

House of Representatives Standing Committee on Family, Community, Housing and Youth

Inquiry into Homelessness Legislation

ACT Government Submission

1. Introduction.

The ACT has as its goal the eradication of homelessness. In 2004, the ACT Social Plan set a target of no rough sleepers by 2013. The Australian and ACT Governments will contribute \$20.2 million over 4 years to reduce homelessness under the National Partnership Agreement on Homelessness. The ACT has developed an Implementation Plan setting out new initiatives and additional services which will make a substantial contribution toward the achievement of the 2013 interim targets to reduce homelessness.

The ACT Government supports and shares the Australian Government commitment to reduce homelessness and welcomes an opportunity to reconsider the legislative framework for providing services to people who are homeless or at risk of homelessness.

It is important that any new legislation is strengthened to ensure that people who are homeless or at risk of homelessness receive quality services and adequate support.

This submission briefly outlines some possible areas of consideration in the development of any proposed legislation.

2. Defining Homelessness

The Commonwealth Government White Paper "*The Road Home: A national Approach to Reducing Homelessness*" notes the need for an agreed definition of homelessness.

Homelessness is currently defined as 'inadequate access to safe and secure housing'.¹

This exists where the only housing to which a person has access:

- is likely to damage the person's health
- threatens the person's safety
- marginalises the person by failing to provide access to adequate personal amenities or the normal economic and social support of a home, or
- places the person in circumstances that threaten or adversely affect the adequacy, safety, security and affordability of that housing.²

¹ *Supported Accommodation Assistance Act 1994* (Cth), s 4(1).

The Australian Bureau of Statistics (ABS) has identified several categories of homelessness in our society. These categories define homelessness in relation to minimum community standards regarding housing. They highlight that homelessness affects people in different ways, depending on their personal situation and needs.

For some people, being homeless means being 'roofless' – living on the streets, in parks or in deserted buildings. This is known as primary homelessness and is the most visible kind of homelessness.³ For other people, being homeless means moving between various types of temporary shelters, such as the homes of friends and relatives, refuges and hostels; or living in boarding houses on a long-term basis, with shared amenities and without security of tenure.⁴ The ABS categorises this as secondary or tertiary homelessness.

The ABS also identifies a category of people who are 'marginally housed'. These people are living close to the minimum community standard of housing, such as a family staying with relatives on a long-term basis or a couple renting a caravan without security of tenure.⁵ While not strictly within the current definition of people who are homeless, there is debate as to whether their experience of inadequate housing means they should be included in the group of homeless persons.⁶

The ACT Government supports the resolution of these issues in consultation with the Australian Bureau of Statistics as a matter of priority.

ACT stakeholders indicated that possible removal of the current minimum age limitation in proposed legislation could impact on the number of people accessing homelessness services, as well as the type and nature of service required to be provided in the future.

3. Support for a Human Rights Approach to the Proposed Legislation

The White Paper discusses the need for a response which guarantees that people experiencing homelessness are treated with dignity and respect. The White Paper also commits to tangible goals and targets to reduce homelessness, which are fundamental elements of a human rights approach. A related element of developing such an approach would be the review of all Commonwealth (and state and territory) laws that impact disproportionately on or discriminate against people experiencing homelessness. This will presumably include review of tenancy legislation and regulation of tenancy databases announced in the White Paper.

The ACT as a jurisdiction is well placed to participate in such an approach. Currently the *Human Rights Act 2004* (ACT) protects a number of civil and

² *Supported Accommodation Assistance Act 1994* (Cth), s 4(2).

³ Australian Bureau of Statistics (ABS), *Counting the Homeless 2001, 2003*, p12, available at [http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/5AD852F13620FFDCCA256DE2007D81FE/\\$File/20500_2001.pdf](http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/5AD852F13620FFDCCA256DE2007D81FE/$File/20500_2001.pdf) [21 January 2008].

⁴ ABS, *Counting the Homeless 2001, 2003*, p12.

⁵ ABS, *Counting the Homeless 2001, 2003*, pp12-13.

⁶ ABS, *Counting the Homeless 2001, 2003*, p13.

political rights, the primary source of which is the International Covenant on Civil and Political Rights. The Human Rights Act aims to create a culture of respecting and promoting human rights within the ACT.

Issues of housing and homeless can often affect those rights currently embedded in the Human Rights Act, particularly the right to equality before the law (section 8), protection of the family and children (section 11), and the right to privacy (section 12).⁷

Further, from 1 January 2009, public authorities in the ACT must take human rights into account when making a decision. Section 40B of the Human Rights Act provides that '[i]t is unlawful for a public authority to act in a way that is incompatible with a human right; or in making a decision to fail to give proper consideration to a relevant human right'. Any decision that an ACT public authority makes - including on issues involving housing and homelessness - must have regard to the human rights of individuals who will be affected by that decision.

4. A Charter of Rights

The ACT is supportive of the use of a National Homelessness Charter of Rights. This statement of rights would be used to improve the circumstances of homeless people by raising community awareness and promoting a rights-based approach to homelessness service delivery. The charter would operate as a statement of values subject to the laws of the Commonwealth.

The ACT has a Homelessness Charter which provides people who are experiencing homelessness with the right of inclusion, rights to dignity, respect and non discrimination, and rights to safety and freedom. It has been developed by representatives from the community sector and ACT and Commonwealth Governments, and is attached for the information of the Standing Committee.

5. A Systemic Delivery of Homelessness Services

A significant reform to improve access to services under *Breaking the Cycle Breaking the Cycle – the ACT Homelessness Strategy – 2004-2008* was the creation of an integrated service system

The new services established under the *Breaking the Cycle* represent a suite of innovative and contemporary service models. Consistent with and guided by the Pathways process, the services and the sector at large moved away from a rigid focus on congregate living responses, and the accommodation of individuals and families within their own dwellings. Tailored, flexible outreach support is offered based on need which steps down over time as client needs are resolved. When appropriate, tenancy of the property is transferred to the client and ongoing support is provided as required.

⁷ The Human Rights Act does not cover economic, social and cultural rights, so the right to housing itself is not covered directly.

The implementation of this approach has increased the overall capacity of the ACT homelessness sector by 30% and resolved some key issues about the overall quality of the ACT's homelessness response.

ACT services target broad client groups such as women and children escaping domestic violence, single women, single men and youth. The ACT also funds a range of services targeted at more distinct client groups, such as male headed families, men exiting the criminal justice system, pregnant women and Indigenous families.

To support this systemic approach to addressing homelessness, as well as the implementation plan setting out new initiatives and additional services which will make a substantial contribution toward the achievement of the 2013 interim targets to reduce homelessness, it is important that roles of all organisations and stakeholders are recognised through the development of any new proposed legislation. This includes the roles of all tiers of Government responsible for addressing homeless either through the NAHA or through the provision of related services, service delivery agencies (funded and voluntary), peak organisations and individuals.

ACT Homelessness Charter

This ACT Homelessness Charter — a Statement of Rights is intended to improve the circumstances of homeless people by raising community awareness and promoting a rights-based approach to homelessness service delivery. The charter is not a law, and the rights it sets out cannot be directly enforced in a court of law. It is a statement of values subject to the laws of the ACT.

The charter was developed by the Charter of Rights Working Group, part of the ACT Homelessness Committee that is made up of representatives from the community sector, and ACT and Commonwealth governments.

As people who live in the ACT we see that all of us should have housing that is secure and affordable; experience a reasonable standard of health and wellbeing, live in a safe and secure environment; have our private life respected; be treated with dignity; participate in and be consulted on matters that affect our lives; have the ability to seek justice if we are wronged or help if we are in times of difficulty. Some people call them basic rights that we should enjoy. The ACT Human Rights Act is based on the equal dignity and freedom of all people in the ACT and gives legal protection for some of these basic rights.

People in the ACT can also find themselves homeless. We can become homeless for many reasons: financial hardship, unaffordable housing, escaping domestic violence, not having adequate living conditions, illness or breakdown in our relationships. Some people may prefer to live 'rough'. For most it's not a choice.

If we are homeless we retain the basic human rights afforded to the broader community. However, on becoming homeless the following rights become important. In fact losing our home means that they become even more important to us. If we are homeless there are other rights, which also become important.

People who are experiencing homelessness have the right of **inclusion**, rights to **dignity, respect** and **non discrimination**, rights to **safety** and **freedom**.

As a community, we must ensure that people experiencing homelessness are granted these rights so that they can reach their potential, make a contribution and share the benefits of our community.

Inclusion

- The right to access facilities and services that meet basic human needs.
- The right to be consulted in the provision, development and use of community spaces.
- The right to receive clear and accurate information as well as help in completing and understanding any application procedures.
- The right to services that will provide secure, stable, short and long-term accommodation based on fair policies.
- The right to safe and secure public places.
- The right to participate in the planning, evaluation and development of those programs or projects that affect homeless people.
- The right to adequate levels of nutrition and food safety.
- The right to health services, income support, employment and education opportunities.

Dignity, respect and non discrimination

- The right to fairly based decisions and advocacy services.
- The right to give informed consent to share personal information and to withdraw that consent.
- The right to a response to homelessness that is neither punitive nor exploitative.
- The right to be free from discrimination including homelessness status, and help to exercise this right if discriminated against.
- The right to be shown respect and sensitivity to their culture.
- The right to make informed choices and determine their future.
- The right to enter into agreements free from any form of pressure.
- The right to make complaints and appeals along with getting a meaningful response.

Safety and freedom

- The right to live free from exploitation, violence and abuse.
- The right to use public spaces for shelter without discrimination.
- The right to have all rights upheld by public authorities.

a statement of rights

