

The Commission for Children and Young People and Child Guardian

promoting and protecting the rights, interests and wellbeing of all Queenslanders under 18

Advice to: The Secretary, House of Representatives Standing Committee on Family, Community, Housing and Youth

Topic: Response to Inquiry into homelessness legislation

Date due: 25 August 2009

Submission No. 74

(homelessness legislation)

A.O.C. Date: 27/08/09

Thank you for providing the Queensland Commission for Children and Young People and Child Guardian (the Commission) with the opportunity to comment on the House of Representatives Standing Committee on Family, Community, Housing and Youth Inquiry Into Homelessness Legislation (the Inquiry).

The Commission's focus is the safety and wellbeing of children and young people in Queensland. Accordingly, the Commission will limit its feedback to issues impacting upon children and young people who are homeless, at risk of homelessness, or part of a family affected by homelessness.

The Commission recommends that:

1. Principles underpinning any homelessness legislation include express recognition of the rights and best interests of children and young people.
2. The legislative scope regarding children and young people transitioning from care extend to their ongoing needs and not simply stop at emergency or crisis accommodation.
3. The role of homelessness legislation include:
 - more effectively preventing homelessness by extending the definition of 'homelessness' to capture recognised categories of persons at risk of becoming homelessness and identifying unaccompanied homeless children and young people as priority groups
 - addressing the needs of young people leaving state care and transitioning to independence by coordinating holistic responses which enable housing, health, education and social inclusion services to be provided, and
 - developing specific standards of service delivery.
4. Existing legislative and service provision gaps be addressed to prevent the safety and wellbeing of children and young people impacted by homelessness being further jeopardised. Consultation with homeless children and young people and those at risk of homelessness be undertaken to develop relevant and effective legislation.

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

The Australian Government's White Paper on Homelessness has already identified that the needs of children at risk of homelessness require special attention. The Commission agrees that more needs to be done to prevent and address homelessness amongst children and young people. Accordingly, principles underpinning any homelessness legislation should expressly recognize the rights and best interests of children and young people, who are particularly vulnerable in the context of homelessness. These principles should be reflective of the *United Nations Convention on the Rights of the Child*. For example, in Queensland, the *Child Protection Act 1999* establishes a Charter of Rights for children and young people in statutory care. This Charter of Rights recognizes

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the particular needs which must be addressed in order to ensure the safety and improvement of children and young people's emotional, physical and psychological well-being. Some of the rights enshrined in the *Child Protection Act 1999* include:

- provision of a safe and stable living environment
- placement in care that best meets the child's needs and is most culturally appropriate, and
- being consulted about, and taking part in making decisions affecting the child's life (having regard to the child's age or ability to understand), particular decisions about where the child is living and the child's health and schooling.

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

Currently in Queensland, both the *Child Protection Act 1999* and *Juvenile Justice Act 1992* include limited provisions for the support of young people transitioning from statutory care, however, there is currently no follow-on legislation to guide a holistic approach to meet the complex, unique and ongoing needs of these vulnerable young people.

According to the Australian Institute of Health and Wellbeing (2009) (AIHW), young people who have been in statutory care are at greater risk of homelessness and the Government's White Paper on Homelessness recognises young people leaving child protection and juvenile detention as being at increased risk of homelessness and therefore identifies them as a priority population group.

In fulfilling the Australian Government's commitment to implementing a policy of 'no exits into homelessness' from statutory, custodial care and hospital, mental health and drug and alcohol services, homelessness legislation should cover the period immediately following a young person's transition from statutory care to reduce the possibility of them falling through the gaps and into homelessness. Children and young people who self-place out of statutory care should also be covered by any such legislation.

It is essential that legislation is not simply focussed on emergency or crisis accommodation for young people leaving care, but the ongoing needs of vulnerable young people transitioning from care.

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

Defining homelessness

The *Supported Accommodation Assistance Act 1994's* (the Act) current definition of homelessness only extends to people who are at *imminent risk* of becoming homeless. Broadening the definition of homelessness to identify recognised categories of persons at risk of becoming homelessness, would assist in more effective and targeted prevention of homelessness and achieve the Australian Government's new policy direction to prevent, address and reduce levels of homelessness. For example, young

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people who have been in statutory care have been identified as being at greater risk of homelessness.

Defining priority groups – children and young people

Data published by the AIHW¹ in 2009 shows that:

- in Queensland in 2006, there were 26,782 homeless people, of which:
 - 4,469 or 16% were teenagers aged 12 to 18 (mainly on their own), compared to 21% across Australia, and
 - 2,914 or 11% were children under 12 who were with one or both parents, (the national average was 12%)
- Indigenous people were overrepresented in all sections of the homeless population in Queensland
- at any one time in Australia there were 15,000 students who were at risk of becoming homeless, and
- young people who have been in state care are at greater risk of homelessness.

Currently, the Act does not single out homeless children and young people who are unaccompanied by a parent as a priority group. Identification of this category of person would guide a service response tailored to meet the unique and complex needs of children and young people who are homeless, or who are at risk of homelessness.

To further reduce the likelihood of children who are homeless or who are at risk of homelessness 'falling through the gaps', any identification of children and young people as a priority group could include particular reference to those who are at risk of abuse and neglect, including domestic violence and those leaving statutory care (either as part of a transition from care program or those who self-place out of care). Such an approach is consistent with the Federal Government's commitment to *no exits into homelessness*.

Identification of responsible agencies

Contemporary research has made clear that the causes of, and events which lead to, homelessness are complex and are not simply the result of housing or shelter issues. Consequently, no one agency can address the multitude of factors affecting those who are homeless, or at risk of homelessness, alone.

In relation to children and young people, it will be important to address the needs of young people leaving state care and transitioning to independence through the coordination of holistic responses that enable housing, health, education and social inclusion services to be provided.

Service standards

The development of specific standards would benefit children and young people impacted by homelessness. For example:

¹ Chamberlain, C. & McKenzie, D. (2009) Counting the Homeless: Queensland 2006. Australian Institute of Health and Welfare.

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- outlining minimum criteria for short term and long term accommodation options
- identifying a prescribed time limit that a child or young person can be placed in temporary or crisis accommodation before suitable permanent accommodation is found, and
- developing service delivery standards to assist in appropriate permanent placement of children and young people. This would also provide Government with a performance measure to determine effectiveness of placement strategies and its ability to appropriately house those who are most vulnerable.

Section 122 of the Queensland *Child Protection Act 1999* outlines the standards of care which inform the provision of services to children and young people who are under a care and protection order. These standards encompass both the rights and the holistic needs of children and young people and could inform similar service standards for children and young people in relation to homelessness.

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

The Act currently does not address the needs of all homeless children and young people, for example:

- children and young people are only recognised as homeless if they exceed the school leaving age for each particular jurisdiction
- if a child or young person is accompanied by a parent or guardian, the adult is viewed as the primary client
- services for homeless children aged under 16 years who are unaccompanied by a parent/guardian are not funded through SAAP programs at all
- not all homeless children and young people access or seek out SAAP services and assistance
- homeless young people aged between 12 and 15 years may be precluded from accessing financial support from Centrelink if:
 - it is not appropriate to contact the child's parent/s to verify the child or young person's identity to process their application for financial assistance as a result of child abuse, neglect or family breakdown, or
 - a parent is contacted to determine if a child is 'homeless' and the parent indicates that the child is welcome home, when this is not actually the case.

These legislative and service provision gaps further jeopardise the safety and wellbeing of children and young people who are already at risk as a result of homelessness and need to be addressed to as part of the homelessness legislation reforms.

Consultation with children and young people who are homeless or at risk of homelessness

To ensure optimum effectiveness and relevance of service delivery responses to homeless children and young people and those at risk of homelessness, it will be critical for consultation to occur with them throughout the development of homelessness legislation.

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Please do not hesitate to contact Natalie Kenney, Senior Policy Officer, Strategic Policy and Research Unit (ph: 324 75525 or e-mail Natalie.Kenney@ccypcg.qld.gov.au) should any aspects of this advice require clarification.