

Submission No. 44
(homelessness legislation)
A.O.C. | Date: 24/08/09



Submission

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

Inquiry into homelessness legislation

Financial and Consumer Rights Council

Victoria

The Financial and Consumer Rights Council Inc. (FCRC) is the peak body for Financial Counsellors and community based organisations in Victoria who are concerned with the rights of low income and vulnerable consumers.

The FCRC is an independent not-for-profit organisation which is primarily funded by the Department of Justice and has been in operation since 1996.

Amongst other things, the FCRC provides a support network for approximately 200 member Financial Counsellors, primarily through ongoing training, education and professional development seminars. Additionally, the FCRC is active in promoting the rights of consumers and seek to achieve this by the provision of consumer information and community education, as well as effective casework support and advocacy.

Introduction

The White Paper, *The Road Home*, has ambitiously established the direction for Australian policy development on homelessness. The inquiry into homelessness legislation is welcomed, and it is hoped that there can be open and honest dialogue to genuinely examine and consider remedies to reduce homelessness. Legislation must have scope beyond establishing funding objectives and guidelines, as the existing *Support Accommodation Assistance Act 1994* currently does. The principles that reinforce homelessness legislation should relate directly to the ideology of *The Road Home*, with particular reference to early intervention/prevention strategies, improvement and expansion of services, and, breaking the cycle of chronic and repeat homelessness. This submission shall focus on the important role that a Financial Counsellor (FC) can play in the early intervention/prevention of homelessness, and the need for national measures to review and improve residential tenancy legislation.

The introduction of the National Partnership Agreement (NPA) on homelessness is encouraging. It is crucial however, that the aim of the NPA is not merely to reduce the physical number of homeless persons to meet performance benchmarks. The aim of legislation surrounding NPA's should be based on empowering and supporting people to express their right to adequate housing¹, and, be aligned with

¹ United Nations, International Covenant on Economic, Social and Cultural Rights, Article 11(1).

the Social Inclusion Principles for Australia². The following recommendations cover service provision and referral, and, additional mechanisms to prevent homelessness.

1. Increased access to Financial Counselling

The Road Home has reinforced the need to expand and improve upon services, and also, to provide increased access to financial counselling and advocacy services. FC's would be ideally placed at both the entry and exit stages of homelessness, and can act as a 'circuit breaker' to prevent people from entering crisis situations requiring emergency relief services. FC's can provide advocacy and access to remedies for low income and vulnerable people in the areas of payment arrears, debt management, bankruptcy, grant application and budget management. This can reduce the financial strain on individuals and families and decrease their likelihood of becoming involved in vulnerable tenancies and eviction.

The Road Home stated the intention to increase the role of Centrelink in 'turning off the tap' of homelessness. This is constructive; however it is important to increase the scope of early intervention/prevention to include those who are *not* registered with Centrelink. It is imperative to recognise individuals and families, who whilst not eligible for Centrelink benefits, may be experiencing financial hardship and facing the real prospect of impending homelessness. This is an increasing phenomenon that FC's are identifying, and in many cases, people are seeking support for the first time in their lives.

FC's have noticed a significant increase in demand for their services, particularly with the impact of the global financial crisis (GFC). This was acknowledged by the Hon. Jenny Macklin, who announced a funding boost of \$80m to financial counselling and emergency relief services in June 2009, with a view to "strengthening the ties between financial counsellors and emergency relief workers". By strengthening the relationships between financial counsellors, emergency relief workers and other support services, there can be increased referral pathways which will create a more responsive support system, committed to the outcomes of the NPA. To achieve this strengthening, it is important that there is genuine and continued commitment to the provision of financial counselling services, with a view to proactively preventing homelessness regardless of the economic climate.

Recommendations:

² Australian Government, Social Inclusion Board 2009.

- ***Legislation surrounding the NPA should include stipulations regarding allocation of funding for service provision, particularly for financial counselling resourcing and training. This will enable a greater complement of FC's to perform advocacy and counselling services due to the increasing demand for their service, and, will reinforce the important function of financial counselling in the prevention of homelessness.***
- ***There needs to be increased financial literacy training for emergency relief workers and case managers, to ensure appropriate referral to a financial counselling service. This will ensure that all financial stresses and disadvantages can be examined effectively to reduce the imminent prospect of homelessness.***

2. Increased access to stable housing

It is commendable to see that *The Road Home* is committed to enhancing tenancy support and improving tenancy laws. There should also be strong commitment to a policy of no forced evictions for public and private tenants, in situations concerning rental arrears. In a general comment on the right to adequate housing, the Office of the High Commissioner for Human Rights observed that:

16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.³

Given that Australia is a signatory to the Covenant of which this comment refers; it is expected that legislation on housing and homelessness be in accordance with international human rights standards. This is not the case; as was first noted in 2006 by the report of the Special Rapporteur on adequate housing, which was conducted for consideration by the Human Rights Council of the United Nations General Assembly.⁴ Special Rapporteur Kothari also noted that in residential tenancy legislation within each state and territory there is a distinct lack of protection against eviction, with a recommendation for uniform housing policies across Australia with a view to protect and foster tenancies.

³ Office of the High Commissioner for Human Rights, The right to adequate housing Article 11(1): forced evictions: 20/05/1997, Committee on Economic, Social and Cultural Rights General Comment 7.

⁴ Report of the Special Rapporteur on adequate housing – Mission to Australia (31 July to 15 August 2006)

It is essential that there are provisions within residential tenancy legislation which protect low income and vulnerable tenants from arbitrary eviction. A residential tenancy agreement should have the same protections as other consumer based agreements or contracts. There has been significant development in the areas of consumer protection and regulation in the broader market. With particular reference to the utilities market, the use of 'hardship' provisions and policies have ensured that low income and vulnerable consumers are protected from utility disconnection and debt accumulation through unrealistic payment plans. Whilst there is still room for improvement in utility hardship policies, the idea of hardship should be applied to residential tenancy agreements. Failure to include hardship provisions is in direct violation of a low income and vulnerable tenant's right to access adequate housing, free from forced eviction, and their right to consumer protection under the law. It is crucial that national tenancy reform occur; to protect low income and vulnerable tenants from homelessness.

Recommendation:

- ***National regulation and review of state and territory residential tenancy laws, with the introduction of a 'Hardship' clause. This should ensure that tenants have access to rental payment plans, protection from unjust and punitive rental increases, streamlined access to rental grants, and freedom from 'blacklisting' on residential tenancy databases. Eviction is not a solution; it is a causal factor to homelessness which must be addressed.***

Thank you for the opportunity to contribute to the review on homelessness legislation. In considering the recommendations made in this submission, it is anticipated that they can enhance the dialogue surrounding homelessness policy. There must be a genuine commitment to increasing the capacity of low income and vulnerable people to have access to support services and provisions to protect them from the real and impending fear of homelessness and increased disadvantage.



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