

SUBMISSION FROM THE SALVATION ARMY  
AUSTRALIA SOUTHERN TERRITORY



The House of Representatives Standing Committee on  
Family, Community, Housing and Youth Inquiry into  
Homelessness Legislation

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## Introduction

The Salvation Army has provided social and community services to the Australian community for more than 120 years. In particular, The Salvation Army has supported people who are homeless through a range of practical services, accommodation options and programs.

The Salvation Army Australia Southern Territory includes over 300 centres that provide community services and social programs through networks of Salvation Army Churches, Community Centres and Social Service Networks in the states of Victoria, South Australia, Western Australia, the Northern Territory and Tasmania. Each day The Salvation Army extends care to over 5,000 homeless people in the territory. The Salvation Army youth services alone support more than 12,000 young people each year and accommodate more than 1,000 young people each night in housing programs.

Our homeless response includes emergency relief; crisis accommodation and support; transitional and longer term accommodation and support; outreach support; generalist, financial, gambling, sexual assault and other specialist counselling services; specialist family violence interventions, including outreach and refuge responses. We also provide a suite of early intervention and postvention programs that range from highly targeted, specific intensive interventions through to more generalist life stage responses; those responses include programs for families, young people, single men and women, and care for vulnerable older people. Targeted employment programs and family reunion programs are also a part of our homelessness response.

Government funding for these programs is significant. However, funding derived from donations directly to The Salvation Army from the Australian people, through the annual Red Shield Annual doorknock and Corporate Donor fundraising activities provide a significant contribution to our support to homeless people. Indeed, fundraised money enables The Salvation Army to be innovative and support people who do not easily fit within government-funded program guidelines. It allows us to work where others cannot by providing value-added, coordinated and integrated services that look to meet the needs of the whole person.

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

Homeless people are among the most vulnerable people in Australia. They need the protection of a human rights framework to shape the policy and program responses to ensure that they are afforded their fundamental human rights, which are enshrined in international law. The NYC makes the point that, 'prior to 2007, the Federal Government had 'shown little interest in developing a domestic human rights regime to implement its human rights obligations under international law.'<sup>1</sup>

If we acknowledge that homelessness results in violations of human rights, the natural outcome is to adopt a human rights framework in tackling the issues impacting on people who are homeless. This requires a paradigm shift in the way we view and respond to people who are homeless. As a nation we need to move from a welfare approach to a human rights approach.

Recognising that Australia has, 'legal and moral obligations to promote, protect and realise the human rights of all people'<sup>2</sup> we need to acknowledge that 'homeless people are not merely objects of charity, seeking help and compassion from the state. Instead, they are individuals who are entitled to protection and promotion of their human rights.'<sup>3</sup>

The recently released White Paper on Homelessness, *The Road Home*,<sup>4</sup> is an excellent start to protecting and promoting the human rights of homeless people. The headline goals of 'halving overall homelessness and offering supported accommodation to all rough sleepers who need it by 2020'<sup>4</sup> are commendable goals. The White Paper outlines 10 guiding principles that underpin the implementation of the recommendations; principle 6 states that, 'the rights and responsibilities of individuals and families need to be protected.'<sup>5</sup>

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<sup>1</sup> National Youth Commission, (2008), *Our Homeless Youth – A Report of the National Youth Commission Inquiry into Youth Homelessness*. NYC Melbourne p 34

<sup>2</sup> [http://www.hreoc.gov.au/Human\\_Rights/housing/homelessness\\_2008.html](http://www.hreoc.gov.au/Human_Rights/housing/homelessness_2008.html)

<sup>3</sup> [http://www.hreoc.gov.au/about/media/speeches/human\\_rights/2008/20080314\\_homelessness.html](http://www.hreoc.gov.au/about/media/speeches/human_rights/2008/20080314_homelessness.html)

<sup>4</sup> Homelessness Task Force (2008), *The Road Home – A National Approach to Reducing Homelessness*, Commonwealth of Australia, Canberra, p xii

<sup>5</sup> Ibid, p 19

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

This submission argues for a human rights approach to be taken in designing and applying laws that impact on homeless people and calls for the development of programs and services designed to address the homeless. This approach needs to be enshrined in legislation. As noted by the National Youth Commission, 'one of the enduring benefits of the 1989 Human Rights and Equal Opportunity Commission report on youth homelessness has been the human rights perspective that homeless children and youth have rights and that it is for government to uphold their rights by removing discrimination and ensuring entitlements. Without an Australian Bill of Rights there is no constitutional means to pursue litigation on behalf of homeless people.'<sup>6</sup>

The following human rights need to be protected and promoted for all people and for homeless people in particular. With many of these human rights there is a corresponding responsibility for homeless people to avail themselves of programs and responses which are designed to uphold these rights, however it needs to be noted that some people lack the confidence and/or capacity to access mainstream services and programs. Consequently, we must develop specific initiatives that will effectively engage homeless people and respond to their circumstances and needs.

Fundamental Rights which need to be protected include:

- The right to life, liberty and the security of person (Article 3)
- The right not to be subjected to cruel, inhuman or degrading treatment. (Article 6)
- The right to equality before the law and are entitled without any discrimination to equal protection of the law. (Article 7)
- The right to privacy. (Article 12)
- The right to freedom of movement and residence within the borders of each State. (Article 13)
- The right to freedom of opinion and expression.(Article 19)

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<sup>6</sup> National Youth Commission, (2008), '*Our Homeless Youth – A Report of the National Youth Commission Inquiry into Youth Homelessness.*' NYC Melbourne, p 31

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- The right to social security and is entitled to realisation, through national effort and international cooperation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. (Article 22)
- The right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. (Article 23)
- The right to a standard of living adequate for the health and well-being...including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (Article 25)
- The right to free elementary and fundamental education. (Article 26)
- The right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. (Article 27)

There are also important human rights that are the subject of the Convention on the Rights of the Child that Australian homelessness legislation should acknowledge, which seek to protect homeless children and young people. These include:

- The right to protection from discrimination because of their parents' actions or attributes (Article 2)
- In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. (Article 3)
- A child shall not be separated from his or her parents except when determined absolutely necessary (by competent authorities and subject to judicial review) for the best interests of the child (Article 9)
- The child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child (Article 12)
- States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by

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any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties. (Article 22)

- The right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. (Article 24)
- The right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. (Article 27)
- The right of the child to education (Article 28)

Furthermore the Social Inclusion Principles articulated by the Australian Social Inclusion Board have considerable applicability in designing responsive programs and services to support homeless people.

The Principles are:

1. Reducing Disadvantage
2. Increasing social, civil and economic participation
3. A greater voice combined with greater responsibility
4. Building on individual and community strengths
5. Building partnerships with key stakeholders
6. Developing tailored services
7. Focus on early intervention and prevention
8. Building joined up services
9. Evidence-based policy development
10. Locational approaches

11. Planning for sustainability<sup>7</sup>

## Definition of Homelessness

Unlike other countries that hold to narrow literal definitions of homelessness, for example defining 'homelessness' as living on the streets or in homeless shelters, Australians hold an accepted understanding that homelessness is typified by transience as homeless people move from one situation to another. Drawing on the Australian Bureau of Statistics definition, homeless people can be identified in the following categories, using data from the 2006 Census.<sup>8</sup>

1. Absolute homeless: That is, the primary homeless – people without accommodation including those living on the streets, in deserted buildings, improvised dwellings, in parks and so on.
2. Relative homeless: That is, the secondary homeless – people who are moving between various forms of temporary shelter, accommodated within the Supported Accommodation Assistance Program (SAAP) and other comparable emergency accommodation services, or those people who have no secure accommodation who stay temporarily with friends or relatives. According to the ABS, relative homelessness also includes the tertiary homeless – those people living permanently in single rooms, hostels and boarding houses without their own bathrooms or security of tenure.
3. Marginally housed: For example, residents of caravan parks. This recognises that many people on low income or who have lost their secure accommodation have no other options available to them other than caravan parks.<sup>9</sup>

Of course such an operational definition does not fully capture the lived experience of the homeless, which includes isolation from community and family, lack of financial support and no (or limited)

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<sup>7</sup> Social Inclusion Principles for Australia – Social Inclusion Board

<sup>8</sup> Australian Bureau of Statistics; 2006 Census: Homeless People; online last updated 15 November 2007.

<sup>9</sup> This group is not operationally specified in the Census.

accommodation, which is itself unstable. These experiences may have flow on effects such as poor health, chaotic or unstable daily lives, poor mental health and increasing social isolation.

Furthermore, homelessness can have a cumulative affect on a person's life because of, for example, broken connection to school, interrupted employment histories, longer-term damage to relationships, long-term health complications, difficulty trusting and maintaining relationship, stigma and welfare dependency.

Indeed, any discussion of homelessness definitions will not fully capture the complexity of an individual's life journey into homelessness. For example, we are aware that many women and children who use our homeless support and accommodation services have experienced family violence; that bleak experience is a contributing factor in their pathway into homelessness. Many children who grow up in the care and protection of the State 'graduate' to the homeless service system when the state is no longer required to support them.

Many people who leave prison, who are old and isolated, who have survived abuse, assault or torture, and who are vulnerable in employment, become homeless. Some people become homeless because they are ill. Others become homeless because their rental property is sold and they are unable to find alternative accommodation. We are aware of intergenerational homelessness in our services; children whose parents were young people accessing our homeless refuges in the 1980s. Many homeless clients of The Salvation Army have alcohol and other drug and/or mental health issues; we are also aware, however, that many people develop their alcohol, drug and mental health issues as a result of their homelessness.<sup>10</sup>

While defining and talking about homelessness is complex and multi-layered, it is important to retain a broader perspective so that we can consider a full range of supports and policy drivers to achieve our overall goals and targets. Although we recognise the methodological difficulties in counting and describing homeless people, The Salvation Army Australia Southern Territory believes that it is essential that the broad ABS cultural definition of homelessness be retained and embedded in any

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<sup>10</sup> Chamberlain C, Johnson G & Theobald J (2007); *Homelessness in Melbourne: Confronting the Challenge*; RMIT Publishing: Melbourne.



national homelessness framework, agreement, and accompanying legislation. This will ensure that measures of homelessness in Australia capture the full extent of homelessness and the range of living circumstances experienced by homeless people.

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

Australia's homelessness response currently enjoys the protection of legislation in the form of the Supported Accommodation Assistance Program (SAAP) Act (1994). This legislation is unique because it recognises Australia's commitment to human rights and frames our response to homelessness as a justice issue. This means Australians must acknowledge and address the powerlessness of homeless people, respect their dignity, enhance their self esteem, address their economic and social disadvantage and recognise the importance of their community and cultural beliefs and backgrounds.

These notions about how we respond to homelessness continue to resonate in the way that we speak about homelessness and the way that we conduct our services. Indeed, the values that underpin the SAAP Act resonated throughout the Prime Minister's speech that launched the Green Paper and more generally in the way that he has spoken about homelessness since he came into office.

The SAAP Act (1994) represents Australia's long-term, significant commitment to addressing homelessness. However, it is now time to connect the Act to recent developments and goals in homelessness service delivery. We believe that a new legislative frame for a new approach to homelessness is timely and necessary. A new legislative frame for our National Strategy Plan for Homelessness must at least do the same as the SAAP Act, although it could also do more. New legislation should, as well as setting a human rights basis, address homelessness sustainably and broadly acknowledging comprehensively, as we do in 2009, all of the drivers of homelessness. This would serve to broaden the focus of homelessness by acknowledging that one program response will not prevent homelessness from growing. The SAAP Act, because it is about only one program area, narrows our thinking and therefore risks narrowing our response.

Legislation can also work to protect the service system response. In particular our laws can ensure that funds released under the Act are spent as intended. An example of this may be legislation that enshrines key goals and targets such as a commitment to reduce homelessness by a measurable target by a specific year, and enshrines the right to crisis accommodation and support within an acceptable time frame. Legislation may also require States or regions to have housing and homelessness strategies that support the National Homelessness Agreement, thus protecting the whole of government and whole of nation response.

Legislation could also create and give mandate to a new National Implementation committee that would involve the state and territory jurisdictions, as well as some of the other NGO stakeholders.

Finally, legislation plays an important role in mandating the rights of homeless people to receive quality and timely services that preserve their human dignity.

## **Continuous Quality Improvement –**

### **National Standards of Service Delivery**

Several jurisdictions have developed service standards (Victoria's Homelessness Assistance Service Standards, South Australia's SAAP Performance Management Framework) and there is also an overseas example; the UK's Supporting People – Quality Assessment Framework. It is critical that we consolidate these jurisdictional efforts into one nationally consistent set of service standards and work towards quality assurance processes that support continuous improvement. This type of initiative builds on what has been done to date and would represent a component of sector infrastructure development.

The resource implications for organisations in developing and implementing accreditation systems needs to be noted, and adequate resourcing of this function will ensure that homeless people receive consistent, quality services. The regulatory burden on The Salvation Army to achieve accreditation in the many programs that we are funded to provide has been significant. Therefore we argue that it is important that the regulatory burden on agencies be as light as possible, while still underpinning the delivery of high quality services to a vulnerable people. Further, continuous improvement in the quality

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of service delivery and management is made very difficult if standards were to be embedded in legislation. Therefore, if legislation is chosen as the means of pursuing quality improvement then we suggest that this be through the articulation of principles that would form the basis of agreed service standards, rather than articulated standards in the legislation.

Some key issues that should be considered as national service standards for Homeless services are developed are:

- the standards should incorporate a continuous quality improvement approach
- review and accreditation should be independent of government
- peer review should be promoted
- any national approach to quality standards for homelessness services should recognise and complement State standards, such as the Victorian Government's Homelessness Assistance Service Standards
- There should be a COAG mutual recognition framework of service and organisational standards (inter-sector and inter-state). This would effectively provide a national smorgasbord of standards with legitimacy in all States and Territories, with related agreement that States and Territories should not require compliance against a particular set of standards unless those standards are acceptable to all COAG members
- Australian Homelessness service standards should have a 'systems' approach to quality standards requirements including, for example, ongoing evaluation of how and what is being required of whom and to what effect
- Sector learnings arising from external reviews need to be captured and discussed with government, including discussion of implications for service models, funding models, etc. as part of a systematic approach to service quality on the part of government
- There should be a research base to specific standards sets (possibly as a prerequisite to adoption or at least within the next three years for existing standards) that demonstrates the cost/benefit impact on client outcomes in the short-, medium- and long-term, compared with other standards and no particular standards
- Service users should be involved in the current consultations and ongoing evaluation

- Additional funding is required to a) enable services to undertake the additional activities involved in engaging with review processes without impacting existing service capacity, and b) purchase services of review bodies and cover ongoing costs of agencies' engagement with those bodies (e.g. membership)
- Government homelessness departments/offices should be reviewed against the same standards

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

The SAAP Act was first implemented in 1989 and updated in 1994. The Legislation was well supported legislation, which had community input into its development. This Act has stood the test of time and was seen as progressive legislation by many, including those in similar countries overseas. The SAAP Program that the SAAP legislation supported was also seen as a progressive, well coordinated, national response to a national social problem.

Prior to SAAP, the States/Territories were responsible for programs for homeless people. This resulted in uncoordinated, inconsistent programs that were also at times reduced or not supported.

Political pressure in the States/Territories' meant that other issues took priority e.g. child protection, health pressures, law and order concerns etc.

The SAAP Act protected homeless people's right to services and protected, to a degree, the service system that supported homeless people. Any new legislation should have a clear definition of homelessness that includes primary, secondary and tertiary homelessness. The definition should, as in the current SAAP Act, include in it the considerations of safety and security, as well as the need for adequate shelter. The homelessness response must continue to be supported by a social justice and human-rights based legislation as in the SAAP Act and this could be strengthened.

While the new priority of reducing homelessness is welcomed, there is fear about a lack of national coordination; the concern is that, over time, homelessness will not have such a high priority, and that this will occur prior to homelessness being eliminated. In line with the White Paper promoting, and

planning for, a greater role for mainstream services, the new Homeless Legislation should be a broader legislation than that mandating/covering specialist homelessness services. This would further strengthen a rights-based approach to homelessness, rather than a specialist or welfare-based approach.

SAAP Services have been left holding the main responsibility for supporting homeless people, for too long, and without increased funding in spite of data showing the increasing and unmet demand.

- 5. 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.**

The Disability Service Standards provide an important regulatory framework for ensuring that human rights are protected for people with disabilities and that services are participative and respect privacy, dignity and choice for each individual person.

A similar approach could be taken in developing service standards to underpin service responses to homeless people. We would, however, stress the importance of broad consultation with the homeless support service network in developing standards and regulatory frameworks. Further, it should be noted that the duty of care that applies to client groups in the disability, aged care and child care sectors, is different to that applying to people who are homeless. This may necessitate different regulatory and legislative responses.