trading.

NSW Fair Trading will continue to evaluate and assess appropriate enforcement action according to the regulatory compliance and enforcement approach as set out in its [Compliance and Enforcement Policy](#).

More information

More information about the code is available on the Fair Trading website at <https://www.fairtrading.nsw.gov.au/>.

A handwritten signature in blue ink that reads "Rose Webb". The signature is written in a cursive style with a large initial 'R'.

Commissioner for Fair Trading
Date: 14/12/20