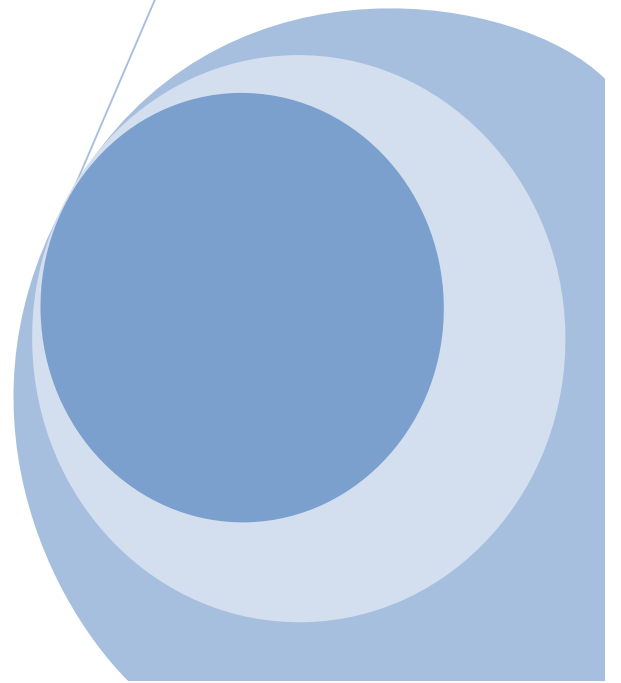


Submission No. 52
(homelessness legislation)
A.O.C. Date: 24/08/09

NYCH SUBMISSION

To the Parliamentary Inquiry into
Homelessness Legislation

This submission outlines the NYCH Charter of Rights and focuses on the human rights that are currently not being protected. Further the submission explored mechanisms that could provide enforceability to human rights to ensure that homeless young people have equity of opportunity and supported to attain their positive life goals.



14th August 2009

The Committee Secretary Standing Committee on Family, Community, Housing and Youth

PO Box 6021 House of Representatives

Parliament House, Canberra ACT 2600

Dear Committee Secretary and Members,

Thank you for the opportunity to provide a written submission.

Please find attached the National Youth Coalition for Housing Submission to the Inquiry into Homelessness Legislation.

NYCH would be happy to make ourselves available to provide verbal evidence to expand or clarify the points that we have raised should the Committee feel that would be useful.

Yours Faithfully,



Maria Leebeek

Chairperson

TITLE: NYCH Submission to Parliamentary Inquiry into Homelessness Legislation

SUBMISSION WRITTEN AND PREPARED BY

NYCH Council Delegates

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INTRODUCTION

Established in 1982, the National Youth Coalition for Housing (NYCH) is one of three founding members of Homelessness Australia (HA). NYCH focuses on youth homelessness and housing issues and represents the nine State/Territory Youth housing and SAAP sectors. The NYCH Constitution outlines the objects of the Coalition as¹:

- To provide a national forum for non-government organisations concerned with the provision of, co-ordination of, and activities related to youth housing at State and Territory levels;
- To make representation to, and where appropriate, co-operate with governments and other relevant organisations at Local, State, Federal and International levels in the pursuit of these objects;
- To co-ordinate action around the issues of youth and housing, and other related issues;
- To undertake research related to youth housing
- To facilitate the development of a national youth housing policy

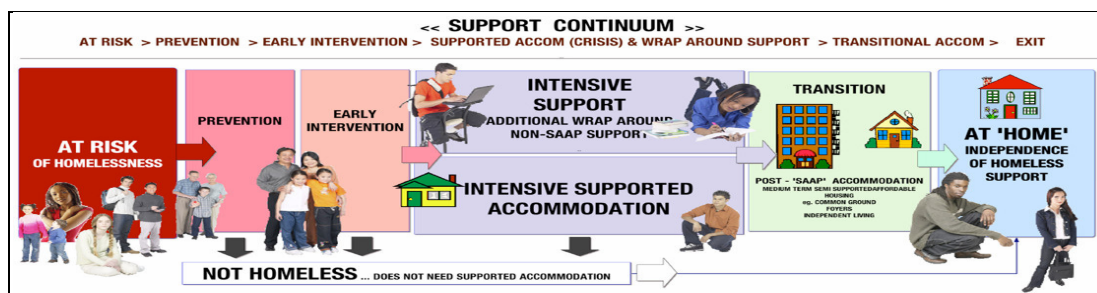
NYCH has a long history of supporting human rights. NYCH has a Charter of Rights, developed in 1995, that has been used a foundation to the organisation and guides the development of NYCH policy.

If more information is required NYCH is ready to be able to provide written or verbal presentation for the consultation.

A NATIONAL HOMELESSNESS ACT

A national Homelessness Act needs to have a goal; targets and implementation strategies in order to address homelessness. As a result any developments must consider;

- 1) Explicit Legislation needs to be linked to a homelessness plan/s to ensure preservation of a rights based framework.
- 2) Build on the foundations of the current response to homelessness in Australia
- 3) Increased resources.
- 4) Design of achievable Short-term, Medium Term and Long Term targets.
- 5) A continuum of service responsive to the specific needs of young people



¹ National Youth Coalition for Housing, National Youth Coalition for Housing Constitution, p.1



- 6) Design age specific program responses acknowledging diversity and complexity of young people
- 7) That 'Prevention' is everyone's business (whole of government and community)
- 8) Expansion of Early Intervention programs (eg. Reconnect, Home Advice)
- 9) Targeted affordable housing for young people (as both early intervention and post crisis support)
- 10) Coordination with other National and State strategies
- 11) Coordination and increased brokerage resources for youth homeless services to either 'purchase' or integrate mainstream and wrap around support services (including employment services, youth health services, education)
- 12) Increased workforce development and sector capacity
- 13) Resourcing strong State/Federal peak bodies and community infrastructure

The Homelessness Act would only be binding to the parties that are named within it. In order to ensure that the homeless people can enforce their rights there needs to be a broad application of the Homelessness Act. This could potentially be achieved by tying the Homeless Act to the Federal Anti Discrimination Act.

This would require an amendment to the Federal Anti Discrimination legislation to include the prohibition to discriminate on the basis of social status. This concept has been articulated by the Public Interest Law Centre Homeless Persons Legal Clinic.

A strong Charter of Rights within a Homelessness Act linked to Federal Anti Discrimination legislation could be a more robust mechanism to ensure the right of homeless people are protected.

The amendment to the Federal Anti Discrimination Act is not inconsistent with the current obligations. The PILCH paper², *Discrimination on the Ground of Homelessness or Social Status*, provides a sound argument for a need for an amendment.

The PILCH submission discusses the needs for homeless people to be able to have a complaints mechanism and independent commissioners. However if the Homelessness Act is linked to HREOC, the commission could instigate the complaints mechanism and linked to the various UN Conventions that Australia is signatory to.

The PILCH submission states;

- *When undertaking inquiries, considering complaints and making determinations, a homeless persons' complaints mechanism must include the following key features in accordance with articles 2(3) and 14 of the ICCPR:*
- *the complaints body must afford complainants the right to make complaints, give evidence and make submissions orally or in writing;*
- *the complaints body must afford complainants a right of access to legal or other representation or advocacy at no cost;*

² PILCH, March 2007, *Discrimination on the Grounds of Social Status*, report to the Department of Justice.



- *the complaints body must use language and procedures that are easy to understand and as user-friendly as possible;*
- *the complaints body must afford a right of access to an interpreter at no cost;*
- *the complaints body must be independent and impartial;*
- *the complaints body must ensure that all complainants have a fair hearing;*
- *hearings must be conducted in accordance with the requirements of natural justice;*
- *hearings must be conducted in such a way as to permit the ascertainment of the facts as they are and as they bear on the right in issue;*
- *where requested, the complaints body must give reasons for its decisions; and*
- *decisions of the complaints body must be binding and subject to review in a court of law.*

ANTI-DISCRIMINATION LEGISLATION

Further to any amendments to the Federal Anti Discrimination legislation on the basis of social status NYCH also believes more work could be done at a State/ Territory level.

Legislative coverage in respect to housing related discrimination is principally contained in State/Territory anti-discrimination legislation, rather than State/Territory residential tenancy legislation. Each State and Territory has anti-discrimination legislation which incorporates some reference to housing-related discrimination. In addition, the following Commonwealth Acts cover discrimination in relation to housing: *Racial Discrimination Act 1975; Sex Discrimination Act 1984; Privacy Act 1988; and the Disability Discrimination Act 1992.*

The relevant Commonwealth legislation does not contain any references to discrimination on the basis of age, but may be of use where young people are discriminated against on the grounds of ethnic origin, sex, pregnancy or disability.

All State/Territory anti-discrimination legislation includes the prohibition of discriminatory action in relation to accommodation, and most prohibit discrimination on the basis of age. Complaints, however, dealing with age discrimination in relation to accommodation is extremely rare. NYCH encourages youth and tenancy workers to test the value of existing legislation, by assisting young people to bring specific examples of a related discrimination before the Human Rights and Equal Opportunity Commission.

There needs to be a push for policy change to be more inclusive of young people and provide opportunity for them to have a voice in areas affecting their lives and to be free from discrimination. This should be included in any legislative frameworks that may be developed in the future.



Pregnant young women and young people with children have equitable access to youth, women's (where appropriate) and generalist housing and accommodation services. These services must be adequately resourced to provide this access.

The Commonwealth and all State/Territory anti-discrimination legislation prohibit discrimination on the basis of age in the private rental market.

Minor's contracts legislation in each State and Territory is amended to make it clear that under 18 year olds can enter into binding contracts for private housing.

While legislative coverage of discrimination in relation to accommodation is principally contained in anti-discrimination legislation, NYCH promotes improvements in residential tenancy legislation as an additional safeguard for young people. Residential tenancy legislation could be improved in all States' and Territories by clarifying the capacity of young people under the age of 18 to enter into lease agreements for housing. Further improvements to residential tenancy legislation that would benefit young people in their access to, and experience of, the private rental market are required to:

- guarantee adequate housing standards;
- protect tenants against unfair eviction, including retaliatory eviction;
- control rent increases and bond levels; and
- protect sub lessees in shared arrangements.

1 THE PRINCIPLES THAT SHOULD UNDERPIN THE PROVISION OF SERVICES TO AUSTRALIANS WHO ARE HOMELESS OR AT RISK OF HOMELESSNESS

NYCH supports the fundamental tenet that all people have access to human rights. Human Rights are about the basic dignity of people and are enshrined in the 30 articles of the Universal Declaration of Human Rights. These should form the basis to the development of principles in the national legislation.

Australia is a signatory to a number of human rights treaties, these are;

- International covenant on civil and political rights
- International covenant on economic, social and cultural rights
- Convention on the rights of the child
- Convention on the elimination of all form of racial discrimination
- Convention on the elimination of all forms of discrimination against women
- Convention against Torture and other cruel, inhuman or degrading treatment or punishment

There must also be a clear definition of homelessness in the legislation.

The most accepted definition of homelessness is the one developed by Chris Chamberlain and David Mackenzie where they acknowledge homelessness as a process. In their report *Youth Homelessness 2001* they discuss the definition of homelessness.

There will always be some individuals who are difficult to classify, but in broad terms the cultural definition leads to the identification of 'primary', 'secondary' and 'tertiary' categories of homelessness.

Primary homelessness is the least contentious category because it accords with the common sense assumption that homelessness is the same as 'rooflessness'. It



includes all people without conventional shelter, such as people living on the streets, sleeping in parks, squatting in derelict buildings, or using cars or improvised dwellings for shelter.

***Secondary homelessness** includes people who are staying in any form temporary accommodation with no other secure housing elsewhere. It is common for people who lose their accommodation to stay temporarily with other households (usually friends or relatives); others staying boarding houses on a short-term basis; some go to government funded emergency accommodation, such as youth refuges, hostels for the homeless, night shelters and so on. People who remain homeless for any significant period of time usually move frequently from one form of temporary accommodation to another, some spending occasional nights on the streets.*

***Tertiary homelessness** is probably the most contentious category. Tertiary homelessness refers to the occupants of single rooms in private boarding houses who live there on a long-term basis (three months or more). They are homeless because their accommodation does not have the characteristics identified in the minimum community standard - they do not have their own bathroom and kitchen, a separate room for eating and sleeping, and security of tenure provided by a lease. Homeless people often live in boarding houses as they get older, because they do not have the financial resources to access the private rental market.*

1.1 NYCH CHARTER OF RIGHTS

NYCH has developed the following charter of rights for young people to act as a foundation and a guide for all NYCH policy.

NYCH supports the right of all young people to:

1. Safe, secure, affordable and adequate housing appropriate to the needs of the young person.
2. Adequate, secure and independent incomes not related to age.
3. Live free from the threat of physical, emotional or sexual abuse and harassment.
4. Resources, services and information that are non-judgmental and non-institutional. These should include a range of gender-specific and ethno-specific services where appropriate.
5. Relevant and accessible services including health care, financial assistance, counseling or support services, child care, transport, housing and legal services.
6. Participate in design and management of programs or projects directed at young people.
7. Services and programs relevant and responsive to cultural, gender, class, sexuality and disability diversity among young people.
8. Self determination and Land Rights if Aboriginal or Torres Strait Islander.
9. Equal opportunity and affirmative action policies and practices which recognise the discrimination faced by young people on the basis of their age, race, sex, cultural background, disability, class, parenting status or sexual preference.
10. Secure paid employment at wage levels equivalent to those of adult workers performing similar duties.



11. Free education and participation in education management and curriculum design.
12. Non-exploitative and relevant non-compulsory vocational training programs and opportunities.
13. Information and support services on issues of concern to young people including incest, sexual abuse, drug and alcohol use, health, parenting and legal rights.
14. Freedom from State intervention or incarceration for poverty related offences.
15. Parent their children and have access to assistance in parenting at their request.

There are some additional areas that the NYCH charter does not address that should also be considered in a national human rights framework. These are;

- Privacy – particularly about the collection of personal information of homeless young people as they are vulnerable in terms of perceived or real retributive action if they do not consent;
- Voting;
- Fair hearing;
- Administrative Justice; and
- Freedom of Expression.

1.1.1 YOUNG PEOPLE NEED TO HAVE ACCESS TO SAFE, SECURE, AFFORDABLE AND ADEQUATE HOUSING APPROPRIATE TO THE NEEDS OF THE YOUNG PERSON

NYCH believes that the current principle in the current SAA ACT that young people should have access to housing and support and this be easily accessible and available to all who need it regardless of how they have become homeless needs to be retained in the any new homelessness legislation.

It is our belief that all people regardless of their backgrounds, race, religious beliefs, marital status, employment status etc have a right to choose and have access to safe and affordable housing which does not increase their level of disadvantage.

Young people often experience added difficulties accessing housing due to their age, lack of rental history / references and stereotyping etc. If young people are lucky enough to obtain public or community housing this is often based in large high density blocks with adults – many of whom have mental health issues / drug and alcohol problems etc. Placement of young people in situations such as these is inappropriate and can be dangerous. Young people should be able to choose the area and type of housing they want to live in.

There needs to be options available in areas that are close to shops, amenities, close to transport, close to education facilities. They should not be made to leave their support networks and communities to move to locations which force them to have to reengage with a new community.

The standard of housing for young people should be in good repair and maintained to a high standard. It is our experience that often young people and other disadvantaged people are often forced to accept housing that is in poor condition which can on occasions be scheduled for demolition in the future. We believe that if people are provided with housing that is well maintained they will look after what they have. This assists to increase their self esteem, pride and willingness to contribute to the community.



2. THE SCOPE OF ANY LEGISLATION WITH RESPECT TO RELATED GOVERNMENT INITIATIVES IN THE AREAS OF SOCIAL INCLUSION AND RIGHTS

NYCH understands that the Federal government is also considering a Social Inclusion Agenda, and we believe that there needs to be strong link with any proposed Federal Homelessness legislation.

There needs to be an acknowledgement that the social inclusion does not mean social justice.

Social inclusion is important and necessary for a democratic society. *“The Social Inclusion Principles for Australia”* document from the Australia Government contains fundamental principles which our country should embrace. The Australian Government has identified the following early priority areas in which to focus its work in the area of social inclusion:

- ⊕ Addressing the incidence and needs of jobless families with children
- ⊕ Delivering effective support to children at greatest risk of long term disadvantage
- ⊕ Focusing on particular locations, neighbourhoods and communities to ensure programs and services are getting to the right places
- ⊕ Addressing the incidence of homelessness
- ⊕ Employment for people living with a disability or mental illness
- ⊕ Closing the gap for Indigenous Australians

However, social inclusion no matter how laudable its aspirations and approaches is largely individualist ,personalist and patronising. Social inclusion promotes a “we – they” approach. Social inclusion could be summed up as *“we’ve got it all together, you must/should join us”* and *“You’ve got the problem and we have the answers as well as the resources.”*

On the other hand **social justice** is based on the dignity of all people and situates all people as members of society possessing skills gifts and experiences which should be heard. Social justice promotes the following, *“We are struggling with a number of issues, Let’s see if we can work on them together. You are in a particular situation, e.g., a homeless person, a refugee, a prisoner and we need to hear from you. For instance, what is our society doing wrong that is causing people to be homeless, or be in prison? Let’s work together to remedy this situation.”*

With social justice responsibility for society’s problems is place fairly and squarely on all citizens.

2.1 RELEVANT AND ACCESSIBLE SERVICES INCLUDING HEALTH CARE, FINANCIAL ASSISTANCE, COUNSELING OR SUPPORT SERVICES, CHILD CARE, TRANSPORT, HOUSING AND LEGAL SERVICES

The *SAA Act 1994* acknowledges that a holistic response is required to assist people to move out of homelessness. This broad focus has been supported in all the evaluations of SAAP.

Young people should have relevant and accessible services including:

- Health care
- Financial assistance
- Counseling or support services



- Child Care
- Transport
- Housing
- Legal services

2.2 ADEQUATE, SECURE AND INDEPENDENT INCOMES NOT RELATED TO AGE

Young people's lack of access to adequate incomes has a direct negative impact on their access to housing. Young people reliant on government income support and those on junior wages receive particularly low levels of income, making it very difficult for them to compete in the housing market. The choices are clear. Young people can be given access to adequate levels of income support, or they can live in poverty with all the inherent dangers: crime, prostitution, homelessness and unemployment, ill health, and, particularly for young women, exploitative domestic arrangements in return for shelter. There can be no solution to youth homelessness in Australia without significant reform of income support provisions and wage levels for young people.

Successive government reports and inquiries have shown that independent young people are particularly vulnerable to poverty and homelessness; that current administrative arrangements are overly harsh, and inflexible; and that the level of benefit paid is inadequate, with high numbers of young people living in after housing poverty (SAAP 1993; NHS 1992b; AIHW 1993a; HRECIC 1989; the House of Representatives Standing Committee on Community Affairs 1994; NYHS 1995).

The National Youth Commission report³ noted that:

- *NATSEM, in their report on poverty in the twenty-first century (based on ABS data from 2001), found a high rate of poverty amongst young people aged 15 to 24 years at 17.4 per cent. This figure may be an over-estimate as it does not account for support provided to 'non-dependent' young people by their parents, such as assistance with housing costs (especially those still living at home), education costs, medical bills etc. However, the high rate of poverty among young people was a result of high rates of unemployment, working in lower paid jobs, spending time in education and training and the maximum rate of Youth Allowance being lower than the poverty line.*
- *Low youth wages, relatively high youth unemployment and the minimal income support provided to young people, whether unemployed or studying, all contribute to youth poverty.*

Young people's access to an income is now contingent on their participation in employment, education, training or some type of job search activity. Young people without secure housing find it very difficult to participate in employment, education or training. If they do not participate in any of these, they will be unlikely to receive an income, making it very difficult to resolve their housing crisis.

The Commonwealth Government cannot continue to pursue rapid developments in education, employment and training policy for young people without considering independent young people's need for adequate income support and housing in order to participate. Current directions which ignore housing need will ensure that the most disadvantaged young people in our community will be denied access to the only means likely to improve their situations - education, employment or training.

³ Australia's Homeless Youth, A Report of the National Youth Commission Inquiry into Youth Homelessness, 2008, pg 105



2.3 INCOME SUPPORT

Youth Allowance is the main Centrelink payment for young people.

The majority of homeless young people are on some form of government income support. The National Data Collection Agency Report for 2007 – 2008⁴ for the Supported Accommodation Assistance program found that:

- *In the vast majority of cases, SAAP clients were recipients of a government payment before support (in 82% of closed support periods)*

The National Youth Commission report⁵ noted a range of issue around access, adequacy, and maintaining benefits.

2.4 EMPLOYMENT

Young people are over represented amongst Australia's unemployed.

Some groups of young people are more disadvantaged than others in the labour market. Young Aboriginal and Torres Strait Islander people and young people from non-English speaking backgrounds have lower rates of participation than other young Australians (Boss et al. 1995). With so many young people looking for work, it is very difficult for young people without secure housing to find jobs.

Secure employment increases a young person's chances to compete successfully in the housing market, however it is not only young people on government benefits who are disadvantaged. In most industries, young people are paid junior wages which limit their options in the housing market. NYCH concludes that adequacy and productivity, not age, should be the crucial determinants for wage levels, and advocates the removal of youth wage provisions from industrial awards. NYCH believes that a minimum full time wage which recognises actual living costs must be guaranteed for all workers, regardless of age.

The Commonwealth Government needs to formally acknowledges links between housing and employment, education, and training, through the explicit consideration of homelessness and disadvantage in the development of all employment, education and training policies.

2.5 PARTICIPATION IN DESIGN AND MANAGEMENT OF PROGRAMS OR PROJECTS DIRECTED AT YOUNG PEOPLE

A number of federal, state and regional networks currently exist to ensure the participation of young people in decisions that impact directly on them, however not all of these guarantee the participation of young homeless people as a vulnerable and marginalised group.

Young homeless people can and should be included as standard practice in any youth consultation or participation programs or projects, including in the design and management of these programs.

⁴ Homeless people in SAAP, SAAP National Data Collection annual report 2007–08 Australia, p 69

⁵ Australia's Homeless Youth , A Report of the National Youth Commission Inquiry into Youth Homelessness, 2008, pg 301 - 315



In Victoria, Council to Homeless Persons runs a Peer Education Program that provides training and support to consumers who have experienced homelessness and who engage in community education and consumer participation projects to ensure the voice of homeless people is included in program and service delivery.

All young people who are homeless must be included in the design and management of programs and projects that affect them directly or indirectly, including in relation to economic, social and recreational participation to ensure their social inclusion in all aspects of their lives.

2.6 SELF DETERMINATION AND LAND RIGHTS FOR ABORIGINAL OR TORRES STRAIT ISLANDERS

Aboriginal and Torres Strait Islander people across all age groups face higher rates of poverty, unemployment and homelessness than their counterparts in the non-indigenous population.

Aboriginal and Torres Strait Islander people are dramatically over-represented among those experiencing homelessness.

In 1992 NYCH commissioned a study on young people's experiences of living in rural and remote communities in Australia; Living, Learning and Working by Suzi Quixley. The report recognised that self determination and self management for all indigenous people is central to improving the conditions of young people in these communities. The recent National Youth Commission Report also notes the extreme disadvantage of indigenous young people and their communities and that a long term community development approach was needed.

NYCH recognises the rights of Aboriginal and Torres Strait Islander young people to access housing and support both within and beyond their communities.

2.7 SERVICES AND PROGRAMS MUST BE RELEVANT AND RESPONSIVE TO CULTURAL, GENDER, CLASS, SEXUALITY AND DISABILITY DIVERSITY AMONG YOUNG PEOPLE

As part of any social inclusion agenda we must acknowledge that some young people are further disadvantaged due to discrimination on the basis of age, gender, sexuality, and the color their skin. National homelessness legislation must be inclusive and not exclusive in its intent.

2.7.1 YOUNG REFUGEES

Since the mid- 1970's Australia has accepted refugees from Cambodia, Laos and Vietnam. More recently refugees have arrived from the Horn of Africa, the former Yugoslavia, East Timor and other countries experiencing war or civil conflict. Young refugees may arrive without family members. They may have experienced or witnessed torture or trauma in their own country or during their flight, including physical torture, arbitrary abductions, sexual abuse, imprisonment, destruction of homes and death of family members by war, disease or starvation. They have usually survived traumatic transit experiences and have often spent long periods of time in refugee camps (Drummond 1993).

Young refugees face enormous difficulties in accessing housing in a system which is often foreign to them. Many refugees who have been sponsored are not eligible for income support, free health care, or public housing. Asylum seekers often spend up to two years waiting in limbo without income, unsure if their application for residency will be granted or if they will be deported back to the country and conditions they are fleeing. Some young refugees are supporting relatives who do not have access to an income.



2.7.2 NESB YOUNG PEOPLE

Racism, ignorance and discrimination are some of the biggest factors effecting NESB young peoples' access to housing in Australia. Racism and racial violence within many housing services can prevent their access to refuges and supported accommodation. The scarcity of bilingual workers and the inflexible mono-cultural models of service delivery within mainstream services hinder their access even further. Within non-youth ethno-specific services, the housing needs of NESB young people are often ignored or marginalised as the issue of youth homelessness often goes unacknowledged within many communities (Stamenitis 1992).

NESB young people's needs and issues are often homogenised or simplified to 'language' difficulties. Differences between cultural groups and within cultural groups all impact on NESB young people's access to appropriate housing. More subtle differences include whether or not a young person is a first or second generation migrant or a new arrival, their class or educational background, their colour, whether they are from a first or third world country, their religion and/or their sexuality.

Bilingual workers and ethno-specific youth housing services only go half way to addressing the housing needs of young people from non-English speaking backgrounds. Non-ethno specific services need to be more accessible to young people from a range of cultural and language backgrounds. This can happen on a variety of levels; from increased use by workers of interpreter services, to the development of information targeting NESB young people about their accommodation and support options. This could also include information about the Australian systems and models of service delivery, which is quite alien to many cultures. Anti-racism and access and equity policies at both programmatic and service provider levels are also important to improve NESB young people's experience of housing and accommodation services in Australia.

2.7.3 YOUNG WOMEN

There are some housing issues which are specific to young women. Many young women are forced to leave home prematurely due to rape, sexual assault and incest within the family home. The lack of appropriate support and/or affordable housing options for these young women after they have left home can have a devastating effect on their lives, leading to cycles of poverty perhaps unfamiliar to them before fleeing the family home.

Young women's homelessness is often more hidden than that of young men: young women are considered more likely to stay in unsafe environments or continue in violent relationships to maintain housing. If young women escape violent relationships they often experience difficulty in gaining access to public or private rental housing due to damage or rent arrears, or other debts to the State Housing Authority (eg Bond Loan debt) accrued by their partner.

Young women who are survivors of abuse and sexual violence need to regain a sense of control over their lives. Services for young women must provide a safe, secure environment with maximum possible control over their choices, and should be staffed and managed by women. Training should be provided throughout the housing sector to ensure that new and existing services are made accessible and appropriate to young women.

2.7.4 YOUNG LESBIANS, GAY, BISEXUAL AND TRANSGENDER PEOPLE

Young lesbian, gay, bisexual and transgender (LGBT) people are frequently invisible within the population, and within housing services. Statistics on homeless young people do not record the sexuality of those concerned. LGBT young people have the same needs as other young people but face additional difficulties due to the homophobia of others. Many LGBT people are forced to leave home against their will, because their parents



do not accept their sexuality. They are at risk of violence if they express their sexuality among their peers or the broader community.

There is a need for training among services providing housing to young people on the needs of young lesbians and gays; the forms that homophobia takes in the community; the services that exist for young LGBT; and appropriate policy responses to the needs of this target group.

The Report on Aspects of Youth Homelessness (House of Representatives Standing Committee on Community Affairs 1995) identified a need for further research into the links between sexuality and homelessness, and for the development of gay and lesbian specific services in capital cities.

2.7.5 YOUNG PEOPLE WITH PSYCHIATRIC DISABILITIES

Young people with psychiatric disabilities have found that previous government policy that has pushed for deinstitutionalisation has not been coupled with an equivalent increase in the supply of housing for them in the community. This has resulted in an increase in homelessness and neglect amongst this group of young people. NYCH supports deinstitutionalisation as the preferable alternative to institutional care, however, stresses the limitations of community-based care if the community sector is not adequately resourced. Young people with behavioural problems who do not have a diagnosed psychiatric illness are not properly provided for by any government department. There is a need for better coordination between government departments to provide services for these young people.

The *Human Rights and Mental Illness* Report (HREOC, 1993) found that the supply of services for homeless people with mental illness was utterly inadequate. Mental illness can be highly alienating, sometimes causing young people to lose contact with family and friends and can be a cause of homelessness in itself. Young people with mental illness often move from agency to agency, shelter to shelter. The Inquiry was told that homeless people with mental illnesses would often get into difficulties, such as having their benefit cut off, with no one around to help them get it back.

Young people with psychiatric disabilities have very few options after they have been discharged from hospital. Many young people need access to support at this stage. Clearly there is a great need to establish more supported housing for young people recovering from a stay in hospital.

Some services have been developed to assist young people who are homeless and who have psychiatric disabilities. The Early Psychosis Prevention and Intervention Centre, for instance, is a mental health service in Melbourne which is providing a comprehensive program for the care of adolescents and young adults at risk of, or in the early stages of a psychotic illness. It focuses on the links between homelessness and mental health, and its services include a housing worker and a youth housing program. Innovative housing and support models designed for young people with psychiatric disabilities need to be resourced and expanded throughout Australia.

2.7.6 YOUNG PEOPLE WITH PHYSICAL OR INTELLECTUAL DISABILITIES

Young people with disabilities face many forms of discrimination in obtaining housing. ABS data indicates that people with disabilities are increasingly likely to live in the community, rather than in institutions. Some young people however, with extreme physical disabilities are in need of 24 hour care, and are forced to spend long periods of time in hospitals due to a lack of community options for them.

Generic youth housing services have not been adequately equipped or resourced to meet the additional support needs of young people with intellectual disabilities. Young people with borderline intellectual



disabilities often have few options other than SAAP accommodation if they are unable to live without support. SAAP is not an adequate long term accommodation option for these young people.

Appropriate and sufficiently resourced, non-institutional housing options must be developed for young people with intellectual and physical disabilities. Existing youth housing services and State Housing Authorities need to ensure that their stock is accessible to young people with disabilities. Young people with disabilities have the same rights to autonomy and independence as able-bodied young people and should be supported to ensure this occurs to the maximum degree possible.

2.7.7 YOUNG PEOPLE WITH CHILDREN

Young people with children often face additional difficulty in accessing housing.

Sometimes young people with children are forced to leave the family home due to overcrowding or needing their own space in order to parent effectively. Often they may not live in the family home when they become parents. The lack of appropriate and affordable housing options for young parents often leaves them homeless or in unsafe/unsatisfactory living situations.

Young people with children experience particular difficulty in the private rental market where they are discriminated against, on the basis of their household type, their age and their low incomes. Young people with children may need access to specialist support services.

2.7.8 PARENT THEIR CHILDREN AND HAVE ACCESS TO ASSISTANCE IN PARENTING AT THEIR REQUEST

Young people become homeless primarily due to family violence or abuse. The SAAP National Data Collection 2007-2008⁶ noted that:

Young females and males most commonly sought support because of issues in their interpersonal relationships, particularly the breakdown of relationships with a family member or with a spouse or partner. Females alone aged under 25 years most often cited relationship or family breakdown (in 22% of their support periods), with domestic or family violence as the second most frequently given reason (16%), followed by time out from family or other situation (12%). For males alone aged under 25 years, relationship or family breakdown (20%) followed by time out from family or other situation (12%) were the most commonly given reasons.

The literature also informs us that many young people move in and out of the family home before they make a permanent break, in fact most of these young people are 'couchsurfing'. In the NYCH material for Youth Homelessness Matters Day we note that:

We often hear the reference to 'street kids' but in fact most homeless young people are invisible to us. For example the data⁷ tells us that 79% of homeless

⁶ Homeless people in SAAP, SAAP National Data Collection annual report 2007–08 Australia, p 33

⁷ MacKenzie and Chamberlain 2008 Youth Homelessness in Australia 2006, Counting the Homeless Project 2006 page 15. This figure technically refers to the percentage of homeless school students in Australia who are residing with friends,



youth (12-18) in NSW are ‘couch surfing’ and living in other unstable situations. This generally means that they are temporarily staying with friends, relatives, and sometimes with complete strangers. These young people will often be sleeping on couches or on the floors of these people’s houses until they outstay their welcome and move on to the next place – hence the couch surfing term. Of the remain youth homeless population, 15% are living in a refuge, hostel or transitional housing and 1% are sleeping rough (on the street, in a car or tent or squatting).¹ This is contrary to what the general public might assume in that homeless people are generally thought to live on the streets or in refuge accommodation. You don’t have to be houseless to be homeless. These young people are not visible to the public yet they are a large proportion of the homeless youth population.

The National Youth Commission Report⁸ noted the many complex stressors on families that lead to family breakdown and in for some youth homelessness.

It is widely recognised that early interventions programs need to be a fundamental component of any new approach. There are current existing programs (e.g. Reconnect, Home Advice) that can be built upon and further rolled out nationally.

School-based early intervention responses for recently homelessness young people, such as the Reconnect program and other related early intervention support services, have been effective in reducing homelessness. Researchers found that the reduction in the number of homeless 12-18 year olds from 26,060 in 2001 to 21,940 in 2006 is mostly attributed to ‘early intervention’. Early intervention works but not enough is being done to have the effect it could have.

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Embedded in all program logics consideration to the design and better alignment of programs (like Reconnect, Home Advice and other early intervention) and how they could be enhanced so that they remain flexible and responsive to the diverse needs of service users.

2.7.9 YOUNG PEOPLE IN THE CARE OF THE STATE

In the NYCH report ‘States of Neglect - An analysis of child protection legislation and the link with child and youth homelessness’ the literature search indicated that there is an over-reliance on home-style based care, e.g foster care. The failure of foster care to appropriately respond to demand has meant a resulting spill over from the Out of Home Care (OOHC) system to other service systems, such as SAAP. However, the SAAP service system is not an appropriate programmatic response to provide care and protection for children.

Agencies are having particular difficulty finding appropriate OOHC for young people with complex needs and challenging behaviours. The literature search also found that there is a concern that State and Territory authorities are discharging children and young people too early or are not fulfilling their obligations to older

relatives, moving around or other temporary accommodation. The homeless school student census is a reasonable representation of the broader youth homeless population.

⁸ Australia’s Homeless Youth , A Report of the National Youth Commission Inquiry into Youth Homelessness, 2008, pg 89



young people in need of care and protection. Some reports cite the Commonwealth income support and the SAAP program as possible reasons why the States and Territories are abandoning their responsibility.

It appears that some States/Territories have acknowledged the spill over of children/young people from the OOHC into SAAP services and have taken some steps in addressing such concerns. The key issue, however, is that there is not a nationally consistent approach.

The Commonwealth needs to work with all States and Territories to ensure a consistent national response to ensure that all Australian children are afforded an appropriate level of care and protection in accordance with the International Convention on the Rights of the Child.

3. THE ROLE OF LEGISLATION IN IMPROVING THE QUALITY OF SERVICES FOR PEOPLE WHO ARE HOMELESS OR AT RISK OF HOMELESSNESS.

3.1 LIVE FREE FROM THE THREAT OF PHYSICAL, EMOTIONAL OR SEXUAL ABUSE AND HARASSMENT

Young people should be able to live free from the threat of physical, emotional or sexual abuse and harassment.

3.2 RESOURCES, SERVICES AND INFORMATION THAT ARE NON-JUDGMENTAL AND NON-INSTITUTIONAL

Young people should have the right to resources, services and information that are non-judgmental and non-institutional.

3.3 ACCESS TO INFORMATION AND SUPPORT SERVICES ON ISSUES OF CONCERN TO YOUNG PEOPLE INCLUDING INCEST, SEXUAL ABUSE, DRUG AND ALCOHOL USE, HEALTH, PARENTING AND LEGAL RIGHTS

Young people have the right to information and support services on issues of concern to them. NYCH is also concerned that there is a growing trend to fund services within an adult framework not recognizing the unique nature of young people including their stage of adolescent development.

NYCH also acknowledges the adolescent development issues that impact on young people, families and communities and must be taken into consideration when developing policy and practice responses. Adolescence is a time for great change for young people and their families. In the main these changes occur between the ages of 12-15 years and generally young women mature earlier than young men.

These changes for young people are at a number of levels:

- Biological – physical
- Psychological – thinking and feeling
- Social – how they relate to the world around them

Adolescent development is generally seen to be in three stages:

- Early adolescence: 12-14 years
- Middle adolescence: 15 -16 years
- Late adolescence: 17 – 19 years



In general NYCH further breaks down the age group into three sub groups:

- 12 -15 year
- 16-18 years and
- 19-25 years.

The rationale for a 'youth specific' service response is that the young people who are in homeless services / supported accommodation are:

- dealing with a range of trauma issues relating to the fact that they are no longer able to live in the family home; and
- have no capacity to move "back home" should their private rental or other accommodation breakdown so there is a greater need to ensure that young people have the independent social and living skills prior to moving out of supported accommodation.

The report 'Children in the Supported Accommodation Assistance Program'⁹ highlights research that found that "half of the children who had experienced homelessness showed major developmental delays and high levels of either aggressiveness or withdrawal". In fact they cite a number of research studies that demonstrate the negative impact on children and young people's development due to their experiences of homelessness.

3.4 FREEDOM FROM STATE INTERVENTION OR INCARCERATION FOR POVERTY RELATED OFFENCES

Many young people are incarcerated or otherwise caught up in the criminal justice system. The effects of the criminal justice system on a young person's life can be long term and extremely debilitating. The risk of homelessness for young people leaving the criminal justice system is high due to the added discrimination they face.

In turn, many of the criminal offences committed by young people such as theft or prostitution are directly related to their lack of income and housing. This can lead them into a cycle of incarceration. The HREOC National Inquiry into the Human Rights of People with Mental Illness pointed out that many young people with mental illness end up incarcerated in the juvenile justice system because no one has diagnosed their mental health issue (HREOC 1994).

Aboriginal and Torres Strait Islanders have been subjected to appallingly high levels of incarceration. The Royal Commission into Aboriginal Deaths in Custody found that Aboriginal young people are over-represented in all stages of the juvenile justice system. Six of the 99 deaths investigated were of young people under the age of 17 (Commonwealth of Australia 1994). The Commission emphasised the importance of decreasing institutionalisation and separation of young people from their families and communities, and the importance of involving Aboriginal and Torres Strait Islander communities in dealing with these problems.

The national homelessness legislation can set the national framework through the principles so that juvenile justice systems develop measures to assess and respond to the needs of homeless young people to abolish the practice such as the incarceration of young people rather than granting them bail due to their homelessness.

⁹ Children in the Supported accommodation assistance program, Final Report, August 2005, Social Policy Research Centre, Commonwealth of Australia pg 16



4. THE EFFECTIVENESS OF EXISTING LEGISLATION & REGULATIONS GOVERNING HOMELESSNESS SERVICES IN AUSTRALIA & OVERSEAS.

NYCH will refer to the Homelessness Australia submission with regard to this TOR.

5. THE APPLICABILITY OF EXISTING LEGISLATIVE AND REGULATORY MODELS USED IN OTHER COMMUNITY SERVICE SYSTEMS, SUCH AS DISABILITY SERVICES, AGED CARE AND CHILD CARE, TO THE HOMELESSNESS SECTOR.

Since 1994, SAAP as the prime response to homelessness has been protected and enshrined in the SAA Act 1994. This Act is an important piece of human rights legislation. NYCH members iterated the importance of the existing SAAP Act as a piece of human rights legislation.

The current SAA Act 1994 ensures that young people have access to crisis accommodation that is provided in a non discriminatory manner and is not contingent on their ability to pay. A movement of the program under the Homeless Act would ensure these minimum standards.

We seek an approach which builds on the strengths and the significant learning of what has been achieved over the last thirty years and adds to the existing foundations of the response to homelessness. In the haste to move quickly (after years of neglect) and with the relentless pursuit of 'the new' and 'innovation', as has been noted in the rhetoric at many public forums by government and community representatives, we hope that the decision makers resist throwing the 'baby out with bathwater', 'reinventing the wheel' or 'shifting the deckchairs around'.

It is the opinion of this submission that 'foundational' programs such as SAAP and Reconnect should be recognised as good and highly desired 'world class' programs and also acknowledge that over the decade they have been expected to do far more than they have been intended.

DATA AND RESEARCH

There needs to be a strong data and research agenda to support any new arrangements to ensure the targets are being met.

The Homelessness Act can include provisions that relate to the development of a national data collection system and research agenda.

NYCH would argue for an improvement and expansion of the role of the Australian Institute of Welfare and Health to conduct this task.

The SAAP National Data Collection Agency has been able to undertake a valuable role in collecting and analysing data. There have been issues with the NDCA from the field however with adequate funding these data issues can be resolved. Further the AIWH can explore the cross correlation of data from other program areas.

Any national data and research scheme requires the capacity to explore issues in relation to special needs groups that may not be captured in the standardised data collection mechanism, such as young people with acquired brain injuries.

The AIWH has been able to develop a data collection system that has safeguarded the privacy of homelessness people and this is an invaluable protection which must be retained and built upon.



CONCLUSION

Australia needs strong legislative to ensure the protection of human rights for all its citizens.

Australia continues to have a significant homeless population and young people form a cohort within it. These young people are particularly vulnerable and marginalised. Legislative protection that is coupled with the ability to enforce their rights will provide a significant foundation to their well-being. This process must be easily accessible and user friendly for young people.

Policy and program responses better targeted at young people at risk of homelessness or who are homelessness are also required.

