



Australian Government
**Department of Families, Housing,
Community Services and Indigenous Affairs**

**HOUSE STANDING COMMITTEE ON FAMILY, COMMUNITY, HOUSING AND
YOUTH - INQUIRY INTO HOMELESSNESS LEGISLATION**

**Submission by the Department of Families, Housing, Community Services and Indigenous
Affairs**

The Secretary
Standing Committee on Family, Community, Housing and Youth
House of Representatives
Parliament house
Canberra ACT 2600

Dear Secretary

Attached for the Committee's consideration is the Department's submission to the Inquiry on homelessness legislation.

Research and literature review work is also being undertaken by Urbis Pty Ltd on behalf of the Department to examine issues relating to service standards and accreditation systems that could apply to homelessness services in Australia. The focus of this work is identifying potential components of effective regulatory and accreditation systems. Urbis Pty Ltd have interviewed a sample of services, peak bodies and academics to gather insights into issues for the sector. The Urbis Pty Ltd report will be provided to the Committee once it is finalised.

The contact officer for this submission is Bridget Anyon, Section Manager, Legislation and Accreditation Section, Homelessness Branch

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Tongue'.

Andrew Tongue
Deputy Secretary
Department of Families, Housing, Community Services and Indigenous Affairs

28 August 2009

Summary

1. The Department of Families, Housing, Community Services and Indigenous Affairs (“FaHCSIA”) represents the Commonwealth’s interest and leadership in the homelessness reform agenda for government. Together with states and territories, FaHCSIA manages the delivery of \$1.1 billion in funds under the National Partnership on Homelessness. States and territories have responsibility for delivery and management of homelessness programs in most cases.
2. FaHCSIA is the principal policy formulation and advisory body on homelessness for the Commonwealth. FaHCSIA’s purpose is to improve the lives of Australians by creating opportunities for economic and social participation for individuals, families and communities. Homelessness policy complements a broad range of responsibilities including social housing, disability, mental health, families and Indigenous affairs.
3. People facing homelessness commonly have a diverse range of needs. Assessing out what help is available – and finding it – is challenging for people struggling in circumstances beyond their control. The services that work to support those needs frequently are not linked in a way that supports individual services to make effective referrals of clients to other services. There is no framework to encourage services to see a client as the centre of a multi-service response. As a result, the chances of an individual being supported to access the range of services needed to match their circumstances is limited.
4. The department’s view is that legislation is necessary to support quality improvement of services delivered to this vulnerable group of Australians. It is also important to recognise the good work that many services do to deliver high quality services to the homeless. Existing quality protections for individuals are patchy, narrowly focused and dated. States and territories are not required to address this issue under existing funding agreements, however, a national framework supporting quality could position services to better deliver on reductions to key homelessness targets and result in benefits to the broader community.
5. Strong reasons for sustained investment in quality improvement for homelessness and mainstream services that deal with the homeless include:
 - scope to recognise and reward existing good practice;
 - support for building capability of an increasingly diverse range of providers;
 - ensuring transparency and equal treatment of consumers;
 - supporting a focus on vulnerable client needs to address long term barriers and put individuals at the centre of the service experience;
 - assurance that appropriate investment in professional quality services is made by governments via contracts or other funding mechanisms;
 - support new approaches to delivery across the sector inline with new funding arrangements; and
 - investments are best placed to improve the efficiency and effectiveness of delivery to reduce cost and duplication of effort on the ground.
6. A focus on quality improvement for homelessness and mainstream services would result in positive returns on investment through reduced reliance by individuals on crisis accommodation, health systems, welfare, and other community support services over the long term. Benefits from investment in quality reform could include:
 - sharing of best practice and innovative delivery across the sector;
 - improved performance of the service sector;

- reduced homelessness and its long-term social cost;
- help to address one of Australia's longstanding 'wicked' policy challenges - through joined-up effort and a concerted focus on the range of each individual's needs;
- build social and economic participation; and
- improvements to status and professionalisation of the workforce that will increase its ability to attract and retain workers.

7. Consistent with the White Paper, principles need to reflect that homelessness is everyone's responsibility. It is important that principles be established in such a way that they assist services in balancing their mutual responsibilities to individuals and families. Key principles that may achieve this could include:

- a service response to an individual's presenting needs that also addresses the underlying causes to prevent repeat incidence of homelessness and reduce long term social costs to individuals and the community;
- a system that makes connections and effective referrals to any other services the individual needs;
- a service response that maintains a client focus (through, potentially, the use of complaints handling mechanisms and consumer involvement in decision-making); and
- a system that encourages services to be managed to a high standard and to be accountable to clients and the broader community.

8. In developing a quality system, issues such as cost and the administrative burden placed on services need to be considered. Equally, short term costs must be balanced against long run returns from investment in quality. Long term savings could arise through reductions in churn within the system, retaining skilled staff, improved status of the workforce, sharing of innovative delivery approaches, driving healthy competition and facilitating provider growth and efficiency. Minimising red tape is also an important consideration for the design of any new system. An optimal approach would for ways to reduce burden, duplication and acknowledge existing achievements of services under other complementary quality systems. Reciprocal recognition of accreditation against other quality systems is one way of acknowledging the good work many services already do to ensure that their service operations are high quality.

9. Synchronisation of government efforts to improve quality would be necessary across all levels of government. National legislation provides an opportunity to bring a range of strategies under one framework:

- address the needs and provide adequate protections for an especially vulnerable group of people;
- articulate service principles to guide quality service provision;
- build quality over time through national service standards and charters in a way that balances the interests of individuals, governments, the community and service providers.

Background

10. The Australian community has benefited from a long period of economic prosperity, but despite this prosperity, the number of homeless continues to rise in line with population growth (from 99,900 in 2001 to 104,676 in 2006, according to the Australian Bureau of Statistics).

11. In 2008 the Government announced the development of a comprehensive, long term plan to tackle homelessness as a national priority. This announcement was followed by a Green Paper and White Paper process that identified support for national consistency and improved service integration. The Government's 2008 Green Paper *Which Way Home?* proposed that a primary goal of the response to homelessness should be social inclusion – help for people to engage in the community and to build their capacity to participate in a broad sense, in activities like employment, training and education, volunteering, effective parenting and caring for others.

12. The Government's White Paper is a transformational policy response to homelessness involving three core strategies:

- Turning off the tap: services intervening early to prevent homelessness;
- Improving and expanding services: services will be more connected and responsive to achieving sustainable housing, improve economic and social participation and end homelessness for their clients;
- Breaking the cycle: people who become homeless will move quickly through the crisis system to stable housing with the support they need so that homelessness does not recur.

13. This new approach expands the scope beyond homelessness services to include the mainstream service system and provides a more holistic focus on individual needs. States and territories have agreed to deliver most of this new reform agenda through the National Partnership on Homelessness. However, states and territories are not obliged under agreements to progress quality reforms.

14. New legislation presents an opportunity to refresh the existing quality framework to bring it into line with new Commonwealth, state and territory arrangements. Given responsibility for service delivery and the agreed imperative to meet the target of reducing the rate of homelessness rests with states and territories, the Commonwealth expects that jurisdictions will take an active interest in quality reform.

15. There is, however, a need for a broader discussion about the merits and risks of different approaches to quality improvement. Without careful consideration, potential benefits could be out-weighted by short term risks that threaten business continuity and reduce the supply of existing services. The way in which the quality system is developed must consider existing compliance burden on service providers and avoid increasing red tape. Delivering quality improvement will need to be balanced against the sector's capacity to meet any new requirements, its existing service delivery responsibilities and the capabilities of staff in the sector. Particular considerations include ensuring service continuity, with some specific consideration made for specialist providers in remote and Indigenous settings.

16. Quality improvement could be tackled in a number of ways. These could include, for example, accreditation, minimum service standards, complaints and consumer mechanisms, education/best practice dissemination, service charters and service guarantees. In a combination of all of these, some elements could sit within legislation and some outside, but it is the department's view that some form of national legislation would usefully underpin a broad quality framework. Consistency of approach, transparency of expectations and a uniform benchmark for quality would be benefits. Green Paper submissions show support from within the sector and across the country for quality improvement.

17. The White Paper reform agenda is seeking a system that links up services that deal with the barriers to social inclusion experienced by people who are homeless.

18. In response to the terms of reference of this Inquiry the following issues may be of interest to the Committee.

The principles that should underpin the provision of services to Australians who are homeless or at risk of homelessness

19. The *Supported Accommodation Assistance Act 1994* (the SAAP Act) set out the Parliament's expectations of Australia's response to homelessness with high-level principles that guided service delivery responses over many years for the homelessness sector. There is strong support in the service sector to retain some of the principles contained in the SAAP Act but recognition that new legislation must reflect contemporary needs and community expectations.

20. Quality service provision that is effective in addressing the needs of homeless people is a key element of addressing social exclusion – and would deliver benefits to governments, end consumers and services in time. Strong policy and approaches and principles are needed to ensure quality services reach this vulnerable group of Australians.

21. Consistent with the White Paper, principles need to reflect that homelessness is everyone's responsibility. It is important that principles be established in such a way that they assist services in balancing their responsibilities to individuals and families. Key principles that may achieve this could include:

- a service response to an individual's presenting needs that also addresses the underlying cause to prevent repeat incidence and reduce long term social costs to individuals and the community;
- a system that makes connections and effective referrals to any other services the individual needs;
- a service response that maintains a client focus (through, potentially, the use of complaints handling mechanisms and consumer involvement in decision-making); and
- a system that encourages services to be managed to a high standard and to be accountable to clients and the broader community.

22. In its Preamble, the SAAP Act frames a rights-based approach to service provision that could be incorporated into any new legislation for homelessness. The SAAP Act states:

Australia has acted to protect the rights of all of its citizens, including people who are homeless or at risk of homelessness, by recognising international standards for the protection of universal human rights and fundamental freedoms through:

- (a) the ratification of the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights; and*
- (b) the ratification of the Conventions on the Elimination of all Forms of Racial Discrimination, on the Elimination of all Forms of Discrimination against Women and on the Rights of the Child; and*
- (c) the acceptance of the Universal Declaration of Human Rights and of the Declaration on the Elimination of Violence Against Women; and*
- (d) the enactment of legislation such as the Human Rights and Equal Opportunity Commission Act 1986.*

23. Green Paper submissions advanced a range of suggested wordings and elaborations on the principles proposed in the Paper but broadly supported the concept underlying each one. There was clear support for framing the provision of services within a human rights context.

24. Green Paper submissions highlighted the need to address the needs of children who arrive unaccompanied by their parent to a homelessness services. Under existing service arrangements children are not treated as a client of the service in their own right, and potentially in some cases this may not be in the child's best interests. Principles could ensure that unaccompanied minors who are homeless are in scope of any new legislation, noting that there will be circumstances where there may be a conflict between their rights and the rights of their parents. The principles adopted should match realities of complex service delivery systems. For example, some suggest that women's refuges should not adopt policies that preclude acceptance of accompanying male children over a certain age (for example, 12 or 14 years of age) when the alternative may be for these children to be sent to sleep rough in a park or local area.

25. It is important that principles be established in such a way that they assist services in balancing their multiple responsibilities to individuals and families.

The scope of any legislation with respect to related government initiatives in the areas of social inclusion and rights.

26. The Government has undertaken two major initiatives in this area: the establishment of its Social Inclusion Board and an independent Human Rights Consultation to seek broad views on the protection and promotion of human rights nationally. These activities are of direct relevance to the Committee's deliberation on new legislation.

Social Inclusion

27. The Australian Social Inclusion Board ("the Board") works to promote an understanding that to be socially included people must be given opportunity to:

- secure a job;
- access services;
- connect with family, friends, work, personal interests and local community;
- deal with personal crisis; and
- have their voice heard.

28. It is not surprising that these aspirations were reflected in many Green Paper submissions. The government has identified addressing the incidence of homelessness as one of the six priority areas in which to focus its work on social inclusion.

29. Submissions responding to the Government's Green Paper on homelessness proposed a number of goals focused on social inclusion for people who are homeless or at risk, including:

- no person needs to sleep rough because of lack of alternatives;
- increase support to help individuals increase their capacity to successfully sustain engagement in the social and economic functions of society;
- ensure that responses to homelessness re-integrate people with education, employment, long term housing, health and other services;
- increase social acceptance and understanding of homelessness issues to improve community ownership and foster social inclusion of the marginalised and vulnerable; and
- improvement of living conditions for Indigenous people.

Human rights

30. An independent committee, supported by the Attorney-General's Department, has undertaken a National Human Rights Consultation in 2009 with the aim of considering three key questions:

- which human rights and responsibilities should be protected and promoted?
- are human rights sufficiently protected and promoted?
- how could Australia better protect and promote human rights and responsibilities?

31. The Committee will report to the Australian Government by the end of September 2009 on the issues raised and the options identified for the Government to consider to enhance the protection and promotion of human rights.

32. In its report to Government the Committee will set out the advantages and disadvantages of various ways of protecting and promoting human rights. These include the social and economic costs and benefits to governments, communities and individuals. In the event that the report makes conclusions about the protection and promotion of the rights of homeless people, they will be relevant to any new legislation dealing with homelessness.

33. Any rights based approach must carefully balance rights and obligations to avoid creating perverse consequences. For example a requirement such as exists in Scotland that landlords notify local authorities in advance of plans to evict tenants (to ensure no exits into homelessness) may, in practice, deter potential landlords from investing in rental housing, thus reducing housing supply and exacerbating the problem of homelessness over time. On the other hand, tenant's rights must be balanced against their obligations to pay rent and comply with tenancy law.

34. There are many issues such as this that require careful consideration. In framing a rights based approach we must be sure that the approach will direct the right kind of change to service provision and balance the rights and obligations of individuals, service providers and governments.

The role of legislation in improving the quality of services for people who are homeless

35. There is a need for legislation to support quality improvement and give protection to vulnerable homeless Australians.

36. The White Paper vision embraces specialist homelessness and mainstream services, including services involving custodial care, health, mental health, drug and alcohol services and employment services. It identifies that all people who are vulnerable to homelessness need help from mainstream services, and proposes that mainstream services must identify people who are homeless or at risk. Green Paper submissions supported the integration of specialist homelessness and mainstream services, suggesting, among other things:

- all mainstream government-funded agencies, regardless of their core business, should have an identified strategy within their operational policies, which links to the national plan for homelessness;
- fast-track or abolish waiting lists for homeless people seeking access to mainstream services;

- specific targeting of employment services to engage with and deliver outcomes for people who are homeless;
- set targets to increase access for people who are homeless to mainstream services including hospitals, schools, community health, aged care, mental health and disability services;
- increase the proportion of people discharged from mainstream services into confirmed, secure and appropriate accommodation;
- linking funding of services to the pursuit of joined-up servicing;
- specific reporting requirements for mainstream services in relation to support for people who are homeless or at risk, and development of shared data systems;
- Homelessness Assistance Line to help link people with services; and
- ensure that mainstream service policy and program guidelines acknowledge the right to equal service by all clients including those experiencing or at risk of homelessness.

37. People who are homeless or at risk are extremely vulnerable and need quality services. Quality, joined-up service provision would seek to address an individual's presenting need, but also the underlying root cause to look for long-term resolution. New legislation can provide a framework to do this.

38. The existing SAAP Act and some pieces of state legislation work to protect a highly vulnerable group of people and promote improvement in quality outcomes. However, the White Paper vision is for a wider, joined-up service approach that seeks more effective outcomes. To take these steps forward, there is a need to revisit the existing legislation to ensure that this fits with contemporary service provision arrangements in place under the National Affordable Housing Agreement and outlined in the Australian Government's White Paper. Measures that are not synchronised are not likely to achieve this.

39. A strong approach to quality improvement in homelessness services and mainstream services dealing with vulnerable Australians is needed to align the efforts of states and territories. Long term efficiencies in delivery that give consumers and governments assurance of quality are possible. A quality system will give scope for improved transparency and accountability to the broader community ensuring funds are being judiciously invested to get the best outcomes. Legislation that encompasses principles, values, consumer protections and service standards would create a sound framework.

40. A quality framework could bring a range of strategies together under one banner, some of which could be supported by new homelessness legislation. These may include:

- national standards for homelessness services;
- complaints handling and client engagement;
- good practice dissemination;
- service charters and guarantees for mainstream services that support homeless people;
- information provision and exchange; and
- training and support for the sector.

41. Given the different starting points of states and territories and the different strengths of their existing quality frameworks, legislation should provide for these realities. Legislation would need to enable a staged introduction of new requirements to reflect different levels of preparedness and the capacity of the sector to step up. A staged approach to voluntary accreditation may be the first step in helping services meet improved quality standards. In recognition of adjustments needed within the sector, compulsory accreditation could be introduced as longer term goal. The needs of particular services such as those providing support

in remote locations or that specialise in supporting Indigenous people would need to be acknowledged. Where necessary, this could be managed with extra support through measures such as training support and mentoring to help them to achieve quality improvement. Quality standards could express expectations for specialist homelessness services, while service charters could guide mainstream services in their delivery of support to homeless people. There could be graduated links between quality achievement and funding. For example, full funding or access to growth funding could be conditional on accreditation. Consideration also needs to be given to the optimal way in which quality standards could be assessed. Options include self-assessment, peer review and audit by an independent third-party. It will be important to ensure that any new accreditation and quality standards system recognises other accreditation and licensing achievements of a service provider and provide for reciprocal recognition where possible, to reduce compliance burden.

42. All of these elements have pros and cons, including red tape, potential pressure on supply, wage pressures, skill shortages and new training needs. The impact of such reforms on the homelessness sector should not be underestimated. Inevitably, there will be some uncertainty about what change may bring within the sector. Workload and resource pressure on the specialist sector mean that governments will need to invest to help services meet new quality standards.

43. Whatever mix of strategies is brought to bear, it will need to balance the needs of a vulnerable group of people and the ability of both governments and service providers to step up to new quality expectations.

44. Improving service quality practices to focus on individual needs and address long term barriers is critical. The White Paper anticipates that there will be a substantial effort by all governments to step up and deliver the reforms set out in the Paper. There is also a potential for existing funding to be used to facilitate the transition.

The effectiveness of existing legislation and regulations governing homelessness services in Australia and overseas

45. There are lessons that can be drawn from Australian and international experiences.

46. Australian legislation, in the form of the SAAP Act, is now dated in light of the White Paper vision. It is not framed explicitly enough to achieve the joined-up service delivery approach now seen as necessary to effective, lasting, quality outcomes or to compel service design that revolves around the client. The approach taken under the SAAP Act remains highly applicable, however, it should be reviewed in light of current service delivery and social issues. Underpinning this are existing contract based service standards in each jurisdiction. Although the focus and application of service standards do vary across the country, it is a good starting point and should be built on.

47. For the most part, Australians who are vulnerable to homelessness rely on the general support and protections afforded to the community at large by laws such as the *Anti-Discrimination Act 1977*, the *Disability Services Act 1986*, the *Social Security Act 1991*, the *Human Rights and Equal Opportunity Commission Act 1986* and the *Housing Assistance Act 1996*. These laws do not especially target issues of homelessness, but provide protection for the wider community.

48. A further point of comparison is the example of Scottish legislation, in the form of the *Homelessness etc. (Scotland) Act 2003*. This legislation has been singled out in a report by the United Nations Committee on Economic, Social and Cultural Rights as “best practice”. The legislation sets targets for broadened access to support and housing assistance. Key lessons that can be learnt from the Scottish experience, include the need to ensure that where specific rights are enshrined, the necessary investment is also made in support services. Careful consideration of the practical implications for supply within the system would be necessary.

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

49. Examples of existing legislation and regulatory models show that a combination of legislation, consumer mechanisms, minimum standards and accreditation can effectively drive quality improvement.

50. One of the most applicable examples regarding quality service improvement process for vulnerable Australians is the Quality Strategy for Disability Employment Services and Rehabilitation Services. Since 1974, quality improvement had been a feature of Disability Employment Services Programs. Despite having policies in place, significant improvement in the service experiences of consumers did not take hold until much later when legislative provisions were introduced under the *Disability Services Act 1986* (“*the Disability Act*”) in 2002. At this time the Commonwealth introduced a legislative requirement for funded services to meet minimum service standards and be certified against these by an independent auditor. The disability reforms also provided for an independent complaints and referral mechanism and an accessible telephone service to report abuse and neglect of people with disabilities in funded services.

51. A number of observations about the implementation of the disability quality legislative reforms were made in the 2006 final evaluation report. It was noted that as a result of the reforms, there was evidence of changes in organisational culture with increased emphasis on quality management. It was also noted that consumer involvement and consultation had improved significantly. Service providers reported improved business management, policies, procedures and documentation, and greater consultation with, and involvement of, consumers as well as improved service quality.

52. The aged care and child care service sectors are subject to quality accreditation schemes that form part of the conditions of approval to operate under Commonwealth legislation. Both accreditation schemes are administered and monitored by independent decision making bodies. The relevant department exercises the statutory discretion to approve or not approve the service based on compliance with conditions of approval, including quality standards. In both cases, accreditation is linked to approval of funding. Both the aged care and child care frameworks lie exclusively in the province of the Commonwealth, although states and territories have responsibility for licensing operators. In contrast, the homelessness sector operates under a Commonwealth-state funding partnership with service-level funding agreements between states and services.

In Conclusion

53. Any new approach needs to reflect that homelessness is everyone's responsibility. New approaches should guide services through difficult transition to improve delivery arrangements. Vulnerable Australians need services and supports that respond to an individual's presenting need but that address the underlying cause to prevent repeat incidence of homelessness.

54. There is a need for national legislation and an overarching framework to drive quality improvement for homelessness. A framework is needed that:

- sets out principles, values and standards for the treatment and management of services to the homeless and those at risk;
- is concerned not just with accommodation but the range of experiences that people who are homeless or at risk have, for better outcomes;
- achieves more for the particular needs of groups such as children, victims of domestic violence and mental health problems;
- supports consistent national practices and effectively drives quality improvement across a broad range of services;
- gives clients an effective voice, possibly through a dedicated, national advocacy mechanism; and
- most importantly helps services to focus on and engage with clients rather than individual service systems.

55. The White Paper recognises that this wider approach is necessary to help the efforts of services create the best possible outcomes for individuals. Green Paper submissions make it clear that a strongly motivated sector shares that goal. There is a danger that poor service providers can reflect broadly on the sector. A legislative framework could help guide service effort to best effect. It could help joined-up service effort restore people to social inclusion with longer term solutions and recognise and reward service excellence.

56. A focus on quality improvement for homelessness and mainstream services would result in positive returns on investment through reduced reliance by individuals on crisis accommodation, health systems, welfare, and other community support services over the long term. A quality-based system should not drive up cost over the longer term because it supports better, lasting outcomes for effort. In time, the benefits would be savings resulting from a reduction in individuals experiencing repeat homelessness, a better and more standardised system, improved workforce status and retention of staff. Quality providers would have increased opportunity to grow their enterprise and achieve maximum result for effort.

57. Legislation provides an opportunity to advance objectives set out in the Government's White Paper. A range of other, non-legislative measures will be needed including partnership-building, new bridges between specialist and mainstream services, development, promotion of and recognition of best practice, and strategies to raise community awareness and understanding.

58. The impact of such reforms on the homelessness and mainstream housing sectors should not be underestimated. Time will be necessary to prepare the sector for reform. Good communication and consultation with the sector along the way will be essential.