



17 August 2009

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

Committee email: fchy.reps@aph.gov.au

Re: Inquiry into the principles and service standards for new homelessness legislation

Dear Secretary

The Welfare Rights Centre Sydney welcomes the opportunity to provide brief comments on the principles and service standards for new homeless legislation.

We are a community legal centre specialising in Social Security law, policy and practice. Many of our clients have either experienced homelessness or are at risk of homelessness. Income support in Australia, such as the Newstart Allowance at approximately \$227 per week, is set at subsistence level. Many of our clients who are at risk of homelessness have Centrelink debts. Issues of homelessness are clearly inter-related with a multitude of other issues including adequate income support.

Our advocacy is therefore grounded in the experience of our clients and on behalf of our client base. It is our contention that a rights-based approach must be embedded in the new homelessness legislation.

The Government's white paper on homelessness, *The Road Home*, indicated that the legislation guiding the Government's response to homelessness, *the Supported Accommodation Assistance Act 1994*, (the SAA Act) should be strengthened. We commend the Government for providing key stakeholders, service providers and the users of homeless services with this opportunity to improve on the strengths of the existing Act. Rights-based legislation is essential to provide a level of protection for people who are homeless or at risk of homelessness and to recognise their fundamental right to services of the highest quality.

More effective partnerships across government agencies, community service providers and the users of the service are also important. They are needed to build on the platform of services already provided and to ensure a flexible and innovative response to the complex problem of homelessness.

Principles underpinning homelessness legislation

Terms of Reference

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

The preamble in the current Act should be mirrored in the proposed new legislation and should re-state the Government's commitment to social inclusion, social justice and the need to address inequalities and reduce poverty.

It should be enhanced by the explicit mention in the legislation – as opposed to the preamble – of many of the current principles which are recognised as important in the *SSA Act*. Most important is the recognition of the need for respect for religious and cultural diversity; human rights; respect for individuals; responsiveness to individual needs and circumstances and recognition of the powerlessness and marginalisation experienced by people who are homeless.

Additional principles that should be included in the new Act are a new focus on prevention and early intervention, effective consumer participation, client feedback and transparency in evaluation of quality and policy effectiveness.

In either the legislation or in a preamble to the Act there should be specific mention of consistency of approach based upon human-rights and a commitment to addressing the social inclusion of homeless Australians.

Scope of homeless legislation

Terms of Reference

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

The legislation should reflect the commitments made in the National Partnership (NP) Agreement on Homelessness which is broader than the previous SAAP Agreement. The new legislation must take account of new funding arrangements while ensuring that the National Partnership priorities are delivered on time and are accountable.

The new focus in the NP on early intervention and prevention, tenancy support and supported housing should be included as new *aims and objects* in the proposed legislation.

Human Rights

The issue of human rights in the context of homelessness is extremely important and should be acknowledged in the legislation. A recognition of a universal right to, and a guarantee of access to, homeless services guarantee should be in the new Act.

We note that the National Human Rights Consultation Committee (NHRCC) is due to report at the end of September 2009. Irrespective of whether the Government decides to support a national human rights act or a human rights charter, the right to housing and the government's responsibilities in this area should be clearly articulated in its response.

Definition of homelessness

The legislation should include a broad definition of homelessness, and include a definition of homelessness where "homelessness" is defined as being either primary, secondary and tertiary homelessness. The White Paper articulates a very wide definition of homelessness that includes not just people "rough sleeping" and those living in specialist homeless services, but also people living in boarding houses, caravan parks with no secure lease. In the past some areas of Government have opted for a very narrow definition of what actually constitutes "homelessness". The

community will be better served if a definition which encompasses homelessness in all its permutations is adopted.

The new legislation should continue to include a specific reference to people considered to be “at risk” of homelessness”, to ensure that people in this group are eligible to access homeless services.

All groups who experience homelessness or are a risk of becoming homelessness and in need of support should be provided with support. The right to support should be made explicit in the new Act. This should include people exiting from Corrective Services, detention and juvenile justice facilities. It should also cover people leaving hospital, and young people leaving state care. The legislation should explicitly mention the requirements to meet the objectives of there being “no exits” into homelessness in any circumstances

The Act should include a principle that states that access to an adequate standard of housing at a decent acceptable level according to set standards is a right. People should have a right to housing that is affordable, safe, secure and appropriate to their needs.

The legislation should continue to reflect the current *SAA Act*, which is to “help people who are homeless to achieve the maximum possible degree of self-reliance and independence...”

There should be a guarantee of a universal access to homeless services, with accessibility to services regardless of an individuals’ capacity to pay. The levels of services for a person presenting for assistance should be enshrined in the legislation.

Broader legislative framework for housing and homeless policy

Laws relevant to homelessness and housing include the SAA Act and the Housing Assistance Act 1996. These acts are linked to specific funding agreements. In addition, the new National Affordable Housing Agreement (NAHA) sets out a range of partnerships on homelessness, social housing and Indigenous housing. Ongoing and substantial inroads to reduce homelessness will only be effective from a coordinated approach on the ground and an approach that ensures an increase in the supply of affordable housing.

The Committee should consolidating legislation and broader housing policy. This would create benefits of such as greater consistency, coordination,

efficiency and effectiveness. The nation's response to homelessness could be better aligned if such consolidation were to occur.

Taking responsibility

The legislation should stipulate the respective roles and responsibilities of all levels of Government (Federal, State and Territory and local (where relevant)) in addressing homelessness.

Targets that are included in *The Road Home* should be included in legislation, especially the target to reduce homelessness by 20 per cent by 2020. Progress towards meeting the targets should be reported to parliament annually. The legislation should indicate a process for Government's to report on the reasons for any failure to meet the nominated targets and for Government's to report on how efforts to address any deficiencies will be met.

The lack of reliable data on a range of indicators related to homelessness was identified in *The Road Home* as a serious deficiency which impedes the ability to address the problems that have been identified. The legislation should include a requirement to undertake regular surveys of users of homeless services improve quality assurance and encourage responsiveness, flexibility and innovation in service delivery.

Terms of Reference

The role of legislation in improving the quality of services for people who are homeless or at risk of homelessness.

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

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.

Welfare Rights notes that there is currently an absence of a national regulatory framework for the delivery of homeless services. While systems of accreditation and quality assurance can be a drain on resources, they provide important protections and rights for users of services if they can be exercised and enforced.

Service providers and people who are homeless, or who have been homeless, should be centrally involved in the design and development and measurement of service standards. Any system of regulation should allow innovation of services and ensure ongoing improvement and that the services provided are of high quality, yet should avoid adding undue costs and complexity for both providers and service users.

The new Act must safeguard a client's right to lodge a complaint about a service they use, and guarantee that they will be treated fairly and impartially, without recrimination.

People who access services for those who are homeless (and their advocates or nominated support worker) should have access to internal review, appeal and complaint mechanisms which are freely available and accessible. They must also have access to independent external review and complaint mechanisms which comply with the relevant Australian standards for complaints handling schemes.

Yours sincerely

Maree O'Halloran
Director
Welfare Rights Centre