

New Homelessness Legislation

- 3.1 Chapter 3 considers the need for new homelessness legislation and options for developing a legal framework that builds on the strengths of elements within the *Supported Accommodation Assistance Act 1994* (the SAA Act). The scope of new homelessness legislation framework is also considered, particularly as it applies to achieving an integrated and coordinated response to homelessness.

A Commitment to New Homelessness Legislation

- 3.2 Until relatively recently, the Supported Accommodation Assistance Program (SAAP) has been the Government's main policy and program response to addressing homelessness. As discussed in Chapter 2, the purpose of the SAA Act was to support the funding and administration of SAAP. As such the Act applied to specialist homelessness services only, specifically services provided under SAAP. As noted in the submission from the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) the SAA 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.¹

- 3.3 However, the SAA Act is now redundant as the Australian Government no longer funds SAAP. Specialist services for people who are homeless or at risk of homelessness are now supported under the National Affordable Housing Agreement (NAHA) and its associated National Partnership

¹ Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), Submission No 86, p 5.

Agreements (NPs). It is in this context that consideration of the opportunity to develop new homelessness legislation that reflects changes in the demographics of the homeless population, as well as changes in social standards and expectations has arisen.² The Government's White Paper *The Road Home* refers to the need to establish legislation to support the new national approach to addressing homelessness, stating:

A strong legislative base must remain in place to underpin the national homelessness response, set standards and deliver the best quality services possible for people who are homeless.³

- 3.4 *The Road Home* expands upon the purpose and possible framework for such legislation as follows:

The Australian Government will enact new legislation to ensure that people who are homeless receive quality services and adequate support.

In addition, service standards encouraging best practice and achievement of outcomes would be set out in the legislation, ensuring national consistency and quality of the services offered to people experiencing homelessness.⁴

- 3.5 While there is widespread support for the development of new homelessness legislation in submissions⁵, the Tasmanian and New South Wales (NSW) governments have expressed concerns. Specifically, the two state governments argue that Commonwealth homelessness legislation which prescribes service standards, will in their opinion, be inconsistent with the intention of the intergovernmental agreement (IGA) on Federal Financial Relations. The IGA is intended to '... improve the quality and effectiveness of government services by reducing Commonwealth prescriptions on service delivery by the states and gives them greater

2 See for example: Commissioner for Children and Young People (Western Australia), Submission No 7, p 14; Council for Homeless Persons, Submission No 80, pp 18–19; Public Interest Law Clearing House (Vic) Homeless Persons' Legal Clinic, Submission No 85, p 27; FaHCSIA, Submission No 86, p 5.

3 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 38.

4 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 44.

5 See for example: Mission Australia, Submission No 53, p 22; Wesley Mission Melbourne, Submission No 70, p 7; Queensland Public Interest Law Clearing House (QPILCH), Submission No 47, pp 1–2.

flexibility to determine the most appropriate way in which services are delivered'.⁶

3.6 As observed by the Tasmanian Government:

Given the establishment of the Intergovernmental Agreement on Federal Financial Relations (IGA), it is unclear why homelessness legislation is required to underpin the response to homelessness, which is being actively progressed by all jurisdictions, through the National Affordable Housing Agreement and Homelessness NP, and, more importantly, what it will seek to achieve.⁷

3.7 Similarly the NSW Government has argued:

Given that the Australian Government is no longer funding States and Territories to deliver a specific homelessness program, the need for specific legislation to replace the Supported Accommodation Assistance Act as an instrument for funding is not evident. Consideration of the possible content of homelessness legislation should take into account the potential for specific legislation of this type to obscure the broader focus of the Intergovernmental Agreement on Federal Financial Relations on reducing prescriptions on service delivery and removing input controls from the Australian Government's funding arrangements with the States and Territories.⁸

3.8 *The Road Home* and the Committee's terms of reference indicate a commitment by the Australian Government to introduce new homelessness legislation.

Challenges for New Homelessness Legislation

3.9 The purpose and function of new homelessness legislation will necessarily be very different to the SAA Act it replaces. While the SAA Act directly supported the administration of program specific funding provided by the Commonwealth for specialist homelessness services, these services are now supported under the NAHA. The Committee acknowledges that this change has concerned some specialist homelessness services seeking a

6 Council of Australian Governments (COAG) website, viewed on 13 October 2009 at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/index.cfm.

7 Tasmanian Government, Submission No 93, p 1.

8 NSW Government, Submission No 96, p 6.

statutory guarantee for their funding.⁹ However, it is anticipated that the new homelessness legislation plus the NAHA will provide at least the same level of certainty that these services have had historically.

- 3.10 Clearly, new homelessness legislation will need to be developed in such a way that it is consistent with policy as set out in *The Road Home*, compatible with the intent of the IGA and with objectives and outcomes of NAHA and associated NPs.¹⁰ Acknowledging that the new NAHA and NP framework recognises the responsibility of all governments to work toward reducing homelessness, the Australian Council of Social Services (ACOSS) also concludes that:

New homelessness legislation must reflect the new funding environment and be sufficiently broad in scope as to allow Governments to make strategic funding decisions, while ensuring accountability and progress towards achievement of outcomes under the NP and supporting a sustainable specialist homelessness sector.¹¹

- 3.11 One of the main issues to be addressed is the extent to which current policy objectives and aims in *The Road Home*, the NAHA and NPs should attract greater force and durability through inclusion in legislation. If the purpose of new homelessness legislation is to establish a framework which reinforces the commitment of governments to address homelessness holistically, then it will need to recognise the associations between homelessness and broader disadvantage, including the challenges associated with accessing mainstream services. Also such legislation will need to have a broader focus than on the provision of emergency services and supports for those people already in crisis, and include a much greater emphasis on the prevention of homelessness and on breaking the cycle of homelessness.
- 3.12 If, as suggested in *The Road Home*, the purpose of new homelessness legislation is also to set nationally consistent standards for services, then a significant challenge may be to develop a standards framework that is useful but at the same time sufficiently flexible to apply to the diversity of services used by homeless people and those at risk of homelessness. The issue will be the extent to which new homelessness legislation should seek

9 See for example: Southern Youth and Family Services (SYFS), Submission No 4, p 10; Homelessness Australia, Submission No 39, pp 11-12; Financial and Consumer Rights Council, Submission No 44, p 4; National Shelter, Submission No 63, p 6.

10 NSW Government, Submission No 96, pp 6-7.

11 Australian Council of Social Services (ACOSS), Submission No 60, p 6.

to prescribe national standards for services, and the scope of services that these standards should be applied to.

- 3.13 The remainder of this Chapter will consider the issues associated with developing overarching legislation that reinforces the commitment of all governments to implementing a holistic response to homelessness.

The Objectives of New Homelessness Legislation

- 3.14 As new homelessness legislation will have an entirely different purpose and function to the SAA Act, its objectives will need to be clearly defined and explicitly stated. In its submission ACOSS suggests that:

The objectives of new homelessness legislation should be directed to the prevention of homelessness, the protection of the human rights of service users and to supporting the development of quality, flexible and innovative service delivery models.¹²

- 3.15 ACOSS also suggests that legislation will need to be consistent with, and reflect the objectives and outcomes set out in the NP on Homelessness, observing:

The NP frames its objective as being that ‘people who are homeless or at risk of homelessness achieve sustainable housing and social inclusion’. The NP also contains the following outcomes:

- (a) Fewer people will become homeless and fewer of these will sleep rough;
- (b) Fewer people will become homeless more than once;
- (c) People at risk of or experiencing homelessness will maintain or improve connections with their families and communities, and maintain or improve their education, training or employment participation; and
- (d) People at risk of or experiencing homelessness will be supported by quality services, with improved access to sustainable housing.¹³

- 3.16 The Committee agrees that the objectives of new legislation should be explicitly stated in the new legislation and be consistent with the

12 ACOSS, Submission No 60, p 3.

13 ACOSS, Submission No 60, pp 3–4.

objectives and outcomes of the NP on Homelessness. Therefore the essential elements to be expressed in the objectives should include:

- achieving an overall reduction in homelessness by providing access to adequate and sustainable housing; and
- achieving social inclusion for people at risk or experiencing homelessness.

Recommendation 1

3.17 That new homelessness legislation explicitly state that its objectives are to:

- **achieve an overall reduction in homelessness by allowing access to adequate and sustainable housing; and**
- **achieve social inclusion for people experiencing homelessness or at increased risk of homelessness.**

3.18 The Committee has not included the stated objective of improving quality services and supports for people who are homeless or at increased risk of homelessness. The extent to which new legislation should prescribe national standards for services that are used by homeless people and those at risk of homelessness is considered in more detail in Chapter 5.

Building on the Strengths of Existing Legislation

3.19 Although the SAA Act is now more than 15 years old, a significant volume of evidence notes that at the time of its introduction it was viewed as a progressive, valuable and symbolic piece of social justice legislation. In particular, evidence highlights general regard for the SAA Act based on the involvement of representatives from the homelessness service sector in developing the Act, and on the inclusion of broad principles and values about social justice and the rights of people experiencing homelessness.¹⁴ As observed in the submission from the Southern Youth and Family Services (SYFS):

14 See for example: YP Space MNC Inc, Submission No 11, pp 6–7; Homelessness Australia, Submission No 39, p 5; Queensland Youth Housing Coalition (QYHC), Submission No 50, p 13; Salvation Army Australia Southern Territory, Submission No 91, p 12.

This Act has stood the test of time and was seen as progressive legislation by many including in similar countries overseas. The SAAP Program that the SAAP legislation supported was also seen as a progressive, well co-ordinated, national response to a national social problem.¹⁵

3.20 Also, while recognising the need for new homelessness legislation, a substantial body of evidence has called for certain positive aspects of the SAA Act to be retained or strengthened. In particular, evidence shows strong support for the following two elements of the SAA Act:

- the principles and values regarding social justice for homeless people as detailed in the preamble to the Act, including reference to international human rights legislation; and
- the broad definition of homelessness which extends beyond consideration of those who are sleeping rough, to also include those who are not adequately housed, and those who are at risk of becoming homeless.¹⁶

The Supported Accommodation Act Preamble

3.21 The preamble to the SAA Act 'sets out considerations taken into account by the Parliament of Australia in enacting the laws that follows'.¹⁷ In brief the SAA Act preamble frames a rights based approach to service provision for people who are homeless or at risk of homelessness. The SAA 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

15 SYFS, Submission No 4, p 6.

16 See for example: SYFS, Submission No 4, p 6; Women's Health Victoria, Submission No 16, p 4; Homelessness NSW, Submission No 28, p 12; Byron Emergency Accommodation Project, Submission No 30, p 1; Regional Youth Development Officers' Network (RYDON), Submission No 33, pp 4, 10-11; Christo Youth Services, Submission No 35, p 8.

17 *Supported Accommodation Assistance Act 1994*, Preamble.

(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 1986.¹⁸

3.22 Overwhelmingly the view expressed in the evidence is that references in the SAA Act preamble to Australian human rights obligations and assertions regarding social justice and empowerment of homeless must at a minimum be preserved, or preferably strengthened in new legislation.¹⁹ As stated by the Coalition Against Youth Homelessness (CAYH):

[New homelessness] Legislation should also take into account, as the preamble that exists within the SAAP Act 1994 does, the rights, that individuals are experiencing homelessness or at risk of experiencing homelessness but these could be better defined and articulated within new legislation.²⁰

3.23 As suggested by the Queensland Youth Housing Coalition (QYHC) below, new homelessness legislation would be strengthened if the rights and principles currently in the SAA Act preamble were moved and embedded in the body of new legislation:

... in the new proposed national homelessness legislation it would be essential that the principles are listed within the body of the new proposed national homelessness text and not within a Preamble as this would give the legislation increased substance.²¹

3.24 A number of submissions have also suggested that it would be appropriate for new homeless legislation to incorporate a redrafted preamble. For example, the Australian Red Cross has suggested that a redrafted preamble could be used to establish and strengthen the association between homelessness legislation and policy:

To give it continuing effect as a part of the framework for action it is desirable to expressly provide in the legislation, through the

18 *Supported Accommodation Assistance Act 1994*, Preamble.

19 See for example: SYSF, Submission No 4, p 6; Quality Management Services (QMS), Submission No 12, p 8; Youthlaw, Submission No 24, p 3; RYDON, Submission No 33, p 10; Homelessness Australia, Submission No 39, p 15; ACOSS, Submission No 60, p 5; Homeless Persons' Legal Service (HPLS), Submission No 65, p 5; Wesley Mission Melbourne, Submission No 70, p 3.

20 Coalition Against Youth Homelessness (CAYH), Submission No 23, p 5.

21 QYHC, Submission No 50, p 7. See also: Welfare Rights Centre, Submission No 59, p 2; National Shelter, Submission No 63, p 2; Council for Homeless Persons, Submission No 80, p 18.

content of the Preamble', that '*The Road Home*' is to be taken into account in not only interpreting the legislation but also working out the implementation and application of the legislation.²²

- 3.25 ACOSS has proposed that a redrafted preamble within new legislation should also recognise the complex and dynamic causes of homelessness, including structural, social and individual causes.²³ In addition, the Aboriginal Legal Service of Western Australia (ALSWA) suggests that the preamble should acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of Australia, and make reference to dispossession and successive government policies that have contributed to Aboriginal and Torres Strait Islander homelessness.²⁴

The Context for New Homelessness Legislation

- 3.26 The Committee acknowledges the extensive support expressed in submissions for the intent and content of the SAA Act preamble. The Committee considers that there is merit in the proposal to include a redrafted preamble in new homelessness legislation. The Committee believes that a redrafted preamble would explicitly align new homelessness legislation with the Government's policy objectives for addressing homelessness as set out in *The Road Home* and implemented through the NAHA and associated NPs. A redrafted preamble could also establish the relationship with broader Government housing legislation and policy, including initiatives intended to increase the supply of affordable housing.
- 3.27 The Committee also believes that a redrafted preamble could provide the appropriate means of acknowledging the various and complex drivers of homelessness (e.g. poverty, shortages of affordable housing, domestic violence, disability and chronic illness). It could include recognition of Aboriginal and Torres Strait Islander people as the traditional owners of Australia and the relationship between dispossession and homelessness for this group of people. The redrafted preamble could also establish the relationship between new homelessness legislation, the Government's Social Inclusion Agenda and other national reforms targeting the structural and individual causes of homelessness such as the National Mental Health and Disability Employment Strategy, the National Child

22 Australian Red Cross, Submission No 77, p 10.

23 ACOSS, Submission No 60, p 8. See also: RYDON, Submission No 33, pp 4–5; Christo Youth Services, Submission No 35, p 5; Homelessness Australia, Submission No 39, p 3; Youth Accommodation Association (YAA), Submission No 54, p 9.

24 Aboriginal Legal Service of WA (ALSWA), Submission No 73, p 5.

Protection Framework and the National Plan to Reduce Violence against Women and their Children.

Recommendation 2

3.28 That the Minister for Housing include a preamble in new homelessness legislation which:

- establishes its relationship and alignment with the Australian Government's policy for addressing homelessness as set out in *The Road Home* and implemented through the National Affordable Housing Agreement and associated National Partnerships;
- establishes its relationship with housing legislation and policy, including initiatives to increase the supply of affordable housing;
- acknowledges the individual, socio-economic and structural causes of homelessness, including explicitly for Aboriginal and Torres Strait Islander peoples; and
- establishes its relationship with the Social Inclusion Agenda and other national reforms that target the structural and individual causes of homelessness.

3.29 As noted earlier, some submissions have argued for Australia's human rights obligations to be embedded into the main body of new homelessness legislation. The case for this is examined in more detail in the context of the outcomes of the National Human Rights Consultation in Chapter 4.

The Legislative Definition of Homelessness

3.30 The importance of new homelessness legislation that includes a clear definition of homelessness has been emphasised, as it determines who is able to access services set out in the Act.²⁵ For example, the submission from the Salvation Army Australia Eastern Territory states:

25 See for example: SYFS, Submission No 4, p 6; B Such, Submission No 26, p 1; RYDON, Submission No 33, p 7; Homelessness Australia, Submission No 39, p 7; UnitingCare Australia, Submission No 41, p 6; National Youth Coalition for Housing (NYCH), Submission No 52,

Clarity of meaning must be paramount within legislation. We strongly recommend a broad, non-discriminative definition of homelessness which encapsulates the scope and complexity of homelessness, recognising that it is far deeper than 'rooflessness', while at the same time acknowledging the need for an appropriate dwelling.²⁶

- 3.31 As noted in Chapter 2, the ABS uses a cultural definition which distinguishes between primary (rough sleeping), secondary (short-term crisis accommodation) and tertiary homelessness (inadequate and/or insecure accommodation). A significant merit of this definition is that it recognises that homelessness extends beyond those sleeping rough, and also includes those in temporary or inadequate accommodation.²⁷
- 3.32 While not defining homelessness in the same way as the ABS, the SAA Act also recognises that the issue of homelessness extends beyond those without a roof.²⁸ Importantly, the SAA Act definition of homelessness takes into account how people evaluate the suitability and adequacy of their housing situation. The SAA Act definition of homelessness includes people who are living in a housing situation that is inadequate because:
- it damages, or is likely to damage, the person's health (SAA Act Section 4, Subsection 2a); or
 - it threatens the person's safety (SAA Act Section 4, Subsection 2b);
 - it marginalises people by failing to provide adequate access to amenities or economic and social supports (SAA Act Section 4, Subsection 2c); or
 - they are at risk of eviction because their house or flat is too expensive (SAA Act Section 4, Subsection 2d).
- 3.33 The SAA Act definition of homeless also includes people living in accommodation provided under SAAP if their eligibility was determined on the basis of their inadequate access to safe and secure housing (SAA Act Section 4, Subsection 3).

pp 8-9; Salvation Army Australia Eastern Territory, Submission No 55, p 11; Australian Government Department of Health and Ageing (DoHA), Submission No 67, p 10; Salvation Army Australia Southern Territory, Submission No 91, pp 7-9.

26 Salvation Army Australia Eastern Territory, Submission No 55, p 11.

27 See for example: YP Space MNC Inc, Submission No 11, pp 6-7; RYDON, Submission No 33, p 2; Hanover Welfare Services, Submission No 34, p 1; Christo Youth Services, Submission No 35, p 8.

28 *Supported Accommodation Assistance Act 1994*, Section 4.

- 3.34 Given the purpose of the SAA Act (i.e. to grant financial assistance to the states to administer SAAP), the legislated definition of homelessness was formulated to identify legitimate populations eligible for SAAP services. Essentially the broad legislative definition of homelessness allowed welfare agencies to assist people at risk of becoming homeless, as well as people actually experiencing homeless.
- 3.35 Evidence has generally supported retaining a broad definition of homeless which recognises all forms of homelessness, including those people living in inadequate or temporary housing and people at risk of homelessness.²⁹ As illustrated by the statement below from Council to Homeless Persons:
- Essential to new legislation is a broad and representative definition of homelessness and risk of homelessness. The current SAAP definition of homelessness, which is loosely formed around a human rights framework, should be retained and expanded on.³⁰
- 3.36 The need to extend the legislative definition of homelessness to recognise the causes of Aboriginal and Torres Strait Islander homelessness was also emphasised by the ALSWA which states:
- A broad definition of Aboriginal and Torres Strait Islander homelessness in the interpretation section should be included which considers spiritual homelessness and other contributing factors such as overcrowding and the cultural obligation to house immediate and extended family members.³¹
- 3.37 The Council to Homeless Persons also recommended:
- ... that legislation must include clear definitions of and protection for those at risk of becoming a victim of primary, secondary, tertiary or spiritual homelessness. This is in line with the 'no exits into homelessness' policy outlined in the Australian Government white paper.³²
- 3.38 Similarly, Homelessness Australia recommends extending and enhancing the definition of homeless for new legislation, stating that the definition should:

29 See for example: RYDON, Submission No 33, p 2; Mission Australia, Submission No 53, p 22; Shelter NSW, Submission No 56, pp 12-13; Catholic Social Service Australia, Submission No 68, p 2; Australian Human Rights Commission (AHRC), Submission No 90, p 21.

30 Council to Homeless Persons, Submission No 80, p 7.

31 Aboriginal Legal Service of WA, Submission No 73, p 5. See also: Homelessness Australia, Submission No 39, p 8; YAA, Submission No 54, p 7; ACOSS, Submission No 60, p 8.

32 Council to Homeless Persons, Submission No 80, p 7.

... giv[e] clarity to the categories of primary, secondary and tertiary homelessness, specialist homelessness services and create a spiritual definition of homelessness that encompasses separation from traditional land or family specific to Indigenous Australians.³³

3.39 Elaborating on the practicalities of implementing a new legislative definition of homelessness, Homelessness Australia contends:

... [the SAA Act] definition could readily co-exist with the ABS cultural definition of primary, secondary and tertiary homelessness in new legislation. Both definitions provide a useful and authoritative Australian construct of what we mean by homelessness and who can be regarded as at risk of becoming homeless.³⁴

3.40 However, concern about the implications of using a broad definition was raised by the Supported Accommodation Providers' Association (SAPA), the peak industry body representing Queensland based private sector providers of level 3 residential services. Level 3 private residential facility residents are people with some form of disability, mental illness and/or chronic illness. Many are in the population group considered to be at a high risk of homelessness. Under the broad cultural definition of homelessness, clients of level 3 private residential services technically fall into the category of tertiary homelessness. In the context of the 'no exits from care into homelessness' policy set out in *The Road Home* SAPA argues that the categorisation of level 3 residents as 'homeless' under the broad definition, will prohibit referrals to level 3 facilities from hospitals or from other institutional care situations. As many clients are referred to level 3 residential facilities in this way, SAPA contends that the future of privately-owned supported accommodation will be jeopardised, resulting in increased levels of homelessness for this vulnerable group of people.³⁵

A Broad Definition of Homelessness

3.41 Given the Government's continuing policy emphasis on prevention of homelessness and early intervention, the Committee agrees that a broad definition of homelessness needs to be retained in new legislation. The Committee believes that a legislative definition of homelessness could be

33 Homelessness NSW, Submission No 28, p 7.

34 Homelessness Australia, Submission No 39, p 16.

35 Supported Accommodation Providers' Association (SAPA), Submission No 76, pp 6-8. See also: D Negus, Transcript of Evidence, 21 October 2009, p 5.

drafted in such a way that it is consistent with and complements the cultural definition used by the ABS.

- 3.42 The Committee recommends that the legislative definition clearly defines the primary, secondary and tertiary categories of homelessness and emphasises the importance of adequate, affordable and secure housing. The Committee also recommends that the new definition of homelessness should incorporate adequate recognition of Aboriginal and Torres Strait Islander homelessness caused by cultural dislocation.

Recommendation 3

- 3.43 **That the Minister for Housing include a broad definition of homelessness in new homelessness legislation based on an extended version of the definition in the *Supported Accommodation Assistance Act 1994*. The revised definition of homelessness should be consistent with and complement the cultural definition as used by the Australian Bureau of Statistics, including recognition of primary, secondary and tertiary categories of homelessness.**
- 3.44 Notwithstanding the recommendation above, the Committee recognises that in specific circumstances such as those described by SAPA, the adoption of a broad definition of homeless may have unintended consequences.
- 3.45 In this situation, the Committee urges the considered application of the concept of 'culturally recognised exceptions'³⁶ for Level 3 private residential facilities (and their equivalents in other states) to alleviate the risks outlined by SAPA.

36 The concept of 'culturally recognised exceptions' is described in Chamberlain C & MacKenzie D (2009), *Counting the Homeless 2006*, S Cat no HOU 203-210, Canberra: AIHW, p 2. 'The minimum community standard provides a cultural benchmark for assessing 'homelessness' and 'inadequate housing' in the contemporary context. However, there are a number of institutional settings where people do not have the minimal level of accommodation identified by the community standard, but in cultural terms they are not considered part of the homeless population. They include, inter alia, people living in seminaries, elderly people in nursing homes, students in university halls of residence and prisoners.'

Scope of New Homelessness Legislation

- 3.46 As noted earlier, due to significant structural changes in housing and homelessness policy, as well as broader reform initiatives such as the Social Inclusion Agenda, any new homelessness legislation will be very different to the SAA Act. Importantly while the scope of the SAA Act was limited in its application to services provided under SAAP, the scope of new legislation will necessarily be much broader.
- 3.47 A significant volume of evidence has emphasised the importance of new legislation that supports and facilitates:
- an integrated and coordinated legislative, policy and service delivery response to homelessness that includes cooperation:
 - ⇒ at all levels of government (Federal, state and local);
 - ⇒ across different portfolios; and
 - ⇒ between government, the community sector and the private sector;
 - a holistic approach to reducing homelessness through support for a range of measures that target all stages of homelessness and risk, including:
 - ⇒ prevention and early intervention measures, underpinned by an adequate supply of appropriate, affordable and stable housing;
 - ⇒ an increased supply of quality short-term, medium term and longer term accommodation for people who are experiencing homelessness; and
 - ⇒ a continuity of access to services and supports for people who are homeless or at increased risk of homelessness to improve sustainable outcomes by facilitating transitions from homelessness to adequate and secure housing.

Integrated and Coordinated Responses to Homelessness

- 3.48 Responsibility for funding, policy development and implementation is shared between the Commonwealth and state governments. Service delivery is also a shared responsibility involving all levels of government, non-government community based organisations and to a lesser extent the private sector. *The Road Home* states that ending homelessness is 'everyone's responsibility' and as such requires 'sustained long-term effort from all levels of government, business, the not-for-profit sector and the

community.³⁷ Also in accordance with guiding principles articulated in *The Road Home*³⁸, evidence indicates widespread support for an integrated and coordinated response to homelessness.³⁹ As summarised by ANGLICARE Diocese of Sydney:

... a 'joined-up' system involves more than better cooperation between Government and the non-Government sector. It is also about the ability of Government Departments to work collaboratively and across their own departmental lines. It is about the ability of Federal and State Governments working together to ensure optimal outcomes for clients and an integrated and holistic approach to homelessness and the complex issues which surround it. It is about Government Departments accepting Non-Government Organisations (NGOs) as partners in solving homelessness issues.⁴⁰

Whole of Government

3.49 Achieving a whole of government response to homelessness will require coordination and cooperation between all levels of government and across all relevant portfolios. As outlined by Catholic Social Services Australia:

People who need help with housing connect with the system at any number of entry points. Access to services is ad hoc and homeless people constantly fall through the cracks with inadequate safety nets in place. There is clearly the need for a better integrated response to homelessness services from Commonwealth, State/Territory and Local Governments. Where multiple agencies are required to respond clear lines of accountability must be developed.⁴¹

37 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p viii.

38 The 10 guiding principles include: 'a national commitment involving strong leadership and cooperation from all levels of government and from non-government and business sectors' and 'a commitment to joined-up service delivery and policy'.

39 See for example: City of Melbourne, Submission No 14, p 2; B Such, Submission No 26, pp 1-2; ANGLICARE Diocese of Sydney, Submission No 31, pp 8-9; RYDON, Submission No 33, p 6; Hanover Welfare Services, Submission No 34, p 3; Women's Legal Service Victoria, Submission No 36, p 11; Mission Australia, Submission No 53, p 9; M Vardanega, Submission No 57, pp 1-5; Catholic Social Services Australia, Submission No 68, p 4; Alcohol and Other Drugs Council of Australia, Submission No 64, p 2; K Gumley, Transcript of Evidence, 28 October 2009, pp 1-2; L Podesta, Transcript of Evidence, 28 October 2009, p 2.

40 ANGLICARE Diocese of Sydney, Submission No 31, p 8.

41 Catholic Social Services Australia, Submission No 68, p 4.

- 3.50 In providing its support for a whole of government response Homelessness NSW notes that it is consistent with one of the key principles of the Government's Social Inclusion Agenda:

The principle of 'building joined-up services and whole of government(s) solutions' involves achieving integrated and collaborative responses by getting different parts and different levels of government to work together in new and flexible ways.⁴²

- 3.51 Achieving positive and sustainable outcomes will also require integration and cooperation across government portfolio boundaries to ensure that people who are homeless or at increased risk of homelessness receive all of the assistance and services they need. This will involve establishing appropriate linkages across multiple government departments and agencies.⁴³ Importantly, evidence has emphasised the need to ensure adequate access not just to specialist homelessness services but also to mainstream services, particularly health services (including mental health services), education, employment services and social security.⁴⁴ Based on its research, Australian Housing and Urban Research Institute (AHURI) summarised the need for access to broader mainstream services as follows:

... homelessness support services must focus upon the broader needs and outcomes of people who are homeless or at risk of homelessness. Particular needs beyond housing that are identified in this research include assistance accessing mental health services, health services, drug and alcohol abuse services, income and money management assistance.⁴⁵

- 3.52 While focusing more specifically on people with mental illness who are homeless or at increased risk, the Royal Australian and New Zealand College of Psychiatrists (RANZCP) concluded that:

42 Homelessness NSW, Submission No 28, p 8.

43 Departments and agencies include for example: Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA); Centrelink; Department of Health and Ageing (DoHA); Medicare Australia; Department of Education, Employment and Workplace Relations (DEEWR); Office of Early Childhood Education and Child Care; Career Advice Australia; Job Access; Department of Immigration and Citizenship; Attorney-General's Department.

44 See for example: Commissioner for Children and Young People (WA), Submission No 7, p 12; RANZCP, Submission No 13, p 7; Coalition Against Youth Homelessness, Submission No 23, p 4; Hanover Welfare Services, Submission No 34, p 3; DoHA, Submission No 67, pp 14–16; DEEWR, Submission No 69, pp 3–9.

45 Australian Housing and Urban Research Institute (AHURI), Submission No 19, p 6.

Addressing the needs of homeless people, especially those with mental illness, requires a shift from a simple 'health' or 'housing' model of care to a more integrated model that addresses the broad range of psychosocial problems alongside the health problems. The service system is currently chaotic involving numerous Federal government agencies, State government agencies and non-government organisations, including the charitable sector and volunteer organisations. Targeted mental health services to homeless people must be integrated with housing services, but also need to be linked with primary care, physical health services, rehabilitation services, employment services, financial support services, substance abuse services and the justice system.⁴⁶

- 3.53 To support an integrated response to homelessness, submissions have called for legislation that incorporates a 'no wrong door' philosophy. To be effective evidence has indicated that this should apply to anyone providing services to homeless people or people at increased risk of homelessness, including mainstream service providers.⁴⁷ As explained by the Australian Psychological Society (APS):

The APS supports the 'No wrong doors policy', and believes it will be of particular benefit to those with mental health issues as they often face difficulty navigating systems. It is recommended that capacity be increased to mainstream agencies who will take an increased role in supporting homeless people to navigate the system, and support for a range of services to work together is the key to holistic and effective support to homeless people with complex needs. Services should be specifically resourced to support people through transition points (e.g., discharge from hospital, newly arrived in Australia, transition into adulthood) and to work with the 'hidden homeless', such as families and victims of family violence.⁴⁸

- 3.54 Submissions have included reference to a number of initiatives currently operating in Australia that seek to provide an integrated and coordinated

46 RANZCP, Submission No 13, p 10.

47 See for example: Asylum Seeker Resource Centre, Submission No 5 (Attachment 1), p 10; RYDON, Submission No 33, p 14; Mission Australia, Submission No 53, p 9; Australian Red Cross, Submission No 77, pp 5, 7.

48 Australian Psychological Society, Submission No 40, p 11.

response to homelessness (e.g. the Foyer Model for young people and the housing first model).⁴⁹

- 3.55 At a minimum, achieving a ‘no wrong doors’ outcome for homeless people or people at risk of homelessness who are seeking assistance will require improved communication between specialist services and mainstream services to facilitate appropriate referrals. Others have suggested that mainstream services should be required to have strategies and policies in place that outline how they will assist people who are homeless or at risk.
- 3.56 While recognising the need to broaden the scope of legislation to engage more closely with mainstream services, some evidence has cautioned that care should be taken to avoid the situation where specialist homelessness services end up picking up responsibility for shortfalls in other community services areas. As explained by CAYH:

In the past SAAP services have provided the safety net, or the ‘dumping ground’ to other community services systems that have not been able to provide appropriate responses within their own systems with the expectation that homelessness service providers will respond with far less resources available to them.⁵⁰

Whole of Community

- 3.57 In addition to supporting a whole of government(s) approach to homelessness, evidence has also supported the need for improving cooperation and partnerships between governments, the community sector and the private sector.⁵¹ To encourage this, Homelessness NSW suggests that:

Homelessness legislation must contain principles and measures to provide a legislative framework that facilitates the work of government and non-government agencies in working collaboratively in partnership to resolve homelessness.⁵²

49 See for example: SYFS, Submission No 4; p 3; Commissioner for Children and Young People (WA), Submission No 7, p 15; CAYH, Submission No 23, p 7; W Talbot, Submission No 89, pp 1-3.

50 CAYH, Submission No 23, p 11. See also: SYFS, Submission No 4, p 9, 12; ANGLICARE Diocese of Sydney, Submission No 31, pp 8-9; N Clay, Transcript of Evidence, 19 August 2009, pp 4-5.

51 See for example: RYDON, Submission No 34, p 8; Christo Youth Services, Submission No 35, p 6; Women’s Legal Service Victoria, Submission No 36, p 11; Queensland Government, Submission No 92, p 16.

52 Homelessness NSW, Submission No 28, p 9.

- 3.58 Emphasising that building partnerships between governments, non-government organisations and communities is consistent with the Government's Social Inclusion Agenda, the Council for Homeless Persons encourages a whole of community response as follows:

We push for a broad sector approach to social inclusion and we advocate for a collaborative and capacity-building focus across the community, private and public sector.⁵³

- 3.59 Mission Australia suggested a robust whole of community response to homelessness could be supported in the following way:

Introducing plans to reduce homelessness at the local level may be one way of encouraging whole of community responses. A clearly articulated local plan to end homelessness in the region could act to draw in a range of stakeholders and ensure a coordinated and integrated approach to need in the area. This could be facilitated in Australia by local governments or a collective of local governments at a regional level.⁵⁴

- 3.60 In considering engagement with the private sector *The Road Home* states:

Some of Australia's largest companies and institutions – like Westpac, Vodaphone, ANZ, Toll Holdings and Grocon – directly fund a variety of initiatives aimed specifically at reducing homelessness. These range from early intervention initiatives for children and families at risk of homelessness to building new specialist models of social housing for rough sleepers at cost, foregoing substantial profit.⁵⁵

- 3.61 Despite reportedly limited engagement with the corporate and private sector in relation to reducing homelessness⁵⁶, the potential for successful partnerships models was noted in the submission from CAYH:

An example of an integrated service model can be found in Victoria called Frontyard Youth Services and is auspiced by Melbourne Citymission. This is a collocated service delivery model for young people aged between 15 and 25 who are experiencing homelessness or at risk of homelessness. It is a unique model in

53 Council for Homeless Persons, Submission No 80, p 13.

54 Mission Australia, Submission No 53, p 8.

55 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 20.

56 Homelessness Australia, Submission No 39, p 30.

that it incorporates federal, state, local, philanthropic and private sector funded programs.⁵⁷

- 3.62 The inquiry received limited evidence from the private sector. However, the submission made by SAPA contends that the private sector already contributes to reducing homelessness by providing quality and cost effective accommodation for a population group considered at high risk of homelessness. It also argues that even more could be done by the private sector with extra government support.⁵⁸

Developing Coordinated Responses and Supporting Partnerships

- 3.63 The Committee agrees that an integrated and coordinated response to homelessness involving governments and non-government organisations is essential if targets for reducing homelessness are to be achieved. The Government's commitment to an integrated and coordinated approach to policy and services is already broadly supported though the Government's Social Inclusion Agenda and its principles. In relation to homelessness specifically, the commitment is articulated in *The Road Home*, as well as in the NAHA and associated NPs. To some extent reference to these initiatives and agreements in a redrafted preamble will acknowledge the importance of an integrated and coordinated response. However, the Committee believes that this core principle should be explicitly stated in the body of new homelessness legislation. There is also potential under the objectives of new legislation to include information on how the aim of legislation is to be achieved.

Recommendation 4

- 3.64 **That new homelessness legislation explicitly states a commitment to reducing homelessness through an integrated and coordinated approach involving partnerships between:**
- all levels of governments and across portfolios; and
 - governments and the not-for-profit and for-profit sectors.

57 CAYH, Submission No 23, p 7.

58 SAPA, Submission No 76, p 3.

Private Sector Investment

3.65 The Committee believes that a major challenge for governments will be engaging productively with the private sector to reduce homelessness. *The Road Home* and NAHA focus on the for-profit private sector's capacity to reduce homelessness through measures designed to encourage building of more affordable housing (e.g. National Rental Affordability Scheme) and through philanthropic support for homelessness programs and services. However, the Committee is aware of the significant role played by the for-profit private sector in the provision of aged care accommodation and services.⁵⁹ In view of this, and of evidence suggesting that with additional government assistance the private sector could contribute further to reducing homelessness, the Committee recommends that the Government examine the full range of options to fully harness the capacity of the for-profit private sector.

Recommendation 5

3.66 **That the Minister for Housing examine the full range of options for engaging innovatively with the for-profit sector, as well as the not-for-profit sector, to reduce homelessness.**

A Holistic Approach to Reducing Homelessness

3.67 A large number of submissions support the development of new homelessness legislation that moves away from providing a crisis based response for people who are homeless, to a multi-dimensional approach which targets all stages of homelessness and risk. Essential features of this approach would require a legal framework which supports a range of measures including initiatives that:

- promote prevention of homelessness and early intervention;
- address homelessness when it does occur through a diverse range of suitable accommodation and support options; and

59 L Podesta, Transcript of Evidence, 28 October 2009, p 4.

- provides continuity of services and supports, including assistance during transitions, leading to sustainable, adequate and long term housing outcomes.

3.68 In support of this approach, the concept of a 'continuum of care' was proposed by ANGLICARE Diocese of Sydney and is described briefly below:

[Continuum of care] ... means that early intervention and prevention programs reduce the potential for homelessness at one end of the spectrum and an integrated, coordinated case management approach can provide consistent care if homelessness does occur.⁶⁰

Prevention and Early Intervention

3.69 *The Road Home* includes a commitment to preventing homelessness before it occurs, stating:

It is important that efforts are directed both at preventing homelessness – by identifying people at risk and ensuring that they have access to the right support before reaching crisis point – and preventing the causes of homelessness.

Preventing homelessness involves both tackling the structural drivers of homelessness (such as entrenched disadvantage and the shortage of affordable housing) and targeting groups who are at particular risk of homelessness (such as people exiting statutory care and people in housing stress).⁶¹

3.70 Support for the inclusion of prevention and early intervention strategies (e.g. family counselling, financial counselling and debt management, assistance to apply for public housing etc) which target assistance to people at risk of homelessness is also widespread in evidence to the inquiry.⁶² Evidence also suggests that prevention and early intervention strategies can be successful and cost effective interventions.⁶³

60 ANGLICARE Diocese of Sydney, Submission No 31, p 9.

61 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 24.

62 See for example: Commissioner for Children and Young People (WA), Submission No 7, p 2, 10; Kids Under Cover, Submission No 9, p 1; RANZCP, Submission No 13, pp 7-8; Cairns Community Legal Centre, Submission No 17, p 5; Byron Emergency Accommodation Project, Submission No 30, p 1; ANGLICARE Diocese of Sydney, Submission No 31, p 11; Hanover Welfare Services, Submission No 34, p 2; Christo Youth Services, Submission No 35, p 5; Women's Legal Service Victoria, Submission No 36, p 8; Australian Christian Lobby, Submission No 37, p 1; St Vincent de Paul Society, Submission No 43, p 5; Financial and

Accommodation for People who are Homeless

3.71 While preventing homelessness is the ideal, inevitably for some, prevention and early intervention will not be accessed or will not come in time. For those people who find themselves homeless there is a need for appropriate short term, medium term and longer term accommodation. While the type and duration of accommodation required will vary depending on individual circumstances, national data suggests that there is a shortage of suitable accommodation options.

3.72 Figures cited in the Australian Institute of Health and Welfare (AIHW) report, *Demand for SAAP accommodation by homeless people 2007–08*, indicate that:

When considered as a percent of people requiring new and immediate SAAP accommodation (excluding those continuing their accommodation) on an average day ...

- 55% of adults and unaccompanied children or just over 1 in 2 were turned away.
- 66% of accompanying children or 2 in 3 were turned away.
- 59% of all people or over 1 in 2 were turned away.⁶⁴

3.73 The shortage of suitable accommodation options for homeless people was also emphasised in evidence to the inquiry.⁶⁵ As a result of these shortages one provider of accommodation for homeless people reported:

... often the only option that we have to offer them is accommodation in pretty crummy boarding houses or in motels on a short-term basis.⁶⁶

Continuity of Support

3.74 Another important feature of a holistic response to homelessness raised in evidence relates to the continuity of services and supports for homeless

Consumer Rights Council, Submission No 44, p 3; Community Housing Tasmania, Submission No 45, p 5; HPLS, Submission No 65, p 13.

63 See for example: AHURI, Submission No 19, p 5; Australian Psychological Society, Submission No 40, p 8; NYCH, Submission No 52, p 18.

64 Australian Government Australian Institute of Health and Welfare (2009), *Demand for SAAP accommodation by homeless people 2007–08: summary*, Bulletin 71, p 2.

65 See for example: SYFS, Submission No 4, p 4; Commissioner for Children and Young People (WA), Submission No 7, p 4; Salvation Army Tasmanian Division, Submission No 42, p 8; N Clay, Transcript of Evidence, 19 August 2009, p 13; M Graham, Transcript of Evidence, 16 September 2009, p 2.

66 M Graham, Transcript of Evidence, 16 September 2009, p 2.

people to ensure that long term, adequate housing has been secured and the capacity for independent living is achieved.⁶⁷ Evidence relating to time based service targets associated with SAAP suggest that inflexible time limits imposed on access to support services incorrectly assumes that people will experience only short periods of homelessness.⁶⁸ As stated by Catholic Social Services Australia:

If time limits are to be imposed on client support periods then a more realistic assessment of this is required. Many case workers focused on assisting particularly disadvantaged individuals reflect that building a relationship with the individual and/or their family is a crucial factor in gaining positive outcomes and often involves many hours of contact over an extended period of time. In terms of homelessness crisis support, 6-12 months would be a more realistic timeframe to apply.⁶⁹

- 3.75 Ongoing access to case management was identified in a number of submissions as an effective means of providing support for homeless people, particularly those with multiple and complex needs.⁷⁰ Research conducted by the AHURI found that:

The evidence demonstrates that effective case management is a time- and resource-intensive intervention. However, controlled experiments show that it is cost-effective because it reduces other system expenditure such as hospitalisation. Multidisciplinary teams providing a case management relationship with the required qualities has been proven to deliver reduced homelessness and more client satisfaction at no extra total system cost than office-based services, for clients requiring a complex service response.⁷¹

67 See for example: ANGLICARE Diocese of Sydney, Submission No 31, p 9; Hanover Welfare Services, Submission No 34, p 3; Women's Legal Service Victoria, Submission No 36, p 13; Australian Christian Lobby, Submission No 37, p 1; Australian Psychological Society, Submission No 40, pp 10, 13.

68 See for example: St Vincent de Paul Society, Submission No 43, p 10; McAuley Community Services for Women, Submission No 94, p 2; M Cronin & M Graham, Transcript of Evidence, 16 September 2009, pp 12-13.

69 Catholic Social Services Australia, Submission No 68, pp 7-8.

70 See for example: Commissioner for Children and Young People (WA), Submission No 7, p 19; B Such, Submission No 26, p 2; ANGLICARE Diocese of Sydney, Submission No 31, p 9; Mission Australia, Submission No 53, p 15; Council for Homeless Persons, Submission No 80, p 18.

71 AHURI, Submission No 19, p 6.

From Reactive to Proactive

- 3.76 Comments made earlier in this Chapter indicate the Committee's recognition of the critical importance of preventing homelessness by acknowledging and addressing structural, socio-economic and individual causes. Given the diversity and complexity of causal factors, it would not be feasible for all of these to be addressed in single piece of legislation. Hence the Committee's recommendation for a redrafted preamble which establishes the context and linkages with other relevant agenda and initiatives.
- 3.77 Nevertheless, the Committee agrees that the need for a multi-dimensional response to homelessness should be incorporated into the new homelessness legislation. This will require legislation that articulates a commitment to reducing homelessness through support for a range of measures. These measures will need to include initiatives that focus on prevention and early intervention for people who are identified as being at risk of homelessness. Also the Committee was particularly concerned by data from the AIHW highlighting the critical shortage of crisis and emergency accommodation for people who are homeless. Addressing this issue will require a commitment to ensuring there is an adequate supply of appropriate crisis and emergency accommodation for people experiencing homelessness. To prevent cycling in and out of homelessness, the Committee believes that continuing assistance to support transitions from homelessness into adequate and sustainable housing is essential. Improved access to long term case management for vulnerable population groups, including young people in the 14–18 year age group and people with mental illness, is an important aspect of continuing support. Accordingly, the Committee recommends that the commitment to prevention and early intervention, to the provision of adequate crisis accommodation and to continuity of support should be included under the objective of new homelessness legislation.

Recommendation 6

- 3.78 **That the Minister for Housing include in new homelessness legislation a commitment to reducing homelessness by:**
- **supporting prevention and early intervention strategies;**
 - **providing an adequate supply of appropriate accommodation options for people who are experiencing homelessness; and**

- **providing ongoing services and support, including case management, to ensure transitions into suitable and sustainable housing.**

