



Cairns Community Legal Centre Inc

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Committee Secretary
Standing Committee on Family, Community, Housing and Youth
PO Box 6021
House of Representatives
Parliament House
CANBERRA ACT 2600

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SUBMISSION TO INQUIRY INTO HOMELESSNESS LEGISLATION

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Introduction

Background to the Cairns Community Legal Centre Inc ('the Centre')

The Cairns Community Legal Centre Inc (the Centre) is a not for profit community organisation. The Centre, which has been operating since approximately 1991, is funded by Commonwealth and State governments.

The Centre provides legal services for the benefit of socially and financially disadvantaged members of the community. The objects of the Centre include provision of free and accessible legal services; and development of self-help strategies.

The Centre includes a:

- Generalist (Core) Service;
- Disability Discrimination Legal Service (DDLS); and
- Seniors Legal and Support Service (SLASS).

Activities undertaken by the Centre include:

- Legal advice, referrals, information;
- Casework;
- Community legal education; and
- Law reform work.

The Core Service

The practice area covered by the Core Service is broad. Generally speaking the Core Service conducts legal work in the areas of criminal law, traffic matters, family law and a broad range of civil law matters including consumer rights, debt, fencing, guardianship and other miscellaneous matters.

The Disability Discrimination Legal Service

The DDLS is a specialist service. It provides legal work in the area of disability discrimination.

The Seniors Legal and Support Service

The SLASS is a specialist service. It provides legal and support services for the benefit of seniors affected by elder abuse or financial exploitation.

Our interest in the consultation

We welcome this opportunity to take part in these consultations. All three services we provide assist vulnerable groups of people, some of whom suffer a range of disabilities which affect their personal welfare and their ability to take part in community life.

Our submission

This submission reflects our concerns of how the efforts to address homelessness will impact on people with disabilities, particularly those with mental health issues.

Principles to underpin provision of services

In preparing this submission, we drew on principles as set out in various relevant documents:

- Government White Paper on homelessness – The Road Home
- *Supported Accommodation Assistance (Form of Agreement) Determination 2008*
- Principles and Objectives for the Purpose of Section 5 (*Disability Services Act 1986*)
- National Standards for Mental Health Services
- Social Inclusion Principles for Australia

There can be no doubt that not having access to adequate housing affects a whole range of other rights such as health, personal safety, privacy, education, work, non-discrimination, social security, freedom of movement and association, freedom of expression and freedom from cruel, inhuman or degrading treatment or punishment.

In various Covenants and Conventions Australia undertook to ensure and promote the full realization of all human rights and fundamental freedoms by adopting all appropriate legislative, administrative and other measures for the implementation of the those rights.

We note that in the Preamble of the *Supported Accommodation Assistance Act 1994* (SAAA), which governs the Supported Accommodation Assistance Program (SAAP), Australia recognises international standards for the protection of universal human rights and fundamental freedoms so as to protect the rights of all its citizens, including people who are homeless or at risk of homelessness. The Preamble lists various international Conventions, Covenants and Declarations which we have ratified and accepted.

In light of the Government's recent National Human Rights Consultation, we firmly believe that the policy relating to homelessness and its implementation must have a human rights framework.

Therefore we propose that the overarching principle should be:

- **Protection of universal human rights and freedoms**

By this principle we recognise that the homeless and those who are at risk of homelessness have the inherent right to respect for their human worth and dignity, and have the same basic human rights as other members of Australian society to achieve the maximum possible degree of self-reliance and independence.

We set out further principles below and explain why we consider they should be included.

- **Shared commitment**

Since service provision is wholly dependent on government funding, commitment to provide services needs to be shared between the Commonwealth and all State and Territory governments. This requires a commitment to appropriate funding of programs and investing in staff training.

Though the first guiding principle in the White Paper also seeks cooperation from non-government and business sectors, this cooperation will eventuate from detailed service agreements and provision of sufficient funds to deliver the services required.

This shared commitment should also extend to ensuring a holistic approach to service provision, with seamless support of clients from different funded programs and services. It will require flexibility and cooperation across all parts and levels of government through ‘joined-up’ policy and service delivery.

It is incongruous for one department to obtain public housing for a person with a mental illness who is at risk of becoming homeless, and another department to later evict that person for breaches of tenancy regulations (which arose from the very illness which initially put him at risk of homelessness).

We trust that proper coordination of service delivery will prevent this occurring in the future.

- **Enhance social inclusion**

More than just providing temporary accommodation, the goal of the program is to assist people who are homeless or at risk of homelessness to achieve maximum independence, and to gain the skills and support they need to work and reconnect with their community (family and social networks).

- **Range of accommodation and support services to be provided**

Just as the causes and drivers of homelessness are many and varied, solutions to alleviate that condition or to diminish the risk of it occurring must also be tailored to meet particular needs of individuals and groups.

Level and type of service required to reduce and prevent homelessness varies according to whether it is designed to provide:

- ❖ early intervention support (for example, family counselling, financial counselling and debt management, emergency relief, assistance to apply for public housing) to prevent or quickly address initial homelessness
- ❖ supported accommodation together with support services (such as drug and alcohol services, health and employment services) for those experiencing chronic homelessness
- ❖ assistance for those who are sleeping rough (using improvised dwellings or sleeping out)

Those who are chronically homeless due to multiple issues of drugs, alcohol or mental health, and contact with the Justice system, will require intensive support lasting over long periods of time.

Rough sleepers require assertive outreach programs together with intensive support.

Funders must acknowledge and accept that both types of programs will create a greater demand on available resources with a lower expected rate of success.

- **Service accessibility**

While policies and practices should be non-discriminatory, recognition and support must be provided for special needs of specific client groups:

- ❖ Families who are homeless (either as a result of family breakdown where domestic violence is involved, or from poverty and accumulating debt)
- ❖ Young people who are chronically homeless (especially if they have substance abuse issues or contact with Juvenile Justice)
- ❖ People with mental health issues who are chronically homeless
- ❖ Indigenous people who are homeless

- ❖ People leaving institutional care (whether custodial care, hospital, mental health and drug and alcohol services)
- ❖ Refugees and asylum seekers

Each group faces particular barriers to overcoming homelessness and rejoining mainstream society. Accommodation suitable for one group may prove to be detrimental for another.

Complex health needs, especially where there is a dual diagnosis (for example of mental illness coupled with intellectual impairment or substance abuse) may require living skills training, medication supervision and assistance with daily living.

Some people are unable to live independently and may require life-long support that cannot continue to be provided by this particular program. Care must be taken that they do not exit from this program back into homelessness.

- **Active, informed and inclusive participation**

Input into service design and delivery from people who have experienced homelessness is more likely to result in programs that target particular needs and deliver efficient and effective support.

The wishes of clients and their right to choose should also be respected in deciding how and what particular support is to be provided to them. Wherever possible and appropriate, the cultural, language, gender and preferred lifestyle requirements of clients should be met.

- **Accountability**

Data on current demand, outcomes delivered (including longitudinal surveys), and unmet demand should be accurately collected in a timely manner to inform future policy direction and delivery of services.

Targets should be based on outcomes delivered, not on numerical values of turnover of clients. Churning clients from one support service to another may look good statistically but defeats the goal of assisting people to achieve independence and reconnect with their community.

Scope of legislation

We note that the Government, in its social inclusion agenda, has initiatives in the following areas (in addition to addressing homelessness):

- Support to children at greatest risk of long term disadvantage
- Addressing the needs of jobless families with children
- Locational approaches to disadvantage
- Closing the gap for Indigenous Australian
- Cultural diversity, Migrants and humanitarian entrants
- Employment for people living with a disability or mental illness
- Other related initiatives, including human rights, legal assistance Medicare and PBS safety net provisions, and GP Super Clinics.

These initiatives require cooperation from multiple departments and agencies:

- Department of Families, Housing, Community Services and Indigenous Affairs
- Office of Early Childhood Education and Child Care
- Department of Health and Aging
- Australian Institute of Family Studies
- Career Advice Australia
- Department of Education, Employment and Workplace Relations
- Department of Infrastructure, Transport, Regional Development and Local Government
- Department of Immigration and Citizenship
- Disability Employment Network
- Job Access
- Medicare Australia
- Attorney-General's Department

To address homelessness, as well as to progress the above listed initiatives, a whole-of-government approach is required. The principle listed above as shared commitment requires 'joined-up' policy and service delivery. The social inclusion initiatives require cooperation and collaboration between various departments and agencies in order to deliver on stated objectives.

It is likely that taking a holistic approach in assisting clients will meet objectives in more than one initiative. For example, assisting an indigenous family made homeless due to loss of employment in a rural area, would be covered by at least four of the above initiatives. A family broken apart by domestic violence can be assisted under three separate initiatives.

As long as the cooperation between departments and agencies exists, we are of the opinion that no single overarching legislation directed to control of the various programs is required. It is sufficient if a network is developed connecting the various providers, both government and non-government, so that unnecessary duplication is avoided and all aspects of clients' disadvantage are sought to be addressed by the agency which is best placed to assist.

However, it is desirable that the various programs of assistance are designed in a nationally consistent provider and regulatory framework. Certain principles and service standards are common to all initiatives.

If the Government proceeds with a Human Rights Act which, in addition to enumerating human rights protected by legislation, requires Government departments and agencies to consider those rights in their policies and implementation, the resulting human rights framework will ensure that rights of all people (including the homeless) are protected.

Role of legislation in improving quality of service

Intergovernmental agreements such as the National Affordable Housing Agreement (NAHA) are too broad to focus funding on particular strategies or regulate how services are to be delivered.

We note that the SAAA is to be replaced. That legislation governed the administration of the SAAP which will need to continue to operate in some form or other as both State and Federal Governments have pledged to contribute additional funding in the NAHA.

In our view, the additional ‘key features’ of the SAAP should be included:

- 1 Active, informed and inclusive participation by people experiencing homelessness will contribute to the development of solutions.
- 2 A human rights approach is fundamental to implementation of the program.

Effectiveness of existing legislation and regulations

We have no comment to make on this point as we are not involved in service delivery through SAAP.

We are confident relevant service providers will provide sufficient submissions.

Applicability of existing legislative and regulatory models used in other community service systems

Service Standards

We are of the view that Service Standards applying to provision of disability support services governed by *Disability Services (Eligibility – Targeted Support Services) Standards (FaHCSIA) 2008*, can be used as a basis for Standards relating to all support services provided under the Government’s social inclusion agenda.

We have modified the standards set out below to reflect the principles in the *Supported Accommodation Assistance (Form of Agreement) Determination 2008* (SAA Determination).

Standard 1: Service access

Each recipient has access to a service on the basis of relative need and available resources.

- 1.1 Inability to pay will not bar the recipient for accessing the service.
- 1.2 The service provider will meet the special needs of specific groups.
- 1.3 The service provider adopts and applies non-discriminatory entry rules in respect of age, gender, race, culture, religion or disability, consistent with the contractual obligations of the service provider and the purpose of the service

Standard 2: Individual needs

Each recipient receives a service that is designed to meet, his or her individual needs and personal goals consistent with the purpose of the service.

- 2.1 Service providers are sensitive to the range of needs of the recipient.
- 2.2 Appropriate client-focussed responses are delivered as soon as practicable;
- 2.3 Case management ensures that changing needs are being met.

Standard 3: Independence and resilience maximised

Service delivery is aimed at maximising the recipient's capacity for independence and resilience.

- 3.1 The service provider will establish appropriate connections with a range of social and economic supports, including family and social networks, employment, housing, education and income support, to help with longer-term stabilisation.
- 3.2 The service provider will enhance the recipient's opportunities for participation and involvement in the community.

Standard 4: Decision making and choice

Each service recipient has the opportunity to participate as fully as possible in making decisions in relation to the service he or she receives.

Standard 5: Privacy, dignity and confidentiality

Each service recipient's right to privacy, dignity and confidentiality in all aspects of his or her life is recognised and respected.

Standard 6: Complaints and disputes

Each service recipient is encouraged to raise, and have resolved without fear of retribution, any complaints or disputes he or she may have regarding the service provider or the service.

Standard 7: Service management

Each service provider adopts quality management systems and practices that optimise outcomes for service recipients.

Standard 8: Staff recruitment, employment and training

Each person employed to deliver services to recipients has relevant skills and competencies.

Standard 9: Protection of human rights and freedom from abuse

The service provider acts to prevent abuse and neglect and to uphold the legal and human rights of service recipients.

Conclusion

We commend the Government on all its social inclusion initiatives. They are worthy and sorely needed to assist the most vulnerable members of our society.

In order to provide the most effective relief, joined-up policy and service delivery is required. It requires cooperation and collaboration between all parts and levels of government and non-government agencies as well as active, informed participation of the homeless and those at risk of homelessness.

We thank you for taking the time to consider our submission and ask that you contact us should you have any queries