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The Parliament of the Commonwealth of Australia

# Housing the Homeless

**Report on the inquiry into homelessness legislation**

House of Representatives

Standing Committee on Family, Community, Housing and Youth

November 2009

Canberra

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## Foreword

On any one night in Australia there are some 17,000 people sleeping rough and another 67,000 people or so staying temporarily with friends or family or in emergency accommodation. Then there are the more than 21,000 people living in private boarding houses with no secure lease or tenure. These numbers represent too many Australians – increasingly children, families and older people – cycling between absolute homelessness and substandard housing.

The current government has set ambitious targets to half homelessness by 2020 and to offer supported accommodation to all rough sleepers. This will be achieved by a significant boost in spending on homelessness, new agreements with the states and territories and an overhaul of the legislative framework that shapes the public response to homelessness. Between 2008-2013 the National Affordable Housing Agreement provides \$6.2 billion for a range of initiatives that are currently being implemented to ensure that all Australians have access to affordable, safe and sustainable housing. Work has also begun on the construction of around 20,000 new social housing dwellings to boost the availability of public housing for Australians who are homeless or struggling in the private rental market using \$5.6 billion provided under the Nation Building Economic Stimulus package.

It gives my Committee great pride to help influence the new legislative framework. The Committee's timeframes have been tight, but we have sought evidence from as wide a range of contributors as possible about the best form that new homelessness legislation should take. I hope that the Committee's recommendations will lead to robust legislation that helps set the direction for the nation's response to homelessness.

I thank all who have participated in the inquiry, either by providing written submissions or by giving evidence in person. As always, the inquiry could not

have been completed without the efforts and commitment of the members of the Committee whom I thank. I offer my special thanks to the Hon Judi Moylan MP who assumed the role of Acting Chair of the Committee while I was away.

It is the wish of all the Committee that the number of homeless people in Australia can be significantly reduced, and that this report can contribute in a modest way to this worthy goal.

A handwritten signature in black ink, appearing to read 'Annette Ellis', written in a cursive style.

Annette Ellis MP  
Chair





## Membership of the Committee

Chair	Ms Annette Ellis MP	
Deputy Chair	The Hon Judi Moylan MP	
Members	The Hon Tony Abbott MP	Mrs Sophie Mirabella MP
	Ms Jodie Campbell MP	Mr Scott Morrison MP
	Ms Julie Collins MP	Mr Brett Raguse MP
	Ms Kirsten Livermore MP	Mr Chris Trevor MP

## Committee Secretariat

Secretary	Mr James Catchpole
Inquiry Secretary	Dr Alison Clegg
Research Officer	Ms Belynda Zolotto
Administrative Officers	Ms Fiona McCann
	Mr Shaun Rowe





## Terms of reference

The Committee will make inquiries into the principles and service standards that could be incorporated in such legislation, building on the strengths of existing legislation, particularly the *Supported Accommodation Assistance Act 1994*.

The Committee shall give particular consideration to:

1. the principles that should underpin the provision of services to Australians who are homeless or at risk of homelessness;
2. the scope of any legislation with respect to related government initiatives in the areas of social inclusion and rights;
3. the role of legislation in improving the quality of services for people who are homeless or at risk of homelessness;
4. the effectiveness of existing legislation and regulations governing homelessness services in Australia and overseas; and
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."





# List of recommendations

## Recommendation 1

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.

## Recommendation 2

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.

### Recommendation 3

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.

### Recommendation 4

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.

### Recommendation 5

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.

### Recommendation 6

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.

### Recommendation 7

That new homelessness legislation specify the right of all Australians to adequate housing. Such a provision should:

- include appropriate reference to Australia's international human rights obligations;
- include a clear definition of adequate housing; and
- explicitly recognise the right to adequate housing will be progressively realised.

**Recommendation 8**

That the Minister for Housing include provision in new homelessness legislation to give priority access within available resources to services and supports based on an assessment of the needs and vulnerability.

**Recommendation 9**

That the Minister for Housing include provision in new legislation for the independent monitoring of the progress towards the realisation of the right of all Australians to adequate housing. Data collection mechanisms should allow monitoring of progress for specified vulnerable and marginalised population groups.

**Recommendation 10**

That the Australian Government, in cooperation with state and territory governments, conduct an audit of laws and policies that impact disproportionately on people experiencing homelessness. Laws and policies that do not conform to anti-discrimination and human rights obligations should be amended accordingly. Priority should be given to review and amendment of:

- anti-discrimination laws;
- residential tenancy laws; and
- public space laws.

**Recommendation 11**

That new homelessness legislation provide overarching principles to underpin a national standards and accreditation framework for services used by homeless people and those at increased risk of homelessness. Prescriptive standards should be expressed in complementary non legislative agreements with state and territory governments and, through them, with service providers.

**Recommendation 12**

That the Minister for Housing, through the Housing Ministers' Conference, support the introduction of a national standards and accreditation framework which:

- provides a broad national service charter to guide mainstream services in their delivery of services to people experiencing homelessness or at risk of homelessness; and
- sets specific minimum quality standards for specialist homelessness services, leading progressively to accreditation.

**Recommendation 13**

That the Australian Government consult with state and territory governments, and other key stakeholders to develop a national regulatory system based on core service standards to be broadly applied to community services, including homelessness services.

**Recommendation 14**

That the Minister for Housing consult with the Housing Ministers' Conference and key sectoral stakeholders about the essential components of a national standards and accreditation framework to determine the broad principles and minimum standards to apply to specialist homelessness services.

**Recommendation 15**

That the Minister for Housing ensure provision for reciprocal recognition of existing quality service frameworks is incorporated into a national standards and accreditation system for homelessness services.



## Referral and Conduct of the Inquiry

### Background

- 1.1 The most recent estimate of the number of homeless people in Australia is based on data from the Australian Bureau of Statistics (ABS) 2006 Census of Population and Housing. Despite over a decade of relative national prosperity, on the 8 August 2006 (Census night), it was estimated that there were around 105,000 homeless people in Australia.<sup>1</sup>
- 1.2 Also in August 2006, the then United Nations (UN) Special Rapporteur on Adequate Housing, Mr Miloon Kothari, undertook a mission to Australia. The purpose of the mission was to examine progress towards the realisation of adequate housing in Australia, and to review Australian policies to protect human rights relating to adequate housing. At the end of his visit, Mr Kothari concluded that:

Australia has failed to implement its international legal obligation to progressively realize the human right to adequate housing to the maximum of its available resources, particularly in view of its possibilities as a rich and prosperous country.<sup>2</sup>
- 1.3 Among the recommendations made in Mr Kothari's report to the UN, was that Australia as a priority should address homelessness and its

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1 Australian Bureau of Statistics (ABS) (2006), *Counting the Homeless 2006*, 2050.0.

2 Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living: Mission to Australia (31 July to 15 August 2006), UN Doc A/HRC/4/18/Add.2 (2007), p 32.

underlying causes.<sup>3</sup> Housing and homelessness have become dynamic policy areas, with a range of new initiatives intended to increase housing affordability and address homelessness. Addressing homelessness has also been identified as a priority under the current Australian Government's Social Inclusion Agenda.<sup>4</sup>

1.4 In January 2008, the Prime Minister, the Hon Kevin Rudd MP, and the Minister for Housing, the Hon Tanya Plibersek MP, announced the development of a comprehensive, long term plan to tackle homelessness.<sup>5</sup> The stated intent of the Government's new approach to homelessness was to:

- prevent homelessness;
- improve crisis services;
- create exit points to secure longer term housing; and
- stop the cycle of homelessness.<sup>6</sup>

1.5 To progress this new approach, in May 2008 the Government released a Green Paper on homelessness.<sup>7</sup> The Green Paper, *Which Way Home? A New Approach to Homelessness*:

... sought to promote public discussion, highlight the challenges faced by people who are homeless and suggest ways to reduce homelessness in the long term.<sup>8</sup>

1.6 Over 600 written submissions addressing issues raised in the Green Paper were received and 13 public consultations were held across the country during May and June 2008. The Green Paper and subsequent consultation provided the foundation for a White Paper *The Road Home: A National Approach to Reducing Homelessness*.<sup>9</sup> *The Road Home*, released in December 2008, sets out a plan for a national approach to reducing homelessness in

3 Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living: Mission to Australia (31 July to 15 August 2006), UN Doc A/HRC/4/18/Add.2 (2007), p 33.

4 Australian Government website, viewed on 22 August 2009 at <http://www.socialinclusion.gov.au/Initiatives/Pages/homelessness.aspx>.

5 Australian Government (2008), *Homelessness: A New Approach*.

6 Australian Government (2008), *Homelessness: A New Approach*, p 7.

7 A Green Paper is a document prepared by Government for discussion/consultation purposes. A Green Paper is usually followed by a White Paper. A White Paper provides an authoritative guide which sets out government policy in relation to a particular matter.

8 Australian Government (2008), *Which Way Home? A New Approach to Homelessness*, p v.

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

Australia over the next 12 years. This national approach focuses on the following three strategies:

- ‘turning off the tap’ – better prevention of homelessness;
- improving and expanding services to help more homeless people; and
- breaking the cycle of homelessness by providing long term housing and support.<sup>10</sup>

1.7 Tangible interim targets presented in *The Road Home* include an undertaking by the Council of Australian Governments (COAG) to halve the overall numbers of homeless people in Australia and to offer supported accommodation for all rough sleepers by 2020.<sup>11</sup>

1.8 *The Road Home* also indicates the Government’s intention to implement new homelessness legislation to replace the existing *Supported Accommodation Assistance Act 1994* (the SAA Act).<sup>12</sup> Specifically in relation to the development of new homelessness legislation *The Road Home* states:

The *Supported Accommodation Assistance Act 1994* sets out important principles and has guided the response to homelessness in Australia since first legislated in 1985. A number of submissions to the Green Paper made suggestions for strengthening the legislation or bringing it up to date.

The establishment of the National Affordable Housing Agreement provides an opportunity to reconsider the legislative framework for providing services to people who are homeless or at risk of homelessness. ... the Australian Government will work with specialist homelessness services and state and territory governments to amend the *Supported Accommodation Assistance Act 1994* and will ensure people who are homeless or at risk of homelessness receive quality services and adequate support.<sup>13</sup>

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10 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 15.

11 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 14.

12 See *Supported Accommodation Assistance Act 1994* at Appendix D.

13 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 68.

## Referral of the Inquiry

- 1.9 On 16 June 2009, the Minister for Housing referred the inquiry into homelessness legislation to the House of Representatives Standing Committee on Family, Community, Housing and Youth. The referral from the Minister emphasised the need to develop new homelessness legislation to ensure that people who are homeless or at risk of homelessness receive quality services and adequate support to meet their needs. Specifically the Committee was asked to inquire into the principles and service standards that could be incorporated in such legislation, building on the strengths of existing legislation, particularly the SAA Act. The terms of reference were formally adopted by the Committee on 17 June 2009.
- 1.10 In addition, the referral highlighted the value of conducting this inquiry in the context of the Australian Government's National Human Rights Consultation.<sup>14</sup> Subsequent correspondence from the Minister also directed the Committee's attention to research commissioned on the regulatory environment relating to service standards and accreditation systems that apply to homelessness services in Australia.<sup>15</sup>
- 1.11 Following referral of the inquiry, advertisements calling for written submissions were placed in *The Australian* on 24 June and 22 July 2009. Information on the inquiry, including its terms of reference and how to make a submission, was made available on the Parliament of Australia website. The inquiry was also advertised through a mail out to interested parties, including peak bodies and state and territory governments.
- 1.12 The inquiry received 97 written submissions. These are listed at Appendix A. Nine exhibits for the inquiry were also received and details are provided at Appendix B. The Committee held five public hearings between August and October 2009. Details of the public hearings for the inquiry are listed at Appendix C.

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14 National Human Rights Consultation website, viewed on 10 October 2009 at <http://www.humanrightsconsultation.gov.au/www/nhrcc/nhrcc.nsf>.

15 Urbis Pty Ltd (2009) Unpublished, *Quality Frameworks for Homelessness and Related Services - Literature Review and Environmental Scan*.

## Structure of the Report

- 1.13 Chapter 2 establishes the context of the inquiry. The Chapter looks at the extent of homelessness in Australia and the changing demographics of homelessness. It also provides a brief overview of the Government's former strategies for addressing homelessness in Australia and describes new approaches as set out under the National Affordable Housing Agreement (NAHA) and associated National Partnership Agreements (NPs). The Chapter concludes with a review of other relevant Government activities, including the Government's Social Inclusion Agenda and the National Human Rights Consultation.
- 1.14 Chapter 3 considers the rationale for new homelessness legislation before examining options for the development of an Act that builds on the strengths of the SAA Act, while recognising the new policy and funding context. Specifically the Chapter considers the scope of new homelessness legislation and the broader underlying systemic principles that should provide the structure for a new legal framework.
- 1.15 Chapter 4 examines the case for new homelessness legislation to be founded on principles of human rights and social inclusion. The case for human rights based homelessness legislation is considered in the context of the Government's Social Inclusion Agenda, Australia's international human rights obligations and the outcomes of the recent National Human Rights Consultation. The Chapter also includes a brief examination of issues associated with broader legislation that impacts disproportionately and may discriminate against people who are homeless.
- 1.16 Chapter 5 examines legislative and non-legislative strategies for improving the quality of services used by homeless people and those at risk of homelessness. The Chapter includes consideration of a broad range of issues associated with the development and implementation of a national standards and accreditation framework for services.

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## Homelessness in Australia

- 2.1 This Chapter sets the context for subsequent considerations in the report. While it is not possible within the confines of the Chapter to examine the factors that lead to homelessness in detail, or to present a comprehensive summary of homelessness statistics, it is recognised that an extensive body of literature covering these issues already exists.

### Factors Leading to Homelessness

- 2.2 There are many causes and pathways to homelessness, which often involve an interplay of factors. While not an exhaustive list, factors identified in the Government's White Paper, *The Road Home* include:
- the shortage of stable and affordable housing;
  - domestic violence;
  - long-term unemployment;
  - family breakdown;
  - mental health;
  - alcohol and substance abuse; and
  - people leaving healthcare services, child protection and correctional facilities.<sup>1</sup>
- 2.3 In addition, a large number of submissions to the inquiry prefaced their responses to the inquiry's terms of reference with evidence relating to the

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1 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, pp 6-9.

causal factors associated with homelessness. A number of submissions were focused on vulnerable population groups at increased risk of homelessness.<sup>2</sup>

## Quantifying Homelessness

- 2.4 The most recent enumeration of the national homeless population in Australia can be found in the 2008 Australian Bureau of Statistics (ABS) report *Counting the Homeless 2006*. The report, a cooperative venture between RMIT and Swinburne Universities, the ABS and the Australian Institute of Health and Welfare (AIHW), draws upon data from the 2006 Census and supplementary information from the Supported Accommodation Assistance Program (SAAP) National Data Collection.<sup>3</sup> In 2009 a series of eight related reports were also published which provide more detailed examination of the homeless population in each state and territory. These reports also include further examination of the social characteristics and geographical distribution of homeless populations, as well as specific consideration of Indigenous homelessness.<sup>4</sup>

## Definitions of Homelessness

- 2.5 Assessing the extent of homelessness, and in particular accurately quantifying the number of homeless people at a national level, requires an agreed definition of what constitutes homelessness and what does not. As noted in the 2006 ABS report *Counting the Homeless*:

... in Australia there are two definitions of homelessness that are widely accepted. One is the cultural definition used by the Australian Bureau of Statistics (ABS). The other is the SAAP definition, contained in the Supported Accommodation Assistance Program Act 1994 (SAAP Act). The cultural definition is used for

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2 See for example: Women With Disabilities Australia, Submission No 3; Asylum Seeker Resource Centre, Submission No 5; Commissioner for Children and Young People (Western Australia), Submission No 7; Women's Health Victoria, Submission No 16; Domestic Violence Victoria, Submission No 49; North Australian Aboriginal Justice Agency & Larrakia Nation Aboriginal Corporation, Submission No 72; Aboriginal Legal Service of Western Australia, Submission No 73; Mental Health Council of Australia, Submission No 81; Network of Immigrant and Refugee Women of Australia Inc, Submission No 87.

3 Australian Bureau of Statistics (ABS) (2008), *Counting the Homeless 2006*, 2050.0.

4 Chamberlain C & MacKenzie D (2009), *Counting the Homeless 2006*, S Cat No HOU 203-210, Canberra: AIHW.



enumerating the homeless population, whereas the SAAP definition identifies who is eligible for services.<sup>5</sup>

2.6 While a detailed comparison of the qualities and relative merits of the two definitions will be considered in Chapter 3, the ABS notes that the SAA Act definition cannot be used for quantifying the number of homeless people because it does not distinguish people who are at risk of homelessness from people who are homeless.

2.7 To measure homelessness in Australia the ABS uses the 'cultural definition' of homelessness. The cultural definition contends that 'homelessness' and 'inadequate housing' are cultural concepts that only make sense in a particular community at a given historical period. The ABS notes that the cultural definition first identifies shared community standards about the minimum housing that people have the right to expect in order to live according to the conventions and expectations of a particular culture. Then, the definition identifies those groups that fall below the minimum community standard.<sup>6</sup>

2.8 Based on the cultural definition the ABS further distinguishes between three categories of homelessness:

**Primary homelessness** includes all people without conventional accommodation, such as people living on the streets, sleeping in parks, squatting in derelict buildings, or using cars or railway carriages for temporary shelter.

**Secondary homelessness** includes people who move frequently from one form of temporary shelter to another. On census night, it includes all people staying in emergency or transitional accommodation provided under the Supported Accommodation Assistance Program (SAAP). Secondary homelessness also includes people residing temporarily with other households because they have no accommodation of their own and people staying in boarding houses on a short-term basis, operationally defined as 12 weeks or less.

**Tertiary homelessness** refers to people who live in boarding houses on a medium to long-term basis, operationally defined as 13 weeks or longer. They are homeless because their accommodation situation is below the minimum community standard of a small self-contained flat.<sup>7</sup>

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5 ABS (2006), *Counting the Homeless 2006*, 2050.0, p 1.

6 ABS (2008), *Counting the Homeless 2006*, 2050.0, p 2.

7 ABS (2008), *Counting the Homeless 2006*, 2050.0, p vii.

## National Data

- 2.9 On census night 2006 it was estimated that the homeless population in Australia was approximately 105,000 people. Although there was an increase in the number of homeless people between 2001 and 2006 (Table 2.1), the rate of homelessness remained static between both censuses, being 53 people per 100,000 of the population.
- 2.10 According to the 2006 census, 16% of homeless people were experiencing primary homelessness that is sleeping rough or in improvised dwellings. Nearly two thirds (64%) of homeless people were experiencing secondary homelessness, living in various forms of temporary accommodation, including people staying with friends or family and those in emergency accommodation provided under the SAAP. The remaining 20% were experiencing tertiary homelessness, referring to those people living on a medium to long-term basis in private boarding houses with no secure lease or tenure. There were more people experiencing primary homelessness in 2006 compared to 2001, while less were experiencing tertiary homelessness.

Table 2.1 Persons in Different Sectors of the Homeless Population on Census Night 2006

Sector	2001		2006	
	Number	%	Number	%
Boarding Houses	22 877	23	21 596	20
SAAP Accommodation	14 251	14	19 849	19
Friends and Relatives	48 614	49	46 856	45
Improvised Dwellings, sleepers out	14 158	14	16 375	16
<b>Total</b>	<b>99 900</b>	<b>100</b>	<b>104 676</b>	<b>100</b>

Source ABS (2008) *Counting the Homeless 2006, 2050.0, p viii.*

- 2.11 In 2006, more than two-thirds of the homeless population were aged 18 years or over, with 21% aged from 12 to 18 years old and 12% being under 12 years of age (Table 2.2). Children were more likely to be part of a family group.

Table 2.2 Age (Years) and Sex of the Homeless Population on Census Night 2006

Sex	< 12	12–18	19–24	25–34	35–44	45–54	55–64	65+	Total
Males	52	46	53	57	63	64	61	64	56
Females	48	54	47	43	37	36	39	36	44
% of homeless population	12	21	10	15	13	12	10	7	100
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

Source ABS (2008) *Counting the Homeless 2006, 2050.0*, pp 27–28.

2.12 Overall there were more males in the homeless population than females (56% compared to 44%). On further breakdown, there were more females than males in the age group 12 to 18 (54% to 46%), although the pattern reverses in the age group 19 to 24. Among those aged 35 or older, men outnumber women by approximately three to two (Table 2.2). About three quarters (72%) of boarding house residents were male compared with 28% who were female, while women outnumbered men in SAAP by 53% compared to 47%.<sup>8</sup>

2.13 In addition to enumerating the number of homeless individuals, it is important to estimate the number of homeless households, as service providers are required to deal primarily with households. The 2006 analysis identifies three household ‘types’:

- single person households;
- couples (including people in *de facto* relationships); and
- family households (at least one adult and one child aged 17 or younger).

2.14 It was estimated that on census night 2006 there were 74,800 homeless households. Of these approximately 76% were single person households, 14% couple only households and 10% were families with children.<sup>9</sup>

2.15 Indigenous Australians were over-represented in all sectors of the homeless population. Overall 2.4% of people were identified as Indigenous in the 2006 Census, but 9% of the homeless were Indigenous. Indigenous Australian made up 3.8% of people staying with other households, 6% of those in boarding houses, 16% of people in improvised dwellings and 20% of people in SAAP.<sup>10</sup>

8 ABS (2008), *Counting the Homeless 2006, 2050.0*, p 28.

9 ABS (2008), *Counting the Homeless 2006, 2050.0*, p 23.

10 ABS (2008), *Counting the Homeless 2006, 2050.0*, p 29.

## State and Territory Variation

- 2.16 To account for different population sizes and distribution, rates of homeless persons per 10,000 of the population are shown by state in Table 2.3. To some degree the noticeably higher rate of homelessness in the Northern Territory is a reflection of Indigenous transience and inadequate Indigenous housing. Note, however, that in remote areas non-Indigenous Australians also experience higher rates of homelessness.
- 2.17 A more detailed examination of the geographical distribution also shows that rates of homelessness are greater in inner city areas of major metropolitan centres (Table 2.3). This is most likely because most services for homeless people are provided in these major centres.

Table 2.3 Homeless per 10,000 of the population in 2006

<b>NSW</b>	<b>Vic</b>	<b>Qld</b>	<b>WA</b>	<b>SA</b>	<b>Tas</b>	<b>NT</b>	<b>ACT</b>
42	42	69	68	53	53	248	42
<b>Inner Sydney</b>	<b>Central Melbourne</b>	<b>Inner Brisbane</b>	<b>Central Perth</b>	<b>Inner Adelaide</b>	<b>Inner Hobart</b>	<b>Inner Darwin</b>	<b>North Canberra</b>
133	129	246	109	457	99	276	90

Source Chamberlain C & MacKenzie D (2009), *Counting the Homeless 2006 S Cat no HOU 203–210*. Canberra: AIHW.

## Emerging Trends in Homelessness

- 2.18 Although the rates of homelessness have remained relatively static between the 2001 and 2006 censuses, there have been important changes in the homeless population. Notably data indicates that there was a 21% decrease in homeless youth aged 12 to 18 years. The two factors identified at the time as most likely to be associated with the decrease in youth homelessness are early intervention and the improved labour market for young people.<sup>11</sup>
- 2.19 In contrast, over the same period there was a 17% increase in homeless families with children, and a 10% increase in homeless adults outside of families. Domestic violence continues to be a significant factor in family homelessness. More broadly however, the increase in family homelessness and adult homelessness also reflect issues associated with declines in

11 ABS (2008), *Counting the Homeless 2006*, 2050.0, pp 48–49.

affordable housing, including declines in affordable housing in the private rental market.<sup>12</sup>

## Government Response to Homelessness

2.20 The following section provides a brief description of the Australian Government's previous response to homelessness, these being SAAP and the Crisis Accommodation Program (CAP). A more detailed account of SAAP and other recent Australian Government responses to homelessness can be found in the Green Paper, *Which Way Home? A New Approach to Homelessness*.<sup>13</sup> Both SAAP and CAP are now discontinued and have been replaced by the National Affordable Housing Agreement (NAHA) and associated National Partnership Agreements (NPs) which are described later in this Chapter.

### Supported Accommodation Assistance Program

- 2.21 Until recently, SAAP has been Australia's primary policy and program response to homelessness. SAAP was established in 1985 as a Commonwealth - states/territories program to provide a national approach to funding and administering service delivery for people who are homeless or at risk of homelessness. Funding and policy direction for SAAP services were determined by SAAP Agreements. Since 1995 there have been five SAAP Agreements culminating with SAAP V which commenced on 1 July 2005.
- 2.22 The initial focus of SAAP was to provide supported accommodation for the 'permanently homeless'. SAAP services were delivered primarily through approximately 1500 non-government community based, and local government organisations. SAAP I had three broad sub-programs – general services, youth services and women's emergency services. Early evaluations of SAAP however, found that the program failed to assist homeless clients to move through to sustainable independent living arrangements. To address this SAAP II, introduced in 1990, included additional program funding and a commitment to move away from a focus on providing crisis assistance, to an increased emphasis on providing assistance to support homeless people to transition into independent living. However an evaluation of SAAP II in 1993

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12 ABS (2008), *Counting the Homeless 2006*, 2050.0, p 49.

13 Australian Government (2008), *Which Way Home? A New Approach to Homelessness*, pp 30–44.

highlighted a number of priority needs, including the need for better information for evaluating program achievements, better linkages between SAAP agencies and non-SAAP service agencies, and the need for improvements in service quality.

2.23 The SAA Act was introduced in 1994 to address these deficiencies and to support significant reforms and initiatives. The aim of SAAP, as set out in the SAA Act, is to:

... provide transitional supported accommodation and related support services in order to help people who are homeless to achieve the maximum possible degree of self-reliance and independence.<sup>14</sup>

2.24 SAAP III, introduced in 1995 focused on developing better client outcomes from SAAP service delivery agencies through the provision of more flexible services, and improved case management. These aims carried forward into SAAP IV in 2000 and SAAP V in 2005. The specific goals of SAAP V were to:

- resolve crisis;
- re-establish family links where appropriate; and
- re-establish a capacity for the homeless to live independently of SAAP.<sup>15</sup>

2.25 The most recent completed evaluation of SAAP was conducted in 2004 and relates to SAAP IV.<sup>16</sup> Despite efforts over the duration of SAAP to provide services that address homeless peoples' immediate short term housing needs while also assisting them to develop the skills and community networks to enable them to find and maintain suitable and stable housing in the long-term, the SAAP IV evaluation concluded:

... whilst [SAAP] services to the homeless have moderate success in responding to the immediate homeless crises, the current forms of assistance to the homeless are poor at resolving longer-term issues.<sup>17</sup>

2.26 In brief, the SAAP IV evaluation recognised that in its current form, SAAP had achieved its limits in terms of addressing homelessness.

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14 *Supported Accommodation Assistance Act (1994)*.

15 Australian Government (2008), *Which Way Home? A New Approach to Homelessness*, p 32.

16 Erebus Consulting Partners (2004), *National Evaluation of SAAP IV: Final Report*.

17 Erebus Consulting Partners (2004), *National Evaluation of SAAP IV: Final Report*, p 136.

## Crisis Accommodation Program

- 2.27 The Crisis Accommodation Program (CAP) was introduced in 1985 under the Commonwealth State Housing Agreement (CSHA). CAP primarily provided capital grants to supplement funding for salaries and operating costs for SAAP services. CAP funding was mainly used by SAAP funded services to construct or purchase buildings for use as crisis accommodation or medium term housing for people in transition from crisis accommodation to longer term, more stable housing.

## Early Intervention Initiatives

- 2.28 In addition to SAAP and CAP, the Australian Government's approach to addressing homelessness has included targeted early intervention programs. These programs are intended to provide assistance to people at increased risk of becoming homeless.
- 2.29 The Reconnect program has been operating since 1999 and targets young people aged 12 to 18 years who are homeless or at increased risk of homelessness, and their families. Reconnect aims to assist young people stabilise their living situation and improve their level of engagement with family, work, education, training and their local community. Since July 2009 Reconnect has also incorporated the Newly Arrived Youth Support Services (NAYSS). NAYSS provides services to support young people aged 12 to 21 years who have arrived in Australia in the previous five years, and focuses on people entering Australia on humanitarian visas and family visas, and who are homeless or at risk of homelessness.<sup>18</sup>
- 2.30 The Household Organisational Management Expenses (HOME) Advice Program has been operating since 2004 and is delivered by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) in partnership with Centrelink and community agencies. HOME assists families who face difficulty in maintaining tenancies or home ownership due to personal or financial circumstances.<sup>19</sup>

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18 Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) website, viewed on 19 October 2009 at <http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/reconnect/Pages/default.aspx>.

19 FaHCSIA website, viewed on 19 October 2009 at [http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/Pages/fhpp\\_HOME\\_prog.aspx](http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/Pages/fhpp_HOME_prog.aspx).

## A New Approach to Addressing Homelessness

2.31 After the 2007 election, and as noted earlier in the report, homelessness was identified as one of the priorities under the Australian Government's Social Inclusion Agenda. In addition in early 2008 the Government announced its intention to develop a new comprehensive, long term plan to tackle homelessness. The premise of the new approach was that:

... homelessness must be effectively prevented and, where it does occur, dealt with swiftly.<sup>20</sup>

2.32 As noted in Chapter 1, the Government's new policy approach to addressing homelessness as detailed in *The Road Home* sets out to address homelessness through prevention, improving and expanding services, and breaking the cycle of homelessness. *The Road Home* also frames the following 10 guiding principles:

- a national commitment involving strong leadership and cooperation from all levels of government and from non-government and business sectors;
- a focus on preventing homelessness;
- an emphasis on social inclusion;
- involvement of clients in decision making regarding service delivery and design;
- protecting the safety and wellbeing of all clients;
- protecting the rights and responsibilities of individuals and families;
- a commitment to joined-up service delivery and policy;
- a focus on support for vulnerable people at transition points (eg school-to-work, retirement, family breakdown, leaving statutory care etc);
- a commitment to evidence-based policy to shape our priorities for action; and
- accountability with regard to achieving progress toward targets set to reduce homelessness.<sup>21</sup>

2.33 As with earlier strategies to address homelessness, the new policy framework outlined in *The Road Home* involves shared responsibility for

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20 Australian Government (2008), *Homelessness: A New Approach*, p 7.

21 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, pp 19-20.



funding, policy and service delivery between Commonwealth, states and territories and local governments.<sup>22</sup> In these circumstances, the Council of Australian Governments (COAG) provides a crucial forum for achieving coordination. Therefore the following section provides a brief examination of the COAG financial framework that now guides the Commonwealth and states in the delivery of community services.

## Council of Australian Governments and Homelessness

- 2.34 In the 2008–09 Budget the Australian Government through COAG affirmed its commitment to what is called a new era of modern cooperative federalism. Notably, cooperative working arrangements are being progressed through a new intergovernmental agreement (IGA) on Federal Financial Relations. The IGA provides an overarching framework for the Commonwealth's financial relations with the states and territories. It 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 flexibility to determine the most appropriate way in which services are delivered.<sup>23</sup>
- 2.35 The introduction of the IGA has been accompanied by a major rationalisation of Specific Purpose Payments (SPPs) from over 90 to five. Each SPP is associated with a National Agreement that contains the objectives, outcomes, outputs and performance indicators, and clarifies the roles and responsibilities that will guide the Commonwealth and states in the delivery of services across the relevant sectors. The National Affordable Housing SPP funds the implementation of the National Affordable Housing Agreement (NAHA).<sup>24</sup>

## National Affordable Housing Agreement

- 2.36 The NAHA (at Appendix E) replaces all previous housing and homelessness support agreements between the Commonwealth and states, including the 2003 Commonwealth-State Housing Agreement (CSHA) and SAAP. The NAHA, an agreement by COAG, commenced on 1 January 2009 initiating a whole-of-government approach to tackling the problems of housing affordability and homelessness.

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22 For reading convenience, subsequent references to 'states' includes both states and territories unless otherwise indicated.

23 Council of Australian Governments (COAG) website, viewed on 13 October 2009 at [http://www.coag.gov.au/intergov\\_agreements/federal\\_financial\\_relations/index.cfm](http://www.coag.gov.au/intergov_agreements/federal_financial_relations/index.cfm).

24 Ministerial Council for Federal Financial Relations website, viewed on 13 October 2009 at [http://www.federalfinancialrelations.gov.au/content/national\\_agreements.aspx](http://www.federalfinancialrelations.gov.au/content/national_agreements.aspx).

- 2.37 The NAHA will provide \$6.2 billion worth of housing assistance to low and middle income Australians in its first five years. The agreement aims to ensure that all Australians have access to affordable, safe and sustainable housing that contributes to social and economic participation. Through NAHA, the Commonwealth and the states articulate their commitment to a range of reforms that will improve housing affordability including:
- improved integration and coordination of assistance to people who are homeless or at risk of homelessness;
  - improvements to social housing arrangements to reduce concentrations of disadvantage and improve the efficiency of social housing;
  - improving access by Indigenous people to mainstream housing, including home ownership and contributing to the 'Closing the Gap' targets; and
  - other reforms to increase the supply of affordable housing.<sup>25</sup>
- 2.38 A stated key outcome of the NAHA is for people who are homeless or at risk of homelessness to achieve sustainable housing and social inclusion.<sup>26</sup>

## National Partnership Agreements

- 2.39 National Partnership Agreements (NPs) are an essential element of the new Commonwealth and state financial relations framework. Briefly NPs provide a payment framework intended to:
- support the delivery of specified outputs or projects,
  - to facilitate reforms; and
  - to reward those jurisdictions that deliver on nationally significant reforms.<sup>27</sup>
- 2.40 There are three NPs within the NAHA. These are the:
- National Partnership on Homelessness (at Appendix F);
  - National Partnership on Social Housing (at Appendix G); and the

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25 COAG Fact Sheet, National Affordable Housing Agreement.

26 Intergovernmental Agreement on Federal Financial Relations, Schedule F, National Affordable Housing Agreement, p 4.

27 Ministerial Council for Federal Financial Relations website, viewed on 13 October 2009 at [http://www.federalfinancialrelations.gov.au/content/national\\_partnership\\_agreements/default.aspx](http://www.federalfinancialrelations.gov.au/content/national_partnership_agreements/default.aspx).

- National Partnership on Remote Indigenous Housing (at Appendix H).
- 2.41 Funding of approximately \$1.1 billion is available under the NP on Homelessness which commits governments to achieving 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.<sup>28</sup>
- 2.42 The NP on Homelessness requires all states to develop implementation plans which establish their priorities and outline the specific performance benchmarks.<sup>29</sup> The achievement of these benchmarks will be assessed by the independent COAG Reform Council, to provide transparency and enhance accountability in the performance assessment process.

## Prime Minister's Council on Homelessness

- 2.43 A key element to supporting the implementation of the Government's new approach to addressing homelessness has been the establishment of the Prime Minister's Council on Homelessness. The Council's purpose is to:
- ... take a leadership role by providing an independent overview of implementation of the White Paper goals and targets for 2013 and 2020, and providing advice to government on progress, risks and emerging issues.<sup>30</sup>
- 2.44 More specifically the Council's terms of reference indicate that it will:

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28 National Partnership Agreement on Homelessness, p 5.

29 FaHCSIA website, viewed on 4 November 2009 at [http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/national\\_partnership\\_agreement/Pages/homelessness\\_act.aspx](http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/national_partnership_agreement/Pages/homelessness_act.aspx).

30 FaHCSIA website, viewed on 19 October 2009 at [http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/pm\\_council\\_homeless/Pages/pm\\_terms.aspx](http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/pm_council_homeless/Pages/pm_terms.aspx).

... provide to the Prime Minister and the Minister for Housing:

- independent advice of progress made towards the goals and targets in the White Paper;
- feedback and early advice on the implementation of the White Paper reform agenda, including examples of successful processes and reforms; and
- input into the broader Commonwealth national policy agenda and ways to leverage these measures to reduce homelessness.

The Council will provide feedback and advice on critical issues that cut across jurisdictional boundaries and are important barometers of effective early implementation. Initially these issues may include:

- communication of White Paper reforms to existing homelessness services and the broader service sector;
- effectiveness of strategies to drive integration between specialist and mainstream services; and
- integration of broader Commonwealth social policy initiatives – particularly those which seek to increase employment outcomes for homeless people.<sup>31</sup>

- 2.45 The Council, chaired by Mr Tony Nicholson, Executive Director, Brotherhood of St Laurence, held its first meeting in August 2009 to establish its priorities for the next year and to develop a work plan. The Council will meet up to six times a year and will submit an annual report to the Prime Minister on progress towards achieving the reforms outlined in *The Road Home*.

## Other Relevant Activities

- 2.46 In addition to the new specific policy initiatives to address homelessness described above, drafting of new homelessness legislation will also need to take account of, and be compatible with, the Government's Social Inclusion Agenda and the outcomes of the National Human Rights Consultation. A brief overview of these two activities follows.

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31 FaHCSIA website, viewed on 19 October 2009 at [http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/pm\\_council\\_homeless/Pages/pm\\_terms.aspx](http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/pm_council_homeless/Pages/pm_terms.aspx).

## Social Inclusion Agenda

- 2.47 Social exclusion is a process that deprives individuals and families, groups and neighbourhoods of the resources required for participation in the social, economic and political activity of society as a whole. Social exclusion is multi-faceted, but factors leading to increased risk include poverty and low income, lack of access to the job market and limited access to social supports and networks.<sup>32</sup> Homeless people and those without access to adequate housing are among the groups identified as being more vulnerable to social exclusion.
- 2.48 During 2008–09, the Government has proceeded to implement a Social Inclusion Agenda to support its vision of a socially inclusive society in which all Australians feel valued and have the opportunity to participate fully in community life. Achieving social inclusion is founded on providing all Australians with:
- ... the resources, opportunities and capability to:
    - learn by participating in education and training;
    - work by participating in employment, in voluntary work and in family and caring;
    - engage by connecting with people and using their local community's resources; and
    - have a voice so that they can influence decisions that affect them.<sup>33</sup>
- 2.49 To progress the Agenda the Australian Social Inclusion Board and the Community Response Taskforce have been established to involve the community and business sectors. Social Inclusion Units have also been established in many government departments. Six social inclusion priorities have been identified as a focus for the Government's work to support groups in the community who may face challenges to social inclusion. These priorities are:
- addressing the incidence and needs of jobless families with children;
  - delivering effective support to children at greatest risk of long term disadvantage;
  - focusing on particular locations, neighbourhoods and communities to ensure programs and services are getting to the right places;

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32 Australian Government website, viewed on 20 October 2009 at <http://www.socialinclusion.gov.au/Documents/1Economicimplications.pdf>.

33 Australian Government website, viewed on 20 October 2009 at <http://www.socialinclusion.gov.au/Pages/default.aspx>.

- addressing the incidence of homelessness;
  - employment for people living with a disability or mental illness; and
  - closing the gap for Indigenous Australians.<sup>34</sup>
- 2.50 The relevance and implications of the Social Inclusion Agenda for new homelessness legislation are considered in more detail in Chapter 4 of the report.

## National Human Rights Consultation

- 2.51 A number of submissions received in response to the Government's Green Paper *Which Way Home?* identified homelessness and access to adequate housing as basic human rights issues. Therefore, new homelessness legislation will need at least to consider the outcomes of the Australian Government's National Human Rights Consultation (NHRC) which 'aimed to seek a range of views from across Australia about the protection and promotion of human rights'.<sup>35</sup>
- 2.52 The NHRC was conducted by an independent committee, supported by the Attorney-General's Department. The NHRC committee considered submissions received from over 35,000 individuals, groups and organisations which addressed the following three key questions:
- which human rights and responsibilities should be protected and promoted?
  - are human rights sufficiently protected and promoted in Australia?
  - how could Australia better protect and promote human rights and responsibilities?<sup>36</sup>
- 2.53 At the end of September 2009 the NHRC committee reported its findings, making 31 recommendations to the Australian Government for better protecting and promoting human rights. Improved community wide education was seen as the highest priority for protecting and promoting

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34 Australian Government website, viewed on 20 October 2009 at <http://www.socialinclusion.gov.au/Priorities/Pages/default.aspx>.

35 Australian Government, National Human Rights Consultation website, viewed on 20 October 2009 at [http://www.humanrightsconsultation.gov.au/www/nhrcc/nhrcc.nsf/Page/About\\_the\\_Consultation](http://www.humanrightsconsultation.gov.au/www/nhrcc/nhrcc.nsf/Page/About_the_Consultation).

36 Australian Government, National Human Rights Consultation website, viewed on 20 October 2009 at [http://www.humanrightsconsultation.gov.au/www/nhrcc/nhrcc.nsf/Page/About\\_the\\_Consultation](http://www.humanrightsconsultation.gov.au/www/nhrcc/nhrcc.nsf/Page/About_the_Consultation).

human rights in Australia (NHRC Recommendations 1 to 3).<sup>37</sup> The report also presents options for protecting human rights that can be implemented regardless of whether a national Human Rights Act is introduced in Australia. In summary, the options presented to promote consideration of human rights in legislation and policy are:

- to conduct an audit of all existing federal legislation, policies and practices to determine compatibility with Australia's international human rights obligations (NHRC Recommendation 4);
- the requirement for a statement of compatibility with human rights for all Bills introduced into Federal Parliament and legislative instruments (NHRC Recommendations 6 and 26); and
- the establishment of a Joint Standing Committee on Human Rights to review all Bills and legislative instruments for compliance with human rights obligations (NHRC Recommendations 7 and 27).

2.54 While the NHRC report recommends the introduction of a Federal Human Rights Act (NHRC Recommendation 18), in its absence Australia's compliance with its human rights obligations will need to be assessed with reference to its international obligations.

2.55 The NHRC report includes consideration of social, economic and cultural rights, including the right to housing. The report also makes a number of recommendations in relation to the protection of social, economic and cultural rights. The implications of these recommendations for new homelessness legislation are considered in more detail in Chapter 4 of the report.

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37 Australian Government (2009), National Human Rights Consultation Report, p xxix-xxx.





## 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.<sup>1</sup>

- 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

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<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup>

3.5 While there is widespread support for the development of new homelessness legislation in submissions<sup>5</sup>, 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

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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 Homeless Persons Legal Centre, 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'.<sup>6</sup>

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.<sup>7</sup>

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.<sup>8</sup>

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

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6 Council of Australian Governments (COAG) website, viewed on 13 July 2009 at [http://www.coag.gov.au/intergov\\_agreements/federal\\_financial\\_relations/index.cfm](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.<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

- 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

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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.<sup>12</sup>

- 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.<sup>13</sup>

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

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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.<sup>14</sup> As observed in the submission from the Southern Youth and Family Services (SYFS):

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14 See for example: YP Space MNC, 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.<sup>15</sup>

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.<sup>16</sup>

## 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'.<sup>17</sup> 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

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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.<sup>18</sup>

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.<sup>19</sup> 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.<sup>20</sup>

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.<sup>21</sup>

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.<sup>22</sup>

- 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.<sup>23</sup> 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.<sup>24</sup>

### 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

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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.<sup>25</sup> For example, the submission from the Salvation Army Australia Eastern Territory states:

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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, Submission No 41, p 6; National Youth Coalition for Housing (NYCH), Submission No 52, pp

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.<sup>26</sup>

- 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.<sup>27</sup>
- 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.<sup>28</sup> 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).

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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, 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.<sup>29</sup> 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.<sup>30</sup>
- 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.<sup>31</sup>
- 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.<sup>32</sup>
- 3.38 Similarly, Homelessness Australia recommends extending and enhancing the definition of homeless for new legislation, stating that the definition should:

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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 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.<sup>33</sup>

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.<sup>34</sup>

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.<sup>35</sup>

## 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

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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'<sup>36</sup> for Level 3 private residential facilities (and their equivalents in other states) to alleviate the risks outlined by SAPA.

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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.<sup>37</sup> Also in accordance with guiding principles articulated in *The Road Home*<sup>38</sup>, evidence indicates widespread support for an integrated and coordinated response to homelessness.<sup>39</sup> As summarised by ANGLICARE 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.<sup>40</sup>

## 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.<sup>41</sup>

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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 Sydney, Submission No 31, pp 8-9; RYDON, Submission No 33, p 6; Hanover, 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 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.<sup>42</sup>

- 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.<sup>43</sup> 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.<sup>44</sup> 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.<sup>45</sup>

- 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:

Addressing the needs of homeless people, especially those with mental illness, requires a shift from a simple 'health' or 'housing'

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42 Homelessness NSW, Submission No 28, p 8.

43 Departments and agencies include for example: Department of Families, Housing, Community Services and Indigenous Affairs; Centrelink; Department of Health and Ageing; 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, 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.

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.<sup>46</sup>

- 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.<sup>47</sup> 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.<sup>48</sup>

- 3.54 Submissions have included reference to a number of initiatives currently operating in Australia that seek to provide an integrated and coordinated response to homelessness (e.g. the Foyer Model for young people and the housing first model).<sup>49</sup>

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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.

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.

- 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.<sup>50</sup>

### 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.<sup>51</sup> 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.<sup>52</sup>
- 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:

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50 CAYH, Submission No 23, p 11. See also: SYFS, Submission No 4, p 9, 12; ANGLICARE 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.

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.<sup>53</sup>

- 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.<sup>54</sup>

- 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.<sup>55</sup>

- 3.61 Despite reportedly limited engagement with the corporate and private sector in relation to reducing homelessness<sup>56</sup>, 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 that it incorporates federal, state, local, philanthropic and private sector funded programs.<sup>57</sup>

- 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

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.

57 CAYH, Submission No 23, p 7.

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.<sup>58</sup>

## 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 through 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.

## 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.

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58 SAPA, Submission No 76, p 3.

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.<sup>59</sup> 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
- 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 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

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

management approach can provide consistent care if homelessness does occur.<sup>60</sup>

## 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).<sup>61</sup>

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.<sup>62</sup> Evidence also suggests that prevention and early intervention strategies can be successful and cost effective interventions.<sup>63</sup>

## 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

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60 ANGLICARE 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 Sydney, Submission No 31, p 11; Hanover, 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 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.

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.<sup>64</sup>

- 3.73 The shortage of suitable accommodation options for homeless people was also emphasised in evidence to the inquiry.<sup>65</sup> 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 crumby boarding houses or in motels on a short-term basis.<sup>66</sup>

### 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 people to ensure that long term, adequate housing has been secured and the capacity for independent living is achieved.<sup>67</sup> 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.<sup>68</sup> As stated by Catholic Social Services Australia:

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.

67 See for example: ANGLICARE Sydney, Submission No 31, p 9; Hanover, 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.



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.<sup>69</sup>

- 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.<sup>70</sup> 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.<sup>71</sup>

### 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

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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 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.

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.**



## Social Inclusion, Human Rights and Homelessness

- 4.1 Recognising and reflecting changes in the homeless population, as well as reflecting changes in social standards and expectations, will be key features of the new homelessness legal framework. In this context a large volume of evidence has called for new legislation to be founded on a human rights approach to achieving social inclusion for people who are homeless or at risk.

### **Association between Social Inclusion and Human Rights**

- 4.2 Homeless people, people at risk of homelessness and those living in inadequate housing situations are among the most powerless and marginalised groups in society. Therefore evidence to the inquiry argues that responses to homelessness will need to be informed by, and consistent with, social inclusion frameworks. Specifically new homelessness legislation must clearly indicate how homelessness fits within the Government's broader reform agenda.<sup>1</sup>
- 4.3 Two key elements for consideration are social inclusion and human rights. Evidence to the inquiry has emphasised the strong overlap between protecting human rights and realising social inclusion, particularly for vulnerable populations. Although social inclusion and human rights are considered separately below, it is important to recognise that to some

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<sup>1</sup> See for example: Commissioner for Children and Young People, Submission No 7, p 11; Catholic Social Services Australia, Submission No 68, p 3; Wesley Mission Melbourne, Submission No 70, p 6.

extent they are mutually reinforcing and complementary.<sup>2</sup> As explained in the submission from the Australian Human Rights Commission (AHRC):

Human rights principles focus on the empowerment of individuals to participate in their community and to control their own lives. They also focus on ensuring that all people enjoy minimum standards of treatment consistent with their inherent dignity and entitlement to respect. This approach is particularly important when public policy is endeavouring to support people experiencing extreme disadvantage.

Similarly, the Australian Government's Social Inclusion Principles sets out three 'Aspirational Principles':

- addressing disadvantage
- increasing social, civil and economic participation
- giving people a greater voice, combined with greater responsibility.<sup>3</sup>

## Homelessness and Social Inclusion

4.4 An emphasis on full participation in economic, social and political life is the primary aim of the Government's Social Inclusion Agenda. To achieve this aim the Australian Social Inclusion Board has framed the following eleven Social Inclusion Principles:

- reducing disadvantage;
- increasing social, civil and economic participation;
- a greater voice combined with greater responsibility;
- building on individual and community strengths;
- building partnerships with key stakeholders;
- developing tailored services;
- focus on early intervention and prevention;
- building joined up services;
- evidence-based policy development;
- locational approaches;
- planning for sustainability.<sup>4</sup>

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2 See for example: Australian Lawyers for Human Rights, Submission No 61, p 4; Australian Red Cross, Submission No 77, pp 7–8; Human Rights Law Resource Centre (HRLRC), Submission No 82, p 9; Public Interest Law Clearing House (Vic) Homeless Persons' Legal Clinic (PILCH HPLC), Submission No 85, p 8.

3 Australian Human Rights Commission (AHRC), Submission No 90, pp 13–14.

4.5 These principles have considerable relevance to addressing homelessness and therefore to developing a new legislative framework. Not surprisingly there is significant similarity and overlap between the 11 Social Inclusion Principles and the 10 guiding principles underpinning the Government's new policy approach to homelessness as set out in *The Road Home*.<sup>5</sup> The relevance of several Social Inclusion Principles to achieving a holistic response to homelessness has already been recognised in Chapter 3.<sup>6</sup>

4.6 Noting that addressing homelessness is one of the Australian Social Inclusion Board's priorities, the Australian Government Department of Education, Employment and Workplace Relations (DEEWR) emphasised the very strong association with the Government's Social Inclusion Agenda stating:

The Australian Government's Social Inclusion Agenda provides a policy framework and approaches that aim to engage individuals and communities experiencing disadvantage. With a vision of a socially inclusive and fairer Australia, this agenda is about enabling all individuals, regardless of background or circumstance, to fully participate in the economic, social and civil life of their local community.<sup>7</sup>

4.7 Expanding on the links between elements of social inclusion and addressing homelessness, the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) reported that:

Submissions responding to the Government's Green Paper on homelessness proposed a number of goals focused on social inclusion for people who are homeless or at risk, including:

- no person needs to sleep rough because of lack of alternatives;
- increase support to help individuals increase their capacity to successfully sustain engagement in the social and economic functions of society;
- ensure that responses to homelessness re-integrate people with education, employment, long term housing, health and other services;

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4 Australian Government website, *Social Inclusion Principles for Australia*, viewed on 29 October at <http://www.socialinclusion.gov.au/Principles/Pages/default.aspx>.

5 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, pp 19-20.

6 See references in Chapter 3 to: building joined up services; building partnerships with key stakeholders; focus on early intervention and prevention; and planning for sustainability.

7 Australian Government Department of Education, Employment and Workplace Relations (DEEWR), Submission No 69, p 2.

- increase social acceptance and understanding of homelessness issues to improve community ownership and foster social inclusion of the marginalised and vulnerable; and
- improvement of living conditions for Indigenous people.<sup>8</sup>

4.8 Evidence to the inquiry generally supported a legislative framework encompassing the concept and principles of social inclusion.<sup>9</sup> Some evidence however has noted a degree of uncertainty about the meaning and application of the term social inclusion.<sup>10</sup> Some have cautioned against a narrow interpretation of social inclusion, which places too great an emphasis on employment and economic participation.<sup>11</sup> For example, providing its support for a broad definition of social inclusion the Regional Youth Development Officers' Network (RYDON) submits that:

... social inclusion for the terms of homelessness legislation needs to encompass 'providing people with the fundamentals of a decent life within their own community: opportunities to engage in the economic and social life of the community with dignity; increasing their capabilities and functioning; connecting people to the networks of local community; supporting health, housing, education, skills training, employment and caring responsibilities.'<sup>12</sup>

4.9 Observing that social inclusion principles are subject to varied interpretation and that Government priorities change over time, National Shelter concludes that social inclusion needs to be defined within the legislation to clarify interpretation and to ensure constancy over time.<sup>13</sup> The Committee agrees with this conclusion.

8 Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), Submission No 86, p 6.

9 See for example: Mission Australia, Submission No 53, p 23; QYHC, Submission No 50, pp 12-13; Catholic Social Services Australia, Submission No 68, pp 3-4; Wesley Mission Melbourne, Submission No 70, p 6.

10 National Shelter, Submission No 63, p 6. See also: Australian Government (2008), *Social Inclusion: Origins, Concepts and Key Themes*, viewed on 29 October 2009 at <http://www.socialinclusion.gov.au/Pages/Resources.aspx>.

11 See for example: Christo Youth Services, Submission No 35, p 5; Youth Accommodation Association (YAA), Submission No 54, p 11.

12 Regional Youth Development Officers' Network (RYDON), Submission No 33, p 6. See also: YAA, Submission No 54, p 11.

13 National Shelter, Submission No 63, p 6.

## Homelessness and Human Rights

4.10 Evidence indicates that homeless people and those living in inadequate housing are more likely to experience a range of discriminatory experiences and human rights violations. Information from homeless people themselves to the Homeless Persons' Legal Service (HPLS) indicates that:

... their human rights in areas such as housing, social security, discrimination and personal safety were being consistently undermined by the operation of federal, state and territory government policies. In addition, those consulted by HPLS were concerned that SAAP service providers were also failing to adequately protect their human rights in service delivery.<sup>14</sup>

4.11 Similar observations were made by the Law Institute of Victoria which noted that homeless people and those in inadequate housing were more likely to experience violations of:

... the right to privacy, the rights of families and children, the right to life, the right to liberty and security, the right to freedom of movement, the right to participation in public affairs, the right to freedom from cruel, inhuman or degrading treatment, the right to freedom from discrimination, the right to property, the right to social security, the right to the highest attainable standard of health, the right to work and the right to education.<sup>15</sup>

4.12 While the interdependency and indivisibility of many rights is evident, the centrality of adequate housing was also emphasised in the submission from the Australian Red Cross as follows:

Housing is a basic human right and provides the basis for the enjoyment of other rights. Housing provides safety and security, connection to friends, family and community as well as making it easier to hold down a job and to lead a healthy and stable life.<sup>16</sup>

4.13 The centrality of housing to social inclusion is also the premise underpinning the 'housing first' model which has been a core feature of

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14 Homeless Persons' Legal Service (HPLS), Submission No 65, p 5.

15 Law Institute of Victoria, Submission No 29, p 4. See also for example: Women's Health Victoria, Submission No 16, p 2; Inner Sydney Catholic Social Justice Group, Submission No 21, p2; Hanover, Submission No 34, p 4; ACOSS, Submission No 60, pp 17, 18; HPLS, Submission No 65, p 4; City of Sydney, Submission No 66, p 4.

16 Australian Red Cross, Submission No 77, p 5.



the response to homelessness in the USA.<sup>17</sup> As explained in the submission from Homelessness Australia:

Central to the housing first approach is the proposition that people experiencing homelessness are more likely to address the complex reasons that have led them to become homeless if they are given priority access to permanent housing.<sup>18</sup>

- 4.14 Issues associated with incorporating the right to adequate housing into a new legal framework for addressing homelessness are considered in more detail below.

## The Right to Adequate Housing

- 4.15 A significant volume of evidence has called for new homelessness legislation to incorporate an enforceable right to adequate housing.<sup>19</sup> As noted previously, the SAA Act makes several references to human rights, including specific reference in the preamble to the following international treaties to which Australia is party:

- International Covenant on Economic, Social and Cultural Rights (ICESCR);
- International Covenants on Civil and Political Rights (ICCPR);
- Convention on the Elimination of all Forms of Racial Discrimination;
- Convention on Elimination of all Forms of Discrimination against Women;
- Convention on the Rights of the Child;
- Universal Declaration of Human Rights (UDHR); and
- Declaration on the Elimination of Violence Against Women.<sup>20</sup>

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17 See for example: RANZCP, Submission No 13, p 9; Australian Psychological Society, Submission No 40, p 6; Mercy Foundation, Submission No 51, p 1; Catholic Social Services Australia, Submission No 68, p 8.

18 Homelessness Australia, Submission No 39, p 29.

19 See for example: Commissioner for Children and Young People (WA), Submission No 7, p 9, 12; Kids Under Cover, Submission No 9, p 1; ANGLICARE Sydney, Submission No 31, p 10; Homelessness Australia, Submission No 39, p 10; St Vincent de Paul Society, Submission No 43, p 5; Mission Australia, Submission No 53, p 12; HPLS, Submission No 65, pp 9–11; Homeless Outreach Psychiatric Services, Submission No 79, p 3; Human Rights Law Resource Centre, Submission No 82, pp 40–41; PILCH HPLC, Submission No 85, pp 25–26.

20 *Supported Accommodation Assistance Act 1994*, Preamble.

4.16 Chapter 3 indicates considerable support in evidence for references to international human rights made in the preamble to the SAA Act. The international treaties referred to in the preamble contain a number of provisions that have particular relevance to addressing homelessness. Notably Article 25(1) of the UDHR provides that:

Everyone has the right to a standard of living adequate for health and well being of himself [or herself] and his [or her] family, including food, clothing, housing and medical care and necessary social services ...<sup>21</sup>

4.17 Also Article 11 of the ICESCR provides:

The State Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The State Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent.<sup>22</sup>

4.18 Importantly, however it has been noted that reference to international human rights treaties in the preamble of an Act is not sufficient to automatically incorporate these rights into domestic law.<sup>23</sup> Nevertheless, there are obligations for Australia as a signatory to various covenants and conventions. As noted in the submission from the Australian Lawyers for Human Rights:

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21 Universal Declaration of Human Rights, Article 25(1). See for example: Asylum Seeker Resource Centre, Submission No 5, Attachment 1, p 5; Commissioner for Children and Young People (WA), Submission No 7, p 8; Inner Sydney Catholic Social Justice Group, Submission No 21, p 1; Central Coast Group of Amnesty International, Submission No 22, p 1; NSW Young Lawyers Human Rights Committee, Submission No 27, p 4; ANGLICARE Diocese of Sydney, Submission No 31, pp 7-8; Hotham Mission Asylum Seeker Project, Submission No 62, p 8; HPLS, Submission No 65, p 6; Queensland Government, Submission No 91, p 5.

22 International Covenant on Economic, Social and Cultural Rights, Article 11. See for example: Mr B Woods, Submission No 2, p 3; Women With Disabilities Australia, Submission No 3, Attachment 1, p 12; Commissioner for Children and Young People (WA), Submission No 7, p 8; NSW Young Lawyers Human Rights Committee, Submission No 27, p 4; Law Institute of Victoria, Submission No 29, p 4; RYDON, Submission No 33, p 5; Australian Christian Lobby, Submission No 37, p 6; Salvation Army Tasmanian Division, Submission No 42, p 6; Financial and Consumer Rights Council Inc, Submission No 44, p 2; Youth Accommodation Association, Submission No 54, p 11; Australian Lawyers for Human Rights, Submission No 61, p 6; Hotham Mission Asylum Seeker Project, Submission No 62, p 9; HPLS, Submission No 65, p 6; North Australian Aboriginal Justice & Larrakia Nation Aboriginal Corporation (NAAJA & LNAC), Submission No 72, p 8; Human Rights Law Resource Centre, Submission No 82, pp 12-13; AHRC, Submission No 90, pp 17, 47.

23 Queensland Government, Submission No 92, p 18.

Article 2(1) of the ICESCR obliges Australia to take concrete steps, using the maximum available resources, to progressively fulfil economic, social and cultural rights. The steps taken must be targeted and directed towards the most expeditious, effective and full realisation of human rights possible. They should include legislative, financial, social, educational and administrative measures, including budgetary prioritisation.<sup>24</sup>

- 4.19 Despite these obligations, submissions have argued that the SAA Act's intention to protect the rights of people who are homeless or at risk of homelessness, has not translated well into practice.<sup>25</sup> Several submissions have drawn attention to findings of the United Nations (UN) in relation to Australian fulfilment of its international human rights obligations. For example, the Australian Human Rights Commission (AHRC) noted that in September 2000:

The [United Nations Committee on Economic, Social and Cultural Rights] has commented upon the failure of Australia to wholly implement the ICESCR into domestic law, such that 'its provisions cannot be invoked before a court of law'.<sup>26</sup>

- 4.20 Similarly the submission from National Shelter also refers to following statement made in 2006 by the UN Special Rapporteur on Adequate Housing:

... Australia has failed to implement its legal obligation to progressively realise the human right to adequate housing, particularly in view of its responsibilities as a rich and prosperous Country.<sup>27</sup>

- 4.21 National Shelter proceeds to elaborate on the shortcoming reported by the UN Special Rapporteur as follows:

According to the Special Rapporteur's report Australia failed to realise these rights in the following areas; the location of affordable housing; lack of complaints mechanisms for prosecuting or alleging violations of human rights; laws that criminalise the

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24 Australian Lawyers for Human Rights, Submission No 61, p 5. See also: Office of the High Commissioner for Human Rights website, viewed on 14 September 2009 at <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>.

25 See for example: National Shelter, Submission No 63, p 2; HPLS, Submission No 65, p 5; AHRC, Submission No 90, p 30.

26 AHRC, Submission No 90, p 30.

27 National Shelter, Submission No 63, p 2.

use of public spaces by homeless people such as vagrancy laws and the exercise of move on powers ...<sup>28</sup>

4.22 To address this the Commissioner for Children and Young People (Western Australia) notes that:

... the UN Special Rapporteur on Adequate Housing has urged federal and state authorities to make a greater effort to incorporate the international human rights instruments (to which Australia is a party) into the domestic legal system.<sup>29</sup>

4.23 It is in this context that the need for new homelessness legislation has been viewed as an opportunity to embed the right to adequate housing into domestic law.<sup>30</sup> In doing so, submissions have argued that to be truly effective the right to adequate housing must be legally enforceable and therefore included in substantive provisions of new legislation rather than in the preamble.<sup>31</sup>

4.24 However, some evidence cautions against placing too much emphasis on the right to housing in order to address the issue of homelessness. Notably the submission from the Queensland Government highlights a number of challenges and limitations with a statutory right to housing, including:

- the potential of a housing centric focus to overlook the structural causes of homelessness;
- the relative inflexibility of legislation which reduces its responsiveness to changing environments and emerging trends; and
- placing unrealistic obligations on government and non-government service providers operating in a constrained funding environment with limited affordable housing options.<sup>32</sup>

4.25 Similarly the NSW Government also notes the limitations associated with pursuing a purely legislative approach, stating:

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28 National Shelter, Submission No 63, p 2.

29 Commissioner for Children and Young People (WA), Submission No 7, p 9.

30 See for example: Commissioner for Children and Young People (WA), Submission No 7, pp 8-9; Coalition Against Youth Homelessness (CAYH), Submission No 23, p 5; Law Society of New South Wales Young Lawyers, Submission No 27, pp 4-5;

31 See for example: Youthlaw, Submission No 24, p 3; Homelessness NSW, Submission No 28, p 7; Mission Australia, Submission No 53, p 12; HPLS, Submission No 65, p 9; The Homeless Outreach Psychiatric Service (HOPS), Submission No 79, p 3; Human Rights Law Resource Centre, Submission No 82, p 40; PILCH HPLC, Submission No 85, pp 25-26.

32 Queensland Government, Submission No 92, p 16.

While legislation can be a powerful tool from which to underpin changes to policy and practice, the right to housing can not be secured simply through legislation, and requires commitments such as increased funding for social housing and/or significant reforms across social and economic areas including housing, employment and income support.<sup>33</sup>

- 4.26 The Committee agrees that a key issue with a legislated right to adequate housing is the need to avoid setting unrealistic expectations. As observed by one public hearing witness:

There would not be much point in conferring a right [to adequate housing] if we could not actually deliver on it.<sup>34</sup>

- 4.27 Clearly, if legislated, the right to adequate housing would need to be underpinned by a holistic response to homelessness which addresses the underlying and structural causes of homelessness, as well as addressing housing affordability issues.

## What is Adequate Housing?

- 4.28 Evidence has emphasised that adequate housing is more than simply providing shelter or putting a roof over someone's head. With regard to the interpretation of adequate housing as provided for under Article 11 of the ICESCR, several submissions have noted that the UN Special Rapporteurs on Adequate Housing's statement that:

... all people have the right to adequate housing, which includes a right to live somewhere in security, peace and dignity.<sup>35</sup>

- 4.29 A number of submissions have noted that the UN Committee on Economic, Social and Cultural Rights (CESCR) has provided clear guidance on how to assess adequate housing.<sup>36</sup> The CESCR identified seven essential components:

- legal security of tenure: people should possess a degree of security of tenure which guarantees legal protection against

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33 NSW Government, Submission No 96, p 12.

34 K Gumley, FaHCSIA, Transcript of Evidence, 28 October 2009.

35 Australian Lawyers for Human Rights, Submission No 61, p 6. See also: Homelessness NSW, Submission No 28, p 7.

36 See for example: Youthlaw, Submission No 24, p 3; Australian Lawyers for Human Rights, Submission No 61, p 6; City of Sydney, Submission No 66, p 4; Australian Red Cross, Submission No 77, p 5; HOPS, Submission No 79, p 4; HPLC, Submission No 85, p 26; AHRC, Submission No 90, p 20.

forced evictions, harassment and other threats, regardless of the type of tenure;

- availability of services, materials, facilities and infrastructure: to be adequate, housing must contain certain facilities essential for health, security, comfort and nutrition;
- affordability: housing costs should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised;
- habitability: housing must provide adequate space and protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors;
- accessibility to disadvantaged groups: disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Housing law and policy should take their special housing needs fully into account;
- location: housing must be located as to allow access to employment options, health-care services, schools, child-care centre and other social facilities, and must not be built on or near polluted sites or sources of pollution; and
- cultural adequacy: the construction of housing, including the building materials used and supporting policies must appropriately enable the expression of cultural identity and diversity of housing.<sup>37</sup>

4.30 As noted previously in the report, some submissions recognise that the broad definition of homelessness in the SAA Act already acknowledges the importance of access to housing that is adequate (i.e. habitable, safe, secure, affordable etc).<sup>38</sup>

## Realising the Right to Adequate Housing

4.31 In addition to establishing the essential elements of adequate housing, a number of submissions have considered the practicalities of implementing an enforceable right to housing. As noted in the submission from the Homeless Persons' Legal Clinic (HPLC):

Enshrining the right to adequate housing in a Federal Homelessness Act would require government to take reasonable

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37 UN Committee on Economic, Social and Cultural Rights, *General Comment 4: The Right to Adequate Housing*, para 8, viewed on 30 October at [www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/469f4d91a9378221c12563ed0053547e?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563ed0053547e?Opendocument).

38 See for example: Mission Australia, Submission No 53, p 22; Shelter NSW, Submission No 56, pp 12–13; Catholic Social Service Australia, Submission No 68, p 2.

and effective steps to progressively realise the right to adequate housing in Australia ...<sup>39</sup>

- 4.32 Also considering the implementation of an enforceable right to housing Mission Australia observed:

We recognise, however, the many practical difficulties associated with fulfilling this obligation, not the least of which is funding given that meeting the right to adequate housing first requires sufficient housing stock to be available. In view of this, the gradual enforcement of a right to housing might be both achievable, and a significant improvement on the current situation.<sup>40</sup>

- 4.33 Similarly, the submission from the AHRC explains that progressive realisation of the right to adequate housing:

... allows for the full realisation ... over a period of time, taking resource constraints into account. This is very important, recognising that 'the right to adequate housing' does not mean that every person has a right to a house immediately.<sup>41</sup>

- 4.34 Expanding on progressive realisation the AHRC explains further:

The obligation of progressive realisation requires governments to demonstrate they are incrementally contributing to the realisation of human rights. Failure to act or provide incremental funding increases which are needed to reduce homelessness is not in compliance with the principle of progressive realisation.<sup>42</sup>

## International Legislative Precedents

- 4.35 In support of introducing new homelessness legislation which incorporates an enforceable right to adequate housing, submissions have drawn upon the experiences of a number of overseas jurisdictions. A number of submissions have provided detailed consideration of the strengths and weaknesses of homelessness legislation from overseas, particularly South Africa, Scotland and the UK (England and Wales).<sup>43</sup>

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39 HPLC, Submission No 85, p 26. See also: Youthlaw, Submission No 24, pp 3–4; Australian Lawyers for Human Rights, Submission No 61, p 13; NAAJA & LNAC, Submission No 72, p 14; Human Rights Law Resource Centre, Submission No 82, pp 24–25.

40 Mission Australia, Submission No 53, p 11.

41 AHRC, Submission No 90, pp 17–18.

42 AHRC, Submission No 90, p 19.

43 See for example: SYFS, Submission No 4, pp 13–14; Homelessness Australia, Submission No 39, pp 22–30; Queensland Public Interest Law Clearing House (QPILCH), Submission No 47,

- 4.36 Submissions have drawn attention to the implementation of the right to housing in South Africa as an example of how to give practical effect to ICESCR commitments while still reserving the Government's discretion to set appropriate policies and budgets to implement those commitments.<sup>44</sup> In South Africa, as explained by the Tennant's Union of Victoria:

It is the government's duty to take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right. The constitution allows that the right to adequate housing cannot be achieved immediately but must be achieved over time. Nevertheless government must show that it has worked effectively as possible to achieve this right.<sup>45</sup>

- 4.37 Submissions have also included support for the Scottish legislative approach to tackling homelessness which has been described as being progressive and representing best practice.<sup>46</sup> As explained in the submission from the HPLC:

The Scottish Homelessness Act 2001 sets an ambitious goal of effectively guaranteeing the right of access to emergency accommodation in Scotland within 10 years (by 2012). Under the Act, local authorities have both corporate duties to the Scottish Executive to develop their own homelessness strategy and ongoing monitoring and evaluation strategies as well as duties to homeless individuals.<sup>47</sup>

- 4.38 With regard to implementing progressive realisation, evidence has recommended that where limited resources are available new homelessness legislation should expressly provide immediate priority for housing be given to those most in need and to vulnerable population groups. Again with reference to the Scottish legislative model, the HPLC notes:

Scotland's ten year target is to be achieved by gradually expanding the categories of people defined as being in 'priority

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p 2; Young Women's Dual Diagnosis Project (Richmond Fellowship NSW), Submission No 48, p 5; Australian Lawyers for Human Rights, Submission No 61, pp 21-22.

44 See for example: Human Rights Law Resource Centre, Submission No 82, pp 40-41; HPLC, Submission No 85, p 31.

45 Tennant's Union of Victoria, Submission No 84, p 1.

46 See for example: Commissioner for Children and Young People (WA), Submission No 7, p 9; CAYH, Submission 23, p 10; Hanover Welfare Services, Submission No 34, p 6; Mission Australia, Submission No 53, p 11; HPLS, Submission No 65, p 9; HOPS, Submission No 79, p 3; Council for Homeless Persons, Submission No 80, pp 21-22; Human Rights Legal Resource Centre, Submission No 82, p 27.

47 HPLC, Submission No 85, pp 31-32.



housing need' and giving households classified as 'intentionally homeless', accommodation with greater social support. For example, the categories of priority need will be gradually broadened until in ten years time there is no distinction drawn between any homeless person who is categorised as unintentionally homeless.<sup>48</sup>

4.39 Although seen as less progressive than Scottish legislation, England and Wales also provide a legally enforceable right to adequate housing.<sup>49</sup> As noted by the HRLRC:

The legislation does not currently protect all homeless people, drawing distinctions based on whether a person has a priority need, is intentionally homeless and has a local connection.<sup>50</sup>

4.40 Several submissions drew attention to continuing debate in the UK about its housing and homelessness legislation, noting concern about:

- exclusions from the definition of homelessness;
- insufficient focus on tackling the structural causes of homelessness;
- the need to retain a low eligibility threshold for interim accommodation;
- the process for assessing priority need and vulnerability; and
- poor standards of temporary accommodation.<sup>51</sup>

4.41 While these international legislative frameworks provide useful models for Australia to draw on, further consideration must also now take into account the recently released outcomes of the Australian Government's National Human Rights Consultation (NHRC).

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48 HPLC, Submission No 85, pp 31–32. See also: HRLRC, Submission No 82, p 27.

49 See for example: Homelessness NSW, Submission No 28, p 13; Homelessness Australia, Submission No 39, pp 25–26; Mercy Foundation, Submission No 51, p 4.

50 HRLRC, Submission No 82, p 53.

51 Homelessness NSW, Submission No 28, pp 13–14. See also: SYFS, Submission No 4, pp 15–16; RYDON, Submission No 33, pp 11–12; Homelessness Australia, Submission No 39, pp 25–26; Salvation Army Australia Eastern Territory, Submission No 55, pp 8–9; Queensland Government, Submission No 92, p 16.

## Outcomes of the National Human Rights Consultation

4.42 As noted in Chapter 2, the outcomes of the Australian Government's NHRC were released in September 2009. In its consideration of the issue of homelessness, the NHRC committee reported:

Although most people would agree that the right to adequate housing is a fundamental human right – as recognised in the International Covenant on Economic, Social and Cultural Rights – this right is not protected in Australia.<sup>52</sup>

4.43 The NHRC committee found that there was significant support for increased protection of social, economic and cultural rights, including the right to adequate housing.<sup>53</sup> The report found, that for most Australians, the main social and economic concerns related to the realisation of the rights to education, housing and the highest attainable standard of health.<sup>54</sup>

4.44 However, the NHRC committee received submissions with conflicting views about the most appropriate way to support increased protection of social, economic and cultural rights.<sup>55</sup> It was agreed that pre-legislative scrutiny (e.g. statements of compatibility for Bills and reviews of legislative compliance with human rights)<sup>56</sup> would at a minimum provide some protection for social, economic and cultural rights.

4.45 The main controversy relates to whether such rights should be justiciable, as this would require the courts to make determinations in relation to the 'reasonableness' of Government's approach to realisation of these rights. This could include the courts reviewing the Government's social and fiscal policy, and making judgements as to whether Government has dedicated sufficient resources to achieving outcomes. This was a role that some felt was best decided by the Parliament rather than by the courts.<sup>57</sup> In view of these concerns, and the additional complexity caused by shared responsibility for funding and service delivery between the Australian Government and state governments, the NHRC committee made the

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52 Australian Government (2009), National Human Rights Consultation Report, p 27.

53 Australian Government (2009), National Human Rights Consultation Report, p 79.

54 Australian Government (2009), National Human Rights Consultation Report, p 365.

55 Australian Government (2009), National Human Rights Consultation Report, pp 78–82.

56 Australian Government (2009), National Human Rights Consultation Report, Recommendations 6, 7, 26 & 27.

57 Australian Government (2009), National Human Rights Consultation Report, pp 314–318.

following recommendation should a Human Rights Act be introduced in Australia:

The Committee recommends that, if economic and social rights are listed in a federal Human Rights Act, those rights not be justiciable and that complaints be heard by the Australian Human Rights Commission. Priority should be given to the following:

- the right to an adequate standard of living – including adequate food, clothing and housing.
- the right to the enjoyment of the highest attainable standard of physical and mental health.
- the right to education.<sup>58</sup>

4.46 However, the NHRC committee also noted that:

... a Human Rights Act will be no substitute for more resources and more effective distribution of those resources to secure the basic economic and social rights of those whose dignity is most at risk in contemporary Australia.<sup>59</sup>

4.47 A number of submissions to this inquiry have made reference to their input to the NHRC.<sup>60</sup> For example, the submission from the Law Institute of Victoria states:

Australia does not currently have a national charter of human rights which could assist in protecting the right to adequate housing. In its submission to the National Human Rights Consultation, the LIV called on the Australian Government to introduce a National Human Rights Act that provides for the protection of all human rights and a right of enforcement and remedy.<sup>61</sup>

4.48 ACOSS speculates on the various options available for promoting and protecting the right to housing, depending on the outcomes of the NHRC. According to ACOSS should Government decide to adopt a Human Rights Act which includes the right to adequate housing then:

... new homelessness legislation should make reference to the rights included in the act and the act should be drafted so as to be consistent with a national human rights act.<sup>62</sup>

58 Australian Government (2009), National Human Rights Consultation Report, p 366.

59 Australian Government (2009), National Human Rights Consultation Report, p 365, 378.

60 See for example: Homelessness NSW, Submission No 28, p 8; Law Institute of Victoria, Submission No 29, p 6.

61 Law Institute of Victoria, Submission No 29, p 6.

62 ACOSS, Submission No 60, p 7.

4.49 In the event that a Human Rights Act is not adopted or that the right to adequate housing is excluded from the Act, then ACOSS recommends:

... consideration should be given to the inclusion of a charter of rights for those who are homeless or at risk of homelessness in new homelessness legislation. Such a charter should include the right to housing and set out government responsibilities to progressive realisation of the right ... It should also include related rights, including access to services and Indigenous rights to active involvement in the development and delivery of health and housing programs that affect their communities.<sup>63</sup>

## The Way Forward

4.50 The Committee notes that the majority of submissions to this inquiry strongly support new homelessness legislation which incorporates an enforceable right to adequate housing. The Committee also notes the options put forward by the NHRC committee to promote and better protect social, economic and cultural rights, including the right to adequate housing. As a formal response to the NHRC recommendations is not yet available, it is not known yet whether the Government will introduce national Human Rights Bill into Parliament.

4.51 Should Australia adopt a national Human Rights Act which includes the right to adequate housing, then new homelessness legislation will need to be consistent with such an Act. Should a Human Rights Act not be adopted, then the Committee recommends new homelessness legislation include provisions for the right to adequate housing to be progressively realised. A definition of adequate housing, including its essential components should be included in legislation. The legislation should explicitly recognise that realisation of the right to adequate housing will have to be met in the context of available resources.

### Recommendation 7

4.52 **That new homelessness legislation specify the right of all Australians to adequate housing. Such a provision should:**

- **include appropriate reference to Australia's international**

63 ACOSS, Submission No 60, p 7.

**human rights obligations;**

- **include a clear definition of adequate housing; and**
- **explicitly recognise the right to adequate housing will be progressively realised.**

## **Principles Underpinning Homelessness Legislation**

4.53 While reducing homelessness and increasing social inclusion through the right to adequate housing will be key features of new homelessness legislation, a rights based approach to addressing homelessness will also need to be underpinned by a number of principles. Many submissions have included extensive and comprehensive lists of principles that should be incorporated into new homelessness legislation.<sup>64</sup> Essentially these principles can be summarised as follows:

- accessibility of services and support;
- flexibility of services and supports to enable responses that are tailored to the specific needs of individuals, families and communities;
- the inclusion of mechanisms which empower people by enabling active participation in the development of legislation, policy and in decision making;
- improved accountability of services through independent assessment and monitoring;
- the provision of internal and external mechanisms to enable feedback and making complaints;
- provisions to ensure protection of confidentiality and privacy; and
- the protection of personal safety and wellbeing.

4.54 The accessibility of services and supports is considered in more detail below, with a particular focus on the challenges experienced by vulnerable and marginalised populations.

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64 See for example: Law Society of Victoria, Submission No 29, p 6; RYDON, Submission No 33, p 4; Salvation Army Australia Southern Territory, Submission No 91, pp 11–12.

## Accessibility of Services and Supports

4.55 While people who are homeless come from all walks of life, it is apparent that some groups are more likely to experience homelessness than others. Ideally, access to housing and other services for homeless people and those at increased risk of homelessness should be available and readily accessible for all who need it.<sup>65</sup> However, there are some population groups that face greater challenges than others in accessing appropriate assistance. While not intended to be an exhaustive list, submissions have identified additional challenges experienced by the following vulnerable and marginalised groups:

- young people and children;
- women and families;
- Aboriginal and Torres Strait Islander Peoples;
- asylum seekers and refugees;
- people with disabilities or chronic illness;
- people leaving care or institutions; and
- rural populations.

4.56 The Committee will recommend that new legislation gives some recognition to the needs of especially vulnerable groups.

## Young People and Children

4.57 Children and young people under the age of 21 years make up approximately one third of the homeless population.<sup>66</sup> In accordance with a rights based approach, some submissions have drawn attention to Article 27 of the United Nation Convention on the Rights of the Child which states:

Every child has the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.<sup>67</sup>

4.58 However some have expressed the view that the rights of homeless children and young people have not been adequately recognised or

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65 See for example: Homelessness NSW, Submission No 28, p 6; RANZCP, Submission No 13; p 8; RYDON, Submission No 33, p 7.

66 Australian Bureau of Statistics (ABS) (2008), *Counting the Homeless 2006*, 2050.0, p 29.

67 Queensland Commission for Children and Young People and Child Guardian, Submission No 74, p 1.

protected in previous homelessness legislation.<sup>68</sup> To address this, submissions have called for children and young people to be recognised as a priority group of clients in their own right.<sup>69</sup> Furthermore, it has been suggested that new legislation should incorporate the best interests of the child as a guiding principle in developing homelessness policy and service delivery.<sup>70</sup>

- 4.59 The causes and events leading to homelessness for young people are varied and complex. The importance of prevention and early intervention strategies that address the structural causes of homelessness for this group has been repeatedly emphasised.<sup>71</sup>

## Women and Families

- 4.60 In 2006 women made up approximately 44% of the homeless population in Australia.<sup>72</sup> In 2007–08, half of the women with children using SAAP services cited escaping domestic or family violence as their reason for seeking support.<sup>73</sup> Given the significance of domestic violence as a cause of homelessness, evidence has called for domestic violence to be specifically acknowledged throughout new legislation.<sup>74</sup> Evidence has also included support for a broad definition of homelessness in new legislation which recognises the importance of ‘safety’ as an essential element of adequate housing.<sup>75</sup>

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68 See for example: Queensland Commission for Children and Young People and Child Guardian, Submission No 74, p 4; Victorian Children’s Resource Program, Submission No 25, p 1.

69 See for example: Victorian Children’s Resource Program, Submission No 25, p 1; NSW Women’s Refuge Movement, Submission No 58, p 2; Queensland Commission for Children and Young People and Child Guardian, Submission No 74, p 3; McCauley Community Services for Women, Submission No 94, p 3.

70 See for example: Youthlaw, Submission No 24, p 4; Law Institute of Victoria, Submission No 29, p 6; Queensland Commission for Children and Young People and Child Guardian, Submission No 74, p 1; FaHCSIA, Submission No 86, p 6; AHRC, Submission No 90, p 15.

71 See for example: Name withheld, Submission No 10, p 4; Commissioner for Children and Young People (WA), Submission No 7, pp 9–10, 15; Kids Under Cover, Submission No 9, p 1; NSW Association for Adolescent Health & NSW Youth Health Council, Submission No 38, pp 5–6; CAYH, Submission No 23, p 7.

72 ABS (2008), *Counting the Homeless 2006*, 2050.0, p 28.

73 Australian Institute of Health and Welfare (AIHW) (2009), *Homeless People in SAAP: SAAP National Data Collection Annual Report*. SAAP NDC Report Series 13, Cat No HOU 191, Canberra.

74 NSW Women’s Refuge Movement Working Party, Submission No 46, p 16; NSW Women’s Refuge Movement, Submission No 58, p 1.

75 NSW Women’s Refuge Movement Working Party, Submission No 46, p 4–6; NSW Women’s Refuge Movement, Submission No 58, p 2.

- 4.61 In the context of rights based legislation submissions have contended that it is critical for new homelessness legislation to explicitly protect the rights of women and children escaping domestic violence.<sup>76</sup> The importance of a coordinated and integrated response that links with other policies and government reforms aimed at tackling the causes of homelessness for women and families has also been highlighted in evidence.<sup>77</sup>

## Aboriginal and Torres Strait Islanders

- 4.62 Aboriginal and Torres Strait Islanders are over-represented in all sectors of the homeless population.<sup>78</sup> Submissions have called for services that are both accessible to Aboriginal and Torres Strait Islanders and culturally appropriate.<sup>79</sup> The submission from the North Australian Aboriginal Justice Agency (NAAJA) and the Larrakia Nation Aboriginal Corporation (LNAC) calls for:

... provision for Aboriginal specific services that provide safe, accessible, trusted and culturally-appropriate services that specialise in assisting the chronically as well as short-term homeless, that address the need for life-long rather than one-off support, and that do not require strict compliance with rigid bureaucratic requirements.<sup>80</sup>

- 4.63 The submission from the Aboriginal Hostels also advocates for the maintenance of distinct service arrangements for homeless Aboriginal and Torres Strait Islanders<sup>81</sup>, while the Victorian Aboriginal Legal Service (VALS) Cooperative contends that:

... [there is a] need for both Aboriginal and Torres Strait Islander specific services and mainstream services, not one or the other. VALS is critical of mainstreaming because it removes the choice between using an Aboriginal and Torres Strait Islander service or mainstream service. A person of Aboriginal or Torres Strait Islander descent might use the former service in order to be

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76 Domestic Violence Victoria, Submission No 49, p 4.

77 See for example: Women's Health Victoria, Submission No 16, p 3; E Dourado, Submission No 20, p 1; Women's Legal Service Victoria, Submission No 36, p 11; NSW Women's Refuge Movement Working Party, Submission No 46, p 12.

78 ABS (2008), *Counting the Homeless 2006*, 2050.0, p 29.

79 See for example: NAAJA & LNAC, Submission No 72, p 14; Aboriginal Legal Service of WA (ALSWA), Submission No 73, p 6, 7; Victorian Aboriginal Legal Service (VALS) Cooperative, Submission No 75, pp 3-4; Australian Red Cross, Submission No 77, p 6.

80 NAAJA & LNAC, Submission No 72, p 10.

81 Aboriginal Hostels Limited, Submission No 15, p 13.



assured of a culturally sensitive service [or] might user the latter service because they know a worker at the Aboriginal and Torres Strait Islander service and desire privacy.<sup>82</sup>

- 4.64 Importantly, noting a policy emphasis on rural and remote locations, VALS also emphasises the importance of measures to address homelessness experienced by Aboriginal and Torres Strait Islanders living in urban areas.<sup>83</sup>

## Asylum Seekers

- 4.65 A number of submissions highlight the risks and challenges experienced by homeless asylum seekers trying gain access to adequate housing.<sup>84</sup> The submission from Hotham Mission Asylum Seeker Project notes that risk of homelessness is increased for asylum seekers, particularly as this group has limited access to safety nets such as public housing and social security.<sup>85</sup> The submission argues that in accordance with its international human rights obligations, the Australian Government should provide greater support for asylum seekers.<sup>86</sup>
- 4.66 In 2009 the Asylum Seeker Resource Centre<sup>87</sup> produced a position paper on homelessness among asylum seekers. The paper found that asylum seekers had difficulty accessing both mainstream and specialist services. It identified the following key issues faced by asylum seekers needing emergency or transitional accommodation:
- The struggle to gain access to Housing Agencies for emergency and transitional accommodation;
  - The lack of understanding and willingness of Housing Agencies to provide an adequate emergency and transitional accommodation response;
  - A (well-documented) lack of safe rooming houses and emergency-type accommodation options;

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82 VALS Cooperative, Submission No 75, p 3.

83 VALS Cooperative, Submission No 75, pp 1-2.

84 See for example: Asylum Seeker Resource Centre, Submission No 5, pp 1-2; Hotham Mission Asylum Seeker Project, Submission No 62, pp 1-18; Australian Red Cross, Submission No 77, p 7.

85 Hotham Mission Asylum Seeker Project, Submission No 62, p 7.

86 Hotham Mission Asylum Seeker Project, Submission No 62, pp 8-11.

87 Asylum Seeker Resource Centre (2009), *Locked Out. Position Paper on Homelessness of Asylum Seekers Living in the Community.*

- No current entry point to access mainstream transitional housing.<sup>88</sup>

4.67 Also with reference to the Asylum Seeker Resource Centre's position paper, the Australian Red Cross notes:

Recent reports have highlighted the difficulty accessing the housing and homelessness support sector that asylum seekers experience and the disastrous impact on their lives as they seek to settle in Australia. The reality is that contrary to the principal of 'no wrong doors' outlined in 'The Road Home' asylum seekers are finding that there are many wrong doors. Red Cross fervently believes that the Commonwealth homelessness legislation must include a legislative right of eligibility to services for asylum seekers.<sup>89</sup>

## People with Disabilities or Chronic Illness

4.68 A number of submissions have emphasised that people with disabilities or chronic illness (including mental illness and people with alcohol or other drug disorders) are more likely to experience poverty, social exclusion and discrimination.<sup>90</sup> As a consequence these groups are also at increased risk of homelessness.

4.69 Due to multiple and often complex needs, these groups are also more likely to experience difficulty accessing support from specialist homelessness services, as well as from mainstream services. A number of submissions have noted exclusionary policies and practices employed by SAAP providers.<sup>91</sup> A 2004 report by the NSW Ombudsman found that:

... the level and nature of exclusions in SAAP are extensive.

According to the agency survey, in eligibility policies:

- over three quarters of agencies indicated that they exclude people exhibiting violent behaviour;

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88 Asylum Seeker Resource Centre (2009), *Locked Out. Position Paper on Homelessness of Asylum Seekers Living in the Community*, p 3.

89 Australian Red Cross, Submission No 77, p 7.

90 See for example: Women with Disabilities Australia, Submission No 3, p 1; RANZCP, Submission No 13, pp 5-6; The Richmond Fellowship, Submission No 48, pp 1, 7-8; Alcohol and Other Drugs Council of Australia (ADCA), Submission No 64, p 1; Mental Health Council of Australia (MHCA), Submission No 81, p 1.

91 See for example: Women with Disabilities Australia, Submission No 3 (Attachment 1), pp 14-15; HPLS, Submission No 65, p 8; Mission Australia, Submission No 53, p 23; HPLS, Submission No 65, p 8.

- almost two thirds of agencies stated that they exclude people with drug and alcohol disorders;
- approximately half of the agencies stated that they exclude people with a mental illness;
- over one third of agencies indicated they exclude people with a physical or an intellectual disability;
- over one third of agencies indicated they exclude people unable to live independently/ semi-independently;
- almost one third of agencies stated that they exclude people who have been blacklisted.<sup>92</sup>

4.70 The NSW Ombudsman's report proceeded to identify the reasons given by the service providers for access exclusion:

Approximately three quarters of agencies surveyed indicated that physical safety of clients and staff were reasons for excluding particular groups of clients. In addition, approximately half of agencies stated the following as reasons for exclusion:

- limited staffing levels;
- occupational health and safety and other industrial legislative issues for staff;
- service model/ primary target group incompatible with certain clients (i.e. shared or independent accommodation);
- compatibility with other clients/ residents;
- physical accessibility (i.e. of premises/location).

A lack of staff expertise and skills, and an inability of the service to provide adequate case management for the client, were also commonly stated reasons.<sup>93</sup>

4.71 Evidence has indicated that addressing the sometimes high level and complex care needs of homeless people with disabilities or chronic illness will require new legislation to establish a framework that integrates and coordinates responses linking specialist services and mainstream services.<sup>94</sup>

## People Exiting Care

4.72 People are more vulnerable to homelessness at times of change. This includes people who are leaving statutory, custodial care and hospital,

92 NSW Ombudsman (2004), *Assisting homeless people – the need to improve their access to accommodation and support services*, p 29.

93 NSW Ombudsman (2004), *Assisting homeless people – the need to improve their access to accommodation and support services*, p 30.

94 See for example: ADCA, Submission No 64, p 2; MHCA, Submission No 81, p 4.

mental health, and drug and alcohol services. *The Road Home* includes in its approach to reducing homelessness a commitment to ‘no exits into homelessness’.<sup>95</sup> A ‘no exits into homelessness’ approach will involve more than the provision of housing, but also pre-release planning and access post-exit to a range of support services to prevent re-entry in homelessness at a later date.<sup>96</sup> Submissions have expressly called for ‘no exits into homelessness’ to be made explicit in new legislation and regularly monitored.<sup>97</sup>

## Rural Populations

- 4.73 While rates of homelessness are higher in inner cities and metropolitan centres, homelessness is not restricted to these areas. However, shortages of specialist homelessness services and mainstream services in rural and remote areas have been noted.<sup>98</sup> As a result homeless people in rural or regional areas either are not able to access required services or have to relocate to do so. Submissions have called for new legislation to promote strategies to address shortages of services in rural and regional Australia.<sup>99</sup>

## Promoting Equity of Access to Services and Supports

- 4.74 The Committee believes that new homelessness legislation should commit governments to the principle of providing equitable access to services. However, for some groups the risk of experiencing homelessness is increased and the challenges accessing services are more significant. To some extent concerns raised in relation to better supporting these vulnerable and marginalised groups have been addressed earlier in the report. Notably the Committee’s recommendation for the structural and

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95 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 27.

96 See for example: Homelessness Australia, Submission No 39, p 8; Australian Psychological Society, Submission No 40, p 13; ACOSS, Submission No 60, p 9; Queensland Commission for Children and Young People and Child Guardian, Submission No 74, p 2; Mental Health Council of Australia, Submission No 81, pp 4–5.

97 See for example: ANGLICARE Sydney, Submission No 31, p 11; Homelessness Australia, Submission No 39, p 8; Welfare Rights Centre, Submission No 59, p 4; Catholic Social Services Australia, Submission No 68, p 2; Australian Red Cross, Submission No 77, pp 12–13.

98 See for example: RANZCP, Submission No 13, p 8; Byron Emergency Accommodation Project, Submission No 30, p 2; NSW Young Lawyers Human Rights Committee, Submission No 27, p 12; J Hourigan Ruse, Transcript of Evidence, 9 September 2009, p 7.

99 See for example: Name withheld, Submission No 10, p 3; RANZCP, Submission No 13, p 8; NSW Young Lawyers Human Rights Committee, Submission No 27, p 12.

individual causes to be recognised in a redrafted preamble will emphasise the diversity of homeless people and their needs. A broad definition of homelessness which recognises 'at risk' populations and people living in inadequate housing will also encourage service providers to cater to these groups. The recommended focus on prevention of homelessness and on integrated and coordinated responses to homelessness which includes both specialist and mainstream services are also crucial to addressing the needs of vulnerable populations.

- 4.75 The Committee believes that new homelessness legislation should include explicit recognition of vulnerable and marginalised groups and their specific needs to promote equity of access and support. However, the Committee also acknowledges the practical realities of operating in a resource constrained environment. Although the right to adequate housing is universal, the commitment to progressive realisation will initially necessitate a process of prioritisation. The Committee notes that even in countries where the right to housing has already been legislated (e.g. Scotland, England and Wales etc) there are provisions for determining priority. While determining categories for priority will be challenging, the Committee believes that assessing need and vulnerability will be key considerations.

### **Recommendation 8**

- 4.76 **That the Minister for Housing include provision in new homelessness legislation to give priority access within available resources to services and supports based on an assessment of the needs and vulnerability.**
- 4.77 The Committee believes that effective and independent monitoring and reporting on progress toward the realisation of the right to adequate housing is essential. This may be an undertaking for the Prime Minister's Council on Homelessness which was recently established to monitor and report on the Government's progress against targets for reducing homelessness as set out in *The Road Home*. While the Committee understands that this will require some changes to data collection<sup>100</sup>, monitoring and reporting should include disaggregated information for those populations identified as vulnerable or marginal.

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100 See for example: HRLRC, Submission No 82, p 43; AHRC, Submission No 90, p 25.

## Recommendation 9

- 4.78 **That the Minister for Housing include provision in new legislation for the independent monitoring of the progress towards the realisation of the right of all Australians to adequate housing. Data collection mechanisms should allow monitoring of progress for specified vulnerable and marginalised population groups.**
- 4.79 The Committee was particularly concerned by evidence of groups being excluded from services. To some extent the Committee believes that these practices are a result of shortages and inadequacies with the provision of mainstream services (e.g. mental health services, child protection services etc) which place an inappropriate burden on specialist homelessness services. In view of this, the Committee acknowledges the practical realities facing providers of homelessness services, including the high demand for limited services and responding to clients sometimes with complex, high level needs. Nevertheless the Committee believes that exclusionary practices could be reduced with appropriate resourcing of the sector and with the establishment of a national standards and accreditation framework for services. These issues are considered in more detail in Chapter 5.

## Homelessness and Discrimination

- 4.80 Homeless people are often more vulnerable to systemic discrimination as a result of laws or policies which disproportionately affect them.<sup>101</sup> As noted by Mission Australia:

... special consideration ... should be afforded to people who are homeless in recognition of their extreme socio-economic disadvantage and lack of access to private dwellings, which impacts on their ability to receive goods and services and to participate in the daily activities that many of us take for granted. Such special consideration would serve to protect people from harassment by the authorities for activities and behaviours (such

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101 See for example: B Woods, Submission No 2, p 4-5; Women's Health Victoria, Submission No 16, p 4; The Australian Psychological Society, Submission No 40, p 7; National Shelter, Submission No 63, p 2; NAAJA & LNAC, Submission No 72, p 9; Australian Red Cross, Submission No 77, p 11, 12.

as drinking, bathing, sleeping, and storing belongings in public spaces) that would not be considered illegal in the privacy of one's home, and are necessary by virtue of the fact that they have no place to call home.<sup>102</sup>

4.81 The indivisibility and interdependence of rights was noted earlier in this Chapter. Therefore some submissions have argued that in addition to specifying the right to adequate housing, new homelessness legislation should recognise the associations between homelessness and the broader rights of people who are homeless. In relation to this ACOSS notes:

As a component of the right to an adequate standard of living, the links between housing and other rights must be understood. The conceptualisation of homelessness as a human rights issue highlights some of these links as it can be considered to bring into play the right to security of the person, the right to freedom from discrimination, the right to privacy, the right to freedom of expression, the right to freedom of association, the right to vote, the right to social security and the right to health, in addition to the right to housing.<sup>103</sup>

4.82 The submission from the HPLS recommends that new legislation should also recognise an enforceable right to adequate healthcare, the right to personal safety, the right to social security, the right to freedom of association and the right to vote.<sup>104</sup> Submissions have identified a range of Commonwealth, state and local government laws and policies which exacerbate the discrimination and violations of rights experienced by homeless people. Those most frequently raised in submissions include:

- anti-discrimination laws and discrimination on the basis of socio-economic status;
- residential tenancy laws, particularly with respect to guaranteeing minimum acceptable accommodation standards and increasing protections against forced evictions; and
- public space laws that criminalise activities such as sleeping, bathing or storing belongings in public spaces.

4.83 To address these issues submissions have argued that there is an urgent need to review all laws and policies that impact disproportionately on

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102 Mission Australia, Submission No 53, p 4.

103 ACOSS, Submission No 60, p 18.

104 HPLS, Submission No 65, p 4.

people experiencing homelessness. As recommended by the Law Institute of Victoria:

... the Commonwealth government should facilitate a review of state and territory residential tenancy and other laws to ensure compliance with international human rights standards relevant to homelessness, including protection from forced evictions, and to address any disproportionate impact upon people experiencing homelessness, such as public drinking and public sleeping laws.<sup>105</sup>

- 4.84 The realities of being homeless were illustrated by Brad and Shawn, two people with personal experience of homelessness who participated in a public hearing.<sup>106</sup> Commenting on the risks to his personal safety Shawn, described his experience in accessing crisis accommodation when he first became homeless:

This is a few years ago now, but initially I went to a crisis place in St Kilda. I was sitting and waiting for a while before I could be processed, but in the end it turned out to be just a single bed in a hallway. There were a lot of drug users there and different things, and I chose to sleep in my car rather than in that environment.<sup>107</sup>

- 4.85 Similarly Brad, who became homeless at the age of thirteen explained:

Like I was saying earlier about being placed in rooming houses with older males, I left those properties because I felt really unsafe and there was no support for me. There were just bad influences from these older males.<sup>108</sup>

- 4.86 In addition to the difficulties both have experienced in finding suitable, long-term accommodation, Brad and Shawn also described the challenges they had faced as homeless people in accessing healthcare, education and employment. Shawn also detailed some of his interactions as a homeless person with the police and the criminal justice system.<sup>109</sup>

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105 Law Institute of Victoria, Submission No 29, pp 6-7. See also: Youthlaw, Submission No 24, pp 4-5; Queensland Public Interest Law Clearing House, Submission No 47, p 2; ACT Government, Submission No 78, pp 2-3; HOPS, Submission No 79, p 4; PILCH HPLC, Submission No 85, p 44, McCauley Community Services for Women, Submission No 94, p 1.

106 Brad & Shawn, Transcript of Evidence, 16 September 2009, pp 3-15.

107 Shawn, Transcript of Evidence, 16 September 2009, p 12.

108 Brad, Transcript of Evidence, 16 September 2009, p 12.

109 Brad & Shawn, Transcript of Evidence, 16 September 2009, pp 3-15.



## Audit of Legislation

- 4.87 The Committee fully appreciates the associations between homelessness and the increased risks of experiencing discrimination and violations of rights. The Committee believes that new homelessness legislation should include a statement which recognises the associations between homelessness and broader disadvantage and has earlier recommended this be included in the preamble to any new legislation. However, it is unclear how new homelessness legislation alone could eliminate discrimination against homeless people, and guarantee the protection and realisation of their human rights.
- 4.88 Clearly the outcomes of the NHRC are relevant. In addition to the NHRC recommendation for the introduction of a federal Human Rights Act<sup>110</sup>, the Committee also notes the following recommendation:
- that the Federal Government conduct an audit of all federal legislation, policies and practices to determine their compliance with Australia's international human rights obligations, regardless of whether a federal Human Rights Act is introduced. The government should then amend legislation, policies and practices as required, so that they become compliant.
  - that, in the conduct of the audit, the Federal Government give priority to the following areas:
    - ⇒ anti-discrimination legislation, policies and practices ...<sup>111</sup>
- 4.89 Given that there are a large number of Commonwealth, state and local government laws and policies that impact disproportionately on homeless people, the Committee believes that a whole of government review of laws and policies would be needed. Therefore the Committee recommends that the Australian Government, in cooperation with state governments, undertake a review of all laws and policies that impact disproportionately on people experiencing homelessness. Those laws and policies which do not conform to government's anti-discrimination and human rights obligations should be amended accordingly.

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110 Australian Government (2009), National Human Rights Consultation Report, Recommendation 18.

111 Australian Government (2009), National Human Rights Consultation Report, Recommendation 4.

**Recommendation 10**

4.90 That the Australian Government, in cooperation with state and territory governments, conduct an audit of laws and policies that impact disproportionately on people experiencing homelessness. Laws and policies that do not conform to anti-discrimination and human rights obligations should be amended accordingly. Priority should be given to review and amendment of:

- anti-discrimination laws;
- residential tenancy laws; and
- public space laws.



## A National Standards and Accreditation Framework for Services

5.1 This Chapter considers the rationale for implementing a national standards and accreditation framework (hereafter referred to as a national standards framework) for services and the scope of its application. Consideration is given to the range of legislative and non-legislative strategies that might be used to support quality improvements in services, and to the possible impact on services of implementing a national standards framework, including resource implications.

### Rationale for a National Standards Framework

5.2 There is no unified national regulatory framework that applies to specialist providers of services used by homeless people and people at risk of homelessness. Previously, service standards for assistance provided under the Supported Accommodation Assistance Program (SAAP) have been established within each state jurisdiction. *The Road Home* suggests that governments have implemented service standards with 'varying degrees of success'.<sup>1</sup> To promote national consistency and encourage best practice in services used by homeless people, *The Road Home* foreshadows that:

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1 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 43.

The Australian Government will enact new legislation to ensure that people who are homeless receive quality services and adequate support.<sup>2</sup>

5.3 *The Road Home* indicates that the establishment of a national standards framework with a focus on quality improvement will contribute to:

- placing clients at the centre of the response in both the mainstream and homelessness service settings;
- a greater ability to attract and retain a highly trained, multi-skilled and well-educated workforce;
- career paths for the workforce, with skills and expertise that are easily transferable within the sector;
- continuous service improvement to ensure that clients receive a service offer focussing on achieving sustainable housing and employment outcomes;
- stronger connections between government, business and non-government services.<sup>3</sup>

5.4 To progress the development of a national standards framework *The Road Home* explains that:

The Australian Government and state and territory governments will work with homelessness services and people who are homeless to develop national homelessness service standards and a system for accrediting services focused on improving quality.<sup>4</sup>

5.5 *The Road Home* recognises the diversity of services used by homeless people and recommends that service standards and accreditation be introduced for specialist homelessness services only, with a national service charter produced to guide mainstream services in delivery of support to homeless people. Thus *The Road Home* contends:

National service charters for mainstream services and accreditation for funded specialist homelessness services will lead to a service system that maintains high-quality service delivery and has appropriately skilled and qualified staff. It will also help

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

3 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 43.

4 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 43.

develop partnerships that encourage consistency and best practice service delivery across the sector.<sup>5</sup>

- 5.6 The submission from the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) summarises the need for a national regulatory systems as follows:

A strong approach to quality improvement in homelessness services and mainstream services dealing with vulnerable Australians is needed to align the efforts of states and territories. Long term efficiencies in delivery that give consumers and governments assurance of quality are possible. A quality system will give scope for improved transparency and accountability to the broader community ensuring funds are being judiciously invested to get the best outcomes. Legislation that encompasses principles, values, consumer protections and service standards would create a sound framework.<sup>6</sup>

- 5.7 Evidence to the inquiry also widely recognises the potential benefits of introducing a national standards framework for services. It was generally thought that, if implemented correctly, a unified system could provide services users with increased confidence about the quality of services they access. It was also thought that a national standards framework could support improvements in the quality of services through the adoption and delivery of best practice and through encouraging capacity building in the workforce.<sup>7</sup>

## Key Issues for Consideration

- 5.8 Despite general support for a national standards framework, many submissions stressed that careful consideration is required to achieve the desired outcomes and avoid unintended consequences. A fundamental consideration relates to how to determine the most effective strategy, or range of strategies, to achieve consistent service delivery and quality improvement in services. However, there is some uncertainty about the

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5 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 43. See also: Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), Submission No 86, p 9.

6 FaHCSIA, Submission No 86, p 8.

7 See for example: Women's Legal Service Victoria, Submission No 36, p 11; Mission Australia, Submission No 53, pp 15-17; Australian Red Cross, Submission No 77, p 13; Council to Homeless Persons, Submission No 80, p 9; FaHCSIA, Submission No 86, pp 2-3.

extent to which legislative or non-legislative strategies should drive this process.<sup>8</sup> Also, as homeless people and those at risk of homelessness may seek assistance from a wide range of services, questions have been raised about the breadth of services that should be governed by a national standards framework.

- 5.9 Other issues that need further consideration relate to the process for achieving consensus on the broad principles and specific standards to be included in a national standards framework, and the capacity of services to comply with it. The evidence has emphasised extensive consultation is a prerequisite.
- 5.10 The following key issues raised in relation to a national standards framework are examined in more detail below:
- options and strategies for introducing a national framework;
  - the scope of the framework's application;
  - the process for development of the framework;
  - identifying the framework's key components; and
  - determining the process and assessing the potential impact of implementation.

## Options for a National Standards Framework

- 5.11 While evidence to the inquiry generally supports measures to improve the quality of services used by homeless people, there is considerable diversity about the best way to achieve this.

## Service Standards versus Accreditation

- 5.12 As noted earlier in the Chapter, *The Road Home* suggests that ensuring access to quality services will be achieved by introducing national homelessness service standards and a system for accrediting specialist services. Several submissions have emphasised the distinction between setting service standards and introducing a system of accreditation. As

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8 See for example: Quality Improvement Council (QIC), Quality Management Services (QMS), and Quality Improvement & Community Services Accreditation (QICSA), Submission No 18, p 4; Australian Council of Social Services (ACOSS), Submission No 60, p 2; NSW Government, Submission No 96, p 14.

explained in the submission from the Queensland Youth Housing Coalition (QYHC):

In the context of human services, standards establish what is expected of service providers in relation to the quality and effectiveness of service provision. Accreditation is the process of evaluating performance and certifying that standards have been met to the level required.

Accreditation is an active process. While standards can exist independently of an evaluation system, an accreditation system must have explicit standards with which to assess performance..<sup>9</sup>

- 5.13 Evidence included mixed views of the value of accreditation in improving service quality, with a number of submissions questioning whether mandatory accreditation should be a component of a national standards framework. As noted in a joint submission from the Quality Improvement Council (QIC), Quality Management Services (QMS), and Quality Improvement & Community Services Accreditation (QICSA):

A case can be made both for and against mandatory accreditation. If accreditation is mandatory, there is a legal requirement to comply, with consequences for failure to comply. The argument runs that all services must meet minimum standards otherwise they are not allowed to operate. ... On the other hand, it is argued that compliance assessment is only as good as the day the assessment is made, and if sustainable quality performance is sought then quality improvement systems should be in place. The argument against mandatory accreditation is that it encourages minimum compliance rather than quality improvement.<sup>10</sup>

- 5.14 Similarly YP Space MNC also maintains that:

Accreditation may be a positive avenue, yet it is highly resource intensive and can at times create a 'status quo' platform, through the setting of minimum standards as opposed to continuous quality improvement.<sup>11</sup>

- 5.15 Rather than introducing a system of mandatory accreditation, the submission from QIC, QMS and QICSA suggests:

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9 Queensland Youth Housing Coalition (QYHC), Submission No 50, p 21.

10 QIC, QMS and QICSA, Submission No 18, p 5. See also: Youth Accommodation Association (YAA), Submission No 54, p 14.

11 YP Space MNC, Submission No 11, p 6.



... legislation that requires services to participate in an accreditation program, as opposed to meeting a particular accreditation result. Over time most organisations in accreditation programs develop a motivation to embrace quality systems even if they do not start this way.<sup>12</sup>

- 5.16 This suggestion is also consistent with the approach proposed by FaHCSIA, which recommends:

A staged approach to voluntary accreditation may be the first step in helping services meet improved quality standards. In recognition of adjustments needed within the sector, compulsory accreditation could be introduced as longer term goal.<sup>13</sup>

## The Role of Legislation

- 5.17 *The Road Home* indicates that new legislation will be enacted to ensure that people who are homeless receive quality services. As noted in Chapter 3, the NSW and Tasmanian governments have questioned the role of new homelessness legislation in setting services standards, particularly as the National Affordable Housing Agreement (NAHA) indicates that the states are responsible for the administration and delivery of services for homeless people.<sup>14</sup>

- 5.18 While also emphasising the complexities associated with a legislative approach in the context of current federal-state funding and administrative arrangements, ACOSS observes:

The federal nature of funding agreements raises further questions about which regulatory and quality-improvement processes are best conducted nationally, and which at state and territory level. The risk of complex, inconsistent and overlapping regulatory frameworks must be addressed. Most importantly, careful consideration must be given to which aspects of service delivery (and types of service) should best be dealt with in legislation and which through other means, for example, performance based funding agreements. Decisions also need to be made about the level of detail which should be contained in legislation as opposed to standards set out in legislative instrument and conditions in funding agreements.<sup>15</sup>

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12 QIC, QMS and QICSA, Submission No 18, p 5.

13 FaHCSIA, Submission No 86, p 8.

14 Tasmanian Government, Submission No 93, p 1; NSW Government, Submission No 96, p 7.

15 ACOSS, Submission No 60, p 2.

5.19 However, others have argued that national consistency and improved quality services will only be achieved if a national standards framework is firmly entrenched in new legislation.<sup>16</sup> While some have suggested that detail of the framework should be included in the parent legislation, others have suggested it would be preferable for the parent legislation to include broad principles only and for the details of the framework to be set out in a disallowable instrument. For example, QIC, QMS and QICSA caution against legislation that is too prescriptive based on the following limitations:

Legislation as a vehicle for mandating standards is problematic because:

- wording is more likely to be rendered in narrow, legalistic language
- legislation is primarily concerned with regulation so standards will tend to be written as inputs or processes rather than desired outcomes
- legislation takes time to pass (and hence may not keep pace with understandings of better practice) and once legislation is passed it is very difficult and not timely to amend.<sup>17</sup>

5.20 Others have suggested that non-legislative measures (e.g. service charters, non-mandatory accreditation, contracts and funding agreements, training and support, good practice information dissemination) could be used to complement legislation or as an alternative.<sup>18</sup>

5.21 The Committee notes the Government's commitment to new legislation which establishes nationally consistent standards for services used by homeless people and those at risk of homelessness. As these standards will need to be relevant and applicable to diverse range of services, the Committee recommends that legislation provide overarching principles to underpin service standards. Prescriptive standards should be set out in complementary non legislative agreements with the states and territories, and through them with service providers.

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16 Mission Australia, Submission No 53, p 23.

17 QIC, QMS and QICSA, Submission No 18, p 5. See also: ACOSS, Submission No 60, p 13;

18 See for example: FaHCSIA, Submission No 86, p 10; NSW Government, Submission No 96, p 14.

## Recommendation 11

- 5.22 **That new homelessness legislation provide overarching principles to underpin a national standards and accreditation framework for services used by homeless people and those at increased risk of homelessness. Prescriptive standards should be expressed in complementary non legislative agreements with state and territory governments and, through them, with service providers.**

## The Importance of Adequate Resourcing

- 5.23 Importantly, evidence has also cautioned against placing too much emphasis on a purely legislative approach to achieving consistent service quality and driving quality improvements. Many submissions note that it is crucial for services to be adequately resourced in order to meet service standards and obligations. As stated by Catholic Social Services Australia:

Legislation certainly has a role in improving the quality of services for people who are homeless or at risk of homelessness but it will also be necessary to ensure that goals and objectives are appropriately and adequately funded, resourced and monitored.<sup>19</sup>

- 5.24 Also to achieve consistently high service standards submissions have emphasised the importance of being in a position to recruit and retain well trained staff.<sup>20</sup> As observed by Southern Youth Family Services (SYFS):

A focus on a regulatory model will not achieve the intent which is quality services for homeless people. It must be done as part of a progressive program to support and develop services including addressing issues in the community workforce (training and

19 Catholic Social Services Australia, Submission No 68, p 3. See also: Southern Youth and Family Services (SYFS), Submission No 4, p 10; Homelessness NSW, Submission No 28, p 17; NSW Women's Refuge Movement Working Party, Submission No 46, pp 15-16; Council to Homeless Persons (CHP), Submission No 80, pp 16-17; Public Interest Law Clearing House Homeless Persons' Legal Clinic (PILCH HLPC), Submission No 85, p 30, Salvation Army Australia Southern Territory, Submission No 91, p 10.

20 See for example: SYFS, Submission No 4, p 14; Coalition Against Youth Homelessness, Submission No 23, p 3; Regional Youth Development Officers' Network (RYDON), Submission No 33, p 13; QYHC, Submission No 50, p 21; YAA, Submission No 54, p 19.

development, pay and conditions, portability of long service leave, ability to attract and maintain quality staff etc).<sup>21</sup>

5.25 Similarly, the submission from the Byron Emergency Accommodation Project called for:

... legislation that ensures a commitment to resourcing the sector with sufficient finances to attract and retain a skilled work base of qualified and quality workers. Please keep the legislation goals in line with the reality of how the sector is financed and resourced to achieve these goals.<sup>22</sup>

5.26 Clearly adequate resourcing is essential for services to achieve and adhere to new quality service standards. In this regard the Committee notes that the Commonwealth and state governments together have committed \$1.1 billion over the next four years from 2009–10 to reducing homelessness under the National Partnership Agreement on Homelessness. In accordance with the federal-state financial arrangements administration of these funds, including allocation of resources to specialist homelessness services, is the responsibility of the state governments.

## Scope of Application

5.27 Another important aspect to be taken into account when considering the national standards framework is the scope of its application. As noted earlier in the report, the service standards under SAAP were contained in service agreements which applied specifically to providers of specialist homelessness services funded under the program. However *The Road Home* implies that a national standards framework should include provisions that apply to a broad range of specialist and mainstream services used by homeless people. Recognising the difficulty of applying a single quality framework to the diverse range of services used by homeless people *The Road Home* recommends a national service charter to guide mainstream services in delivery of support to homeless people.<sup>23</sup>

5.28 However, many submissions have argued that to be effective any national standards framework must apply equally to government and non-

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21 SYFS, Submission No 4, p 14.

22 Byron Emergency Accommodation Project, Submission No 30, p 2.

23 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 43. See also: FaHCSIA Submission No 86, p 9.

government services, and extend beyond specialist homeless services to include mainstream services.<sup>24</sup> As stated by Christo Youth Services:

The legislation needs to ensure that ALL systems and institutions – including Government, non-government, community and Corporate – are regulated with the same legislation, accountability and transparency.<sup>25</sup>

5.29 Similarly, Homelessness NSW suggests that:

... legislation can address the issue of quality services only if it ensures that both government and non-government services are bound to the Act. Mechanisms must be built into the legislation that stipulate the minimum level of service that state and territory governments must deliver for people who are homeless and those at risk of homelessness.<sup>26</sup>

5.30 The difficulty of having a framework which applies to all providers of services to homeless people and those at risk of homelessness, is that the standards will need to be broad but meaningful at the same time. SYFS highlights the challenge as follows:

The new Legislation should be supported by national standards for both Government and community providers of services to homeless people and those at risk of homelessness. However, the challenge in this will be that the standards are broad enough to apply across Government and community, are realistic and useful, and that community agencies, as mentioned above, are funded adequately to be able to meet the standards.<sup>27</sup>

5.31 As also observed by Mission Australia:

... a key challenge in creating the new legislation will be to influence the activities and administrative processes of other sectors and institutions which sit outside the circle of direct service provision, but nevertheless have a bearing on and a role to play in reducing homelessness.<sup>28</sup>

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24 See for example: SYFS, Submission No 4, p 8; Homelessness NSW, Submission No 28, pp 10-11; RYDON, Submission No 33, p 14; UnitingCare, Submission No 41, p 7; The Richmond Fellowship of NSW, Submission No 48, p 9; YAA, Submission No 54, p 12; St Bartholomew's House, Submission No 71, p 3.

25 Christo Youth Services, Submission No 35, p 6. See also: Homelessness NSW, Submission No 28, p 8; YP Space MNC Inc, Submission No 11, p 5.

26 Homelessness NSW, Submission No 28, p 11.

27 SYFS, Submission No 4, p 10. See also: PILCH HLPC, Submission No 85, pp 21-22.

28 Mission Australia, Submission No 53, p 19.

- 5.32 If standards are prescriptive rather than broad, a significant risk is that mainstream service providers will be required to apply standards that are relevant only to a minority of their clients. In this regard the NSW Government observes:

If the intention is to regulate all services accessed by homeless people or people at risk of homelessness, there is a risk that the legislation would end up applying to a very wide range of services - many of which provide services to a broader range of clients than those experiencing or at risk of homelessness.<sup>29</sup>

- 5.33 Furthermore the NSW Government also notes that many mainstream services already have service standards and accreditation systems in place. Therefore the NSW Government argues:

The need for the homelessness legislation to further regulate these broader services would need to be established in light of the existing mechanisms in place for ensuring quality service delivery in these sectors.<sup>30</sup>

## The Case for a Staged Approach

- 5.34 The Committee acknowledges the widespread support in evidence to the inquiry for the introduction of a national standards framework to increase national consistency and promote quality improvements in services. However, it also recognises that there are differing views about the relative merits of legislative versus non-legislative measures for driving quality improvement, the extent to which standards should be prescribed in legislation and the range of services that should be governed by any framework. This highlights some of the complexities still to be addressed.
- 5.35 Although not published at the time of writing, the Committee is aware that FaHCSIA has commissioned research to investigate the development and implementation of a national standards framework for homelessness and related services.<sup>31</sup> The Committee understands that the report produced by Urbis Pty Ltd will contribute to the Government's considerations of the most appropriate strategy or mix of strategies for supporting the aim of ensuring that people who are homeless receive quality services. Without intending to pre-empt outcomes of the Urbis Pty Ltd report, the Committee believes that at a minimum, additional work

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29 NSW Government, Submission No 96, p 7, 8-9.

30 NSW Government, Submission No 96, p 7, 8-9.

31 Urbis Pty Ltd (2009) Unpublished, *Quality Frameworks for Homelessness and Related Services – Literature Review and Environmental Scan*.

and consultation will be needed. Notwithstanding the impending Urbis Pty Ltd report the Committee wishes to make its own observations.

- 5.36 While acknowledging the calls for a national standards framework to apply to all services equally (that is to government and non-government, to specialist and mainstream), the Committee believes that achieving, developing and applying a single framework would be an ambitious undertaking. Therefore the Committee supports the proposal in *The Road Home* for the national standards framework to apply to specialist homelessness services only and for a national charter of service standards for homeless people and those at risk to be developed as a guide to mainstream services. This initial approach should be followed by a gradual process to extend a national standards framework to a broader range of services over time.
- 5.37 In addition, the Committee believes a staged approach to the implementation of a national standards framework for specialist homelessness services would be appropriate. Staged implementation should include sufficient flexibility to accommodate the many different models and structures of service delivery that exist even within the specialist homelessness sector. Importantly, implementation should recognise that different services within the sector will have different levels of preparedness and capacities to meet quality standards. Requirements to comply with minimum standards and an accreditation system should be introduced over a reasonable period of time to allow services to continue to meet the needs of their clients, while at the same time improving service quality.

## **Recommendation 12**

- 5.38 **That the Minister for Housing, through the Housing Ministers' Conference, support the introduction of a national standards and accreditation framework which:**
- **provides a broad national service charter to guide mainstream services in their delivery of services to people experiencing homelessness or at risk of homelessness; and**
  - **sets specific minimum quality standards for specialist homelessness services, leading progressively to accreditation.**

- 5.39 With regard to applying a national standards framework to services more broadly, including mainstream services, the Committee notes evidence that the Victorian Department of Human Services is considering moving away from program specific standards to a set of core standards for community services. Where required, core standards can then be supported by good practice guidelines that are sector specific.<sup>32</sup> The Committee encourages support for this approach as it believes that it provides an option to strike a balance between the uniformity of minimum standards and flexibility.

### **Recommendation 13**

- 5.40 **That the Australian Government consult with state and territory governments, and other key stakeholders to develop a national regulatory system based on core service standards to be broadly applied to community services, including homelessness services.**

## **Process for Developing a National Standards Framework**

- 5.41 While *The Road Home* suggests that the development of service standards might be informed to some extent by those developed for disability services or by models of accreditation similar to those used in aged care or childcare<sup>33</sup>, evidence to the inquiry has emphasised the need first and foremost for extensive consultation.

### **Consultation**

- 5.42 A large number of submissions have maintained that a national standards framework for services used by homeless people and those at risk of homelessness will need to be developed in consultation with key stakeholders.<sup>34</sup> As explained in the submission from YP Space MNC:

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32 QIC, QMS and QICSA, Submission No 18, p 4. See also: QMS, Submission No 12, p 14.

33 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 68.

34 See for example: QMS, Submission No 12, p 12; Christo Youth Services, Submission No 35, p 8; Homelessness NSW, Submission No 28, p 17; RYDON, Submission No 33, p 13; NSW Women's Refuge Movement Working Party, Submission No 46, p 13; QYHC, Submission No



Any new development of new service standards – that will govern all levels of service systems responsible for responding to homelessness – will need to be developed in full and comprehensive consultation with community and non-government service systems. These services have the knowledge and experience in the homelessness sector – they know what has worked and what hasn't, the barriers, the constraints and the opportunities and strengths of this work.<sup>35</sup>

- 5.43 Homelessness Australia also suggests that involving a broad range of service providers and peak bodies in the process of developing standards and regulation would encourage greater 'buy in' and commitment to the outcomes, stating:

[Consultation] would engender a feeling of 'shared ownership' of the standards and ensure that they are both realistic and reflective of the different environments in which services catering to particular client groups operate.<sup>36</sup>

- 5.44 Evidence has also highlighted the importance of involving homeless people themselves in the process of setting service standards.<sup>37</sup> As the submission from ACOSS states:

Importantly, service providers and people who are homeless or have been homeless should be closely involved in the development of service standards.<sup>38</sup>

- 5.45 National Shelter observed that greater consumer participation is in accordance with the Government's Social Inclusion Principles, noting the third principle 'A greater voice, combined with greater responsibility' which states:

Individuals and service users must have a say in shaping their own futures and the benefits and services that are offered to them. Detailed feedback from users and community members and genuine and inclusive consultation are important sources of information to improve policy settings and service delivery ...

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50, p 21; YAA, Submission No 54, p 20; Shelter NSW, Submission No 56, p 11, Government of South Australia, Submission No 97, p 5.

35 YP Space MNC, Submission No 11, p 7.

36 Homelessness Australia, Submission No 39, p 20.

37 See for example: City of Melbourne, Submission No 14, p 3; Law Society of New South Wales – Young Lawyers, Submission No 27, p 10; Hanover, Submission No 34, p2; National Youth Coalition for Housing, Submission No 52, p 14; Homeless Persons' Legal Service, Submission No 65, pp 11-13 Australian Human Rights Commission (AHRC), Submission No 90, p 22.

38 ACOSS, Submission No 60, p 14.

Organisations – both government and non-government – also have responsibilities to listen and respond, and to make sure their policies, programs and services help to build social inclusion.<sup>39</sup>

- 5.46 Similarly the Australian Human Rights Commission (AHRC) highlights the importance of client involvement and its links to other Government policy objectives, stating:

Enabling the participation of people in decision-making that will affect them is a key feature of a human rights-based approach. The Australian Government's Social Inclusion Principles and the White Paper acknowledge that the participation of people in decisions which affect them is an important part of achieving social inclusion.<sup>40</sup>

## Lessons from Other Legislative and Regulatory Models

- 5.47 As noted above there are several references in *The Road Home* to other legislative and regulatory models that might inform development of a national standards framework for homelessness services. Specifically *The Road Home* states:

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. The best features of the *Supported Accommodation Assistance Act 1994* and the *Disability Services Act 1986* would be incorporated into new legislation on homelessness.<sup>41</sup>

- 5.48 Accordingly the inquiry's terms of reference specifically invited consideration of the applicability of existing legislative and regulatory models. Submissions contained reference to a large number of models that currently apply in the community services system, drawing attention to their strengths, weaknesses and their applicability or otherwise to services used by homeless people. These regulatory models referred to include:

- *Disability Services Act 1986*;
- *Disability Services (Eligibility – Targeted Support Services) Standards 2008*;

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39 National Shelter, Submission N0 56, pp 7–8.

40 AHRC, Submission No 90, p 22. See also: SYFS, Submission No 4, p 14.

41 Australian Government (2008), *The Road Home: A National Approach to Reducing Homelessness*, p 43.

- *Aged Care Act 1997*;
- principles (regulations) made under the *Aged Care Act 1997*;
- *Home and Community Care Act 1985*;
- Home and Community Care National Service Standards 1995;
- National Service Standards for Mental Health Services 1997;
- state legislation for disability services and associated service standards;
- state legislation for children's services and protection and associated service standards; and
- state legislation for housing and associated housing standards.

5.49 A number of submissions identified aspects of existing regulatory models which might be used to support enhanced quality services for homeless people.<sup>42</sup> For example, while of the view that no single model is transferable in its entirety, the Homeless Persons' Legal Clinic (HPLC) highlights the following aspects of existing regulatory models that might be incorporated into a national standards framework for services for homeless people:

- a Charter of user rights and responsibilities, to help protect rights and ensure quality services (refer to the *Aged Care Act 1997 (Cth)*)
- an appropriate dispute resolution process (refer to *the Aged Care Act 1997 (Cth)*);
- use of regular independent audits to assess compliance of services or something similar to the 'community visitors' program found in the *Disability Act 2006 (Vic)*;
- a general principle that services operate in manner which ensures the safety, health and wellbeing of the client and that the wider needs of the client in addressing homelessness are met (refer to *Children's Services Act 1997 (Vic)*);
- the critical requirement to produce individualised support plans (*Disability Services Act 1996 (Cth)*) – a support plan may tie in directly with guiding principles or minimum standards; and
- guiding principles and minimum standards.<sup>43</sup>

5.50 Cairns Community Legal Service proposes that the *Disability Services (Eligibility – Targeted Support Services) Standards 2008* framework could be adapted and applied to all support services under the Government's social

42 See for example: Homelessness Australia, Submission No 39, p 21; Shelter NSW, Submission No 56, pp 14–17; Wesley Mission Melbourne, Submission No 70, p 12.

43 PILCH HPLC, Submission No 85, pp 39–40.

inclusion agenda.<sup>44</sup> Specifically the submission suggests service standards might be based on the following:

- service access - each recipient has access to a service on the basis of relative need and available resources; ...
- individual needs - each recipient receives a service that is designed to meet his or her individual needs and personal goals consistent with the purpose of the service; ...
- independence and resilience maximised - service delivery is aimed at maximising the recipient's capacity for independence and resilience; ...
- decision making and choice - each service recipient has the opportunity to participate as fully as possible in making decisions in relation to the service he or she receives; ...
- privacy, dignity and confidentiality - each service recipient's right to privacy, dignity and confidentiality in all aspects of his or her life is recognised and respected; ...
- complaints and disputes - each service recipient is encouraged to raise, and have resolved without fear of retribution, any complaints or disputes he or she may have regarding the service provider or the service; ...
- service management - each service provider adopts quality management systems and practices that optimise outcomes for service recipients; ...
- staff recruitment, employment and training - each person employed to deliver services to recipients has relevant skills and competencies; ...and
- protection of human rights and freedom from abuse - the service provider acts to prevent abuse and neglect and to uphold the legal and human rights of service recipients.<sup>45</sup>

5.51 Also noting the potential for principles and standards from the aged care and disability sectors to serve as useful points of reference, Homelessness Australia proposes canvassing standards which cover the following broad areas:

- Ensuring that the dignity, privacy and rights of clients are protected at all times and that clients are placed at the centre of service delivery considerations.
- Ensuring clients have some agency about the types of services they receive and are afforded opportunities to provide feedback to providers.
- Service responses are flexible and meet the needs of particular clients.

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44 Cairns Community Legal Service, Submission No 17, pp 8-9.

45 Cairns Community Legal Service, Submission No 17, pp 8-9.

- Services are accessible and accommodating.
- Services adopt sound management practices that maximise positive outcomes for clients.
- Clients have the right to have complaints heard and services should develop mechanisms for the resolution of disputes.
- Clients are supported and encouraged to participate and be involved in their communities.
- Professional development opportunities are available to staff.
- Accommodation provided is appropriate, comfortable, safe and secure.<sup>46</sup>

5.52 While the potential for other legislative or regulatory frameworks to inform the development of national standards homelessness services was widely recognised, evidence also indicated that specific standards and accreditation models for the sector would need to be developed. As stated by SYFS:

It has been mooted by a few in Government that it would be simple just to borrow existing standards such as from disability areas or from other States/Territories. In our experience this will not work. This is a specialist area and one that should be independently developed and consulted on.<sup>47</sup>

5.53 Expanding these concerns the HPLC explained:

... given the multifaceted and complex contributors to homelessness, it is not appropriate to simply adopt one of the existing community service frameworks and apply it to homelessness.

These frameworks are all designed to meet a particular type of need or regulate providers of a particular type of service. This means, generally speaking, each of the existing frameworks is too specific to the need they are addressing to be a direct fit for the homelessness sector.<sup>48</sup>

5.54 Also, in considering the applicability of accreditation models from aged care and child care service sectors, any accreditation model for homelessness services will need to take account of the federal nature of service delivery. As observed by FaHCSIA:

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46 Homelessness Australia, Submission No 39

47 SYFS, Submission No 4, p 14. See also: Homelessness Australia, Submission No 39, p 6; Salvation Army Australia Southern Territory, Submission No 91, p 13.

48 PILCH HPLC, Submission No 85, p 37.

Both the aged care and child care frameworks lie exclusively in the province of the Commonwealth, although states and territories have responsibility for licensing operators. In contrast, the homelessness sector operates under a Commonwealth-state funding partnership with service-level funding agreements between states and services.<sup>49</sup>

## Where to Next?

- 5.55 There is already a plethora of legislative and regulatory frameworks that apply to community service systems. The Committee acknowledges that up to a point a review of existing frameworks may assist with the development and implementation of a national standards framework for specialist homelessness services. However, the Committee agrees that there is no existing framework that can be transferred directly from one sector and applied to services used by homeless people.
- 5.56 Given the diversity of the services within the homelessness sector, the Committee appreciates that developing a national standards framework will be challenging. At a minimum the Committee anticipates the need to consult state and territory governments, not for profit and for profit service providers, peak bodies and people with experience of homelessness. The Committee expects that the report produced by Urbis Pty Ltd will provide guidance on the key issues to be resolved.

### Recommendation 14

- 5.57 **That the Minister for Housing consult with the Housing Ministers' Conference and key sectoral stakeholders about the essential components of a national standards and accreditation framework to determine the broad principles and minimum standards to apply to specialist homelessness services.**

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49 FaHCSIA, Submission No 86, p 10.

## Components of a National Standards Framework

- 5.58 Although recognising the need for further consultation to establish the essential components of a national standards framework, the following key elements emerged in evidence to the inquiry:
- the need for a clear definition of ‘quality’;
  - the need to identify agreed broad principles and minimum standards;
  - a commitment to continuous quality improvement ; and
  - appropriate mechanisms for accountability and complaints handling.

### Defining Quality

- 5.59 A number of submissions emphasised the importance of providing a clear definition of service quality in a national standards framework.<sup>50</sup> As noted by Homelessness Australia:

There is support within the sector for the inclusion in legislation of what is meant by ‘quality’. Workers have expressed the view to Homelessness Australia that they believe the term ‘quality’ is subjective and open to interpretation. With a clear definition of quality to work with, they are not opposed to undertaking measures at a service level that commit to continuously improving the quality of their service provision.<sup>51</sup>

- 5.60 Similarly the Council to Homeless Persons also advocates for a meaningful definition of what constitutes quality, recommending:

A useful definition of quality ... measures service appropriateness, equity, accessibility, effectiveness, acceptability and efficiency.<sup>52</sup>

### Broad Principles and Minimum Standards

- 5.61 Evidence clearly indicates that the inclusion of broad guiding principles and minimum standards are an integral component of a national standards framework. While there is some variation in the detail, there was considerable uniformity in the evidence with regard to the broad principles that were proposed to guide delivery of quality services for
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50 Homelessness Australia, Submission No 39, p 12; ACOSS, Submission No 60, p 13; CHP, Submission No 80, p 14.

51 Homelessness Australia, Submission No 39, p 12.

52 CHP, Submission No 80, p 14.

homeless people and those at risk of homelessness. A large number of submissions proposed using principles and standards founded on the protection of human rights (e.g. rights to dignity, respect, safety, non-discrimination, inclusion etc) and the realisation of social inclusion.<sup>53</sup>

- 5.62 However as noted earlier there was less agreement on the extent to which broad principles and prescribed service standards should be entrenched in legislation. To address concerns about legislated prescriptive standards, ACOSS suggests that broad principles only should be included in legislation, with more detailed service standards set out in subordinate legislation.<sup>54</sup> Similarly the HPLC suggests that:

The HPLC is also of the view that the new Homelessness Act should create overarching minimum service standards, which must be adhered to by service providers that are based on human rights principles. In addition to these principles and standards, the new legislation could provide a Charter of Rights and Responsibilities for Consumers that clearly sets out their rights, responsibilities and mechanisms for redress when their rights have been violated. This approach would provide a national framework of rights and minimum standards while at the same time not being so prescriptive as to be only applicable to a small set of services. This framework would also allow the States and Territories to legislate to address their own specific needs while ensuring any legislation enacted by a State meets or exceeds the minimum standards specified in the national framework.<sup>55</sup>

## Continuous Quality Improvement

- 5.63 Evidence included widespread support for enhanced service quality to be achieved through continuous quality improvement (CQI).<sup>56</sup> CQI describes a process through which organisations systematically assess and improve their performance along a range of criteria. Christo Youth Services has suggested that a focus on CQI may actually achieve better outcomes than setting 'minimum' standards and accreditation, observing:

Accreditation may be a positive avenue, yet it is highly resource intensive and can at times create a 'status quo' platform, through

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53 See for example: Youthlaw, Submission No 24, p 4; ACOSS, Submission No 60, p 13; HOPS, Submission No 79, p 4; CHP, Submission No 80, p 15; PILCH HPLC, Submission No 85, p 41.

54 ACOSS, Submission No 60, p 13. See also: QIC, QMS and QICSA, Submission No 18, p 4

55 PILCH HPLC, Submission No 85, p 41.

56 See for example: QMS, Submission No 12, p 7; QIC, QMS and QICSA, Submission No 18, p 1; Homelessness NSW, Submission No 28, p 10.



the setting of minimum standards as opposed to continuous quality improvement.<sup>57</sup>

5.64 In providing its support for a CQI approach, the Council to Homeless Persons outlines the following key elements:

- the establishment of agreed minimum standards to ensure consistency of service delivery;
- action to support and enhance individual worker and organisational capacity to meet standards requirements and improve or enhance service delivery;
- service assessment, monitoring, auditing and reporting requirements against standards and progress towards improvement;
- ongoing assessment of outcomes of the process for consumers, workers and organisations; and
- ongoing reflection and improvement of standards and associated monitoring / reporting processes.<sup>58</sup>

## Accountability and Complaints Handling

5.65 Increased accountability for services and the inclusion of appropriate complaints handling process have also been identified as critical components of a national standards framework.<sup>59</sup> Issues associated with monitoring service compliance with a national standards framework particularly in relation to accreditation were raised in a number of submissions. Evidence has emphasised the importance of independent monitoring of services, possibly with compliance linked to funding. However, the need for the administrative burden of compliance monitoring to be minimised and for a monitoring system that supports CQI has also been emphasised.<sup>60</sup> As noted by FaHCSIA:

Consideration also needs to be given to the optimal way in which quality standards could be assessed. Options include self-

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57 Christo Youth Services, Submission No 35, p 7.

58 CHP, Submission No 80, p 14.

59 See for example: NSW Young Lawyers Human Rights Committee, Submission No 27, p 12; Homelessness NSW, Submission No 28, p 12; RYDON, Submission No 33, p 9; Welfare Rights Centre, Submission No 59, p 6; ACOSS, Submission No 60, p 14, HOPS, Submission No 79, p 4; AHRC, Submission No 90, pp 30-31.

60 See for example: SYFS, Submission No 4, p 11; QIC, QMS and QICSA, Submission No 18, p 4; Mission Australia, Submission No 53, p 16; Salvation Army Australia Southern Territory, Submission No 91, p 11.

assessment, peer review and audit by an independent third-party.<sup>61</sup>

5.66 Evidence also indicated that increased accountability of services must be supported by appropriate internal and external mechanisms for handling complaints.<sup>62</sup> With regard to the current situation the HPLC commented:

... accountability mechanisms to ensure existing service standards are enforced are inadequate. In many cases, service standards are enforced only by internal grievance procedure, or to an external community based services, with no right to appeal to an independent administrative or judicial body, and no external monitoring of the effectiveness of these internal procedures or compliance with service standards.<sup>63</sup>

5.67 In relation to external mechanisms for handling complaints, several submissions proposed a defined role within the office of an Ombudsman. For example the submission from the Regional Youth Development Officers' Network (RYDON) suggests:

If there is an introduction of standards and accreditation within the new legislation then there need to be a grievance process possibly with a defined role for an Ombudsman that protects and promotes a voice for the homeless.<sup>64</sup>

5.68 Homelessness Australia also supports the notion but suggests that the extent to which this role is already fulfilled by state and territory Community Services Ombudsmen must be considered.<sup>65</sup> Other suggestions include the establishment of a Homelessness Commissioner instead of, or to supplement, an Ombudsman's role. According to Australian Lawyers for Human Rights:

The Commissioner should have the power to:

- develop grievance and appeals procedures in respect of public housing matters and general social support services;
- refer grievances to the Housing Ombudsman for further investigation;

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61 FaHCSIA, Submission No 86, p 9.

62 See for example: Law Society of New South Wales Young Lawyers, Submission No 27, p 12; Homelessness Australia, Submission No 39, pp 13–14.

63 PILCH HPLC, Submission No 85, p 27.

64 RYDON, Submission No 33, p 9. See also: Law Society of New South Wales Young Lawyers, Submission No 27, p 12; Domestic Violence Victoria, Submission No 49, p 5; Australian Lawyers for Human Rights, Submission No 61, p 14; AHRC, Submission No 90, p 30.

65 Homelessness Australia, Submission No 39, p 14.

- develop a Charter of rights and responsibilities that service providers must adhere to in order to access Government funding;
- develop, review and monitor national standards for the provision of adequate housing;
- report on an annual basis to the Federal Government on the progressive realisation of the right to adequate housing; and
- any other powers as are necessary and convenient for the Commissioner to perform his or her function of promoting and protecting people's right to adequate housing.<sup>66</sup>

5.69 In the Committee's view a commitment to CQI and the requirement for appropriate internal grievance processes and options for external complaints handling would be essential core elements of a national standards framework.

## Implementation

5.70 A key consideration in adopting and implementing a national standards framework would be its potential impact on the homelessness services sector. The main concern expressed in the evidence is that achieving, monitoring and reporting on compliance will increase the administrative burden on already stretched services.<sup>67</sup> This in turn could result in loss of services, with smaller community based services and services catering to clients with complex needs perhaps being more vulnerable.<sup>68</sup> Some service providers, including smaller agencies and those that receive funding from multiple sources, already find existing reporting requirements overly burdensome. As noted by QMS:

For organisations with more than one source of funding they are increasingly burdened with multiple accreditation and compliance requirements that are onerous and duplicitous.<sup>69</sup>

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66 Australian Lawyers for Human Rights, Submission No 61, p 14. See also: Hanover, Submission No 34, p 5; PILCH HPLC, Submission No 85, p 43.

67 See for example: QMS, Submission no 12, p 13; Homelessness NSW, Submission No 28, p 11; Byron Emergency Accommodation Project, Submission No 30, p 1; Christo Youth Services, Submission No 35, p 7; NSW Women's Refuge Working Party, Submission No 46, pp 13-14; Salvation Army Australia Eastern Territory, Submission No 55, pp 6-7, NCYLC, Submission No 88, p 8.

68 See for example: SYFS, Submission No 4, p 15; The Richmond Fellowship, Submission No 48, p 7; RYDON, Submission No 33, p 13.

69 QMS, Submission No 12, p 13.

- 5.71 This administrative burden of demonstrating compliance with multiple regulatory systems is well illustrated by the experience of SYFS:

SYFS which is not a large charity and is regionally based is already accredited through the Office of the Children's Guardian in NSW, through the Quality Management System (QMS), and currently being assessed under the Housing Registration System by the Office of the Registrar in NSW. It is also monitored under the Performance Management Scheme for SAAP Services in NSW. SYFS has had to pay for some of the systems, it is wearing staff out, and has concerning levels of duplication.<sup>70</sup>

- 5.72 In summarising the potential impacts of introducing a new standards and accreditation framework for services, SYFS suggests:

The [standards/accreditation] model adopted must be user friendly, flexible to accommodate all the different models of service delivery, proportionate to the service delivery size, easy to participate in, economical and practical. It is essential that any service delivered is not costly, not prescriptive, not inflexible, time consuming, not proportionate to the services delivered and unfairly applied to community agencies. Rigid Key performance Indicators (KPI's) to support national standards could prevent services from providing individualised services to meet the assessed needs of clients. Compliance costs and external auditing in existing systems are expensive and funding would need to be increased to cover the costs of these processes.<sup>71</sup>

- 5.73 Several submissions have also recommended taking measures to reduce the administrative burden on services by avoiding duplication. Specifically, evidence has included recommendations for reciprocal recognition of existing quality and regulatory frameworks. As explained by Catholic Social Services Australia:

The core objective of a quality framework should be to ensure certain standards of service for people who are homeless or at risk of homelessness but it should not be overly onerous so as to detract from the capacity of community service organisations (especially smaller ones) to deliver quality services. It should enhance the quality of service provision not add red tape. This can only occur if new accountability frameworks replace current. If no rationalisation and harmonisation of existing frameworks takes

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70 SYFS, Submission No 4, p 11.

71 SYFS, Submission No 4, p 14.

place, new initiatives will only be adding to the existing burden of compliance and administration.<sup>72</sup>

5.74 Similarly the NSW Government suggests:

If the need for a national service quality system was established, it is suggested that reciprocal recognition of States' and Territories' existing service quality frameworks should be considered as an option. This would also be an effective mechanism for removing any regulatory burdens arising if there are any inter-state providers of homelessness specific services facing conflicting or duplicative requirements in different States and Territories.<sup>73</sup>

5.75 Support for reciprocal recognition was also provided in the submission from FaHCSIA:

It will be important to ensure that any new accreditation and quality standards system recognises other accreditation and licensing achievements of a service provider and provide for reciprocal recognition where possible, to reduce compliance burden.<sup>74</sup>

## Managing the Impact of Implementation

5.76 The Committee believes that it is important for the potential impact of implementing a national standards framework on the homelessness services sector be recognised. The Committee's earlier recommendation for a staged approach to implementation which recognises the diversity of services within the homelessness sector and different levels of preparedness should mitigate some of the risks by allowing sufficient time for services to adjust. However there are already a large number of regulatory frameworks specific to community services, including specialist homelessness services. Many services, particularly those with funding from multiple sources, find the administrative burden associated with compliance onerous.

5.77 While recognising the potential benefits of a national standards framework for homelessness services, the Committee is anxious that its implementation should not add further to the administrative burden.

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72 Catholic Social Services Australia, Submission No 68, p 3. See also: SYFS, Submission No 4, p 15; RYDON, Submission No 33, p 13; Hanover, Submission No 34, p 4; QYHC, Submission No 50, p 22; YAA, Submission No 54, p 19; Salvation Army Australia Eastern Territory, Submission No 55, p 11; ACOSS, Submission No 60, pp 13-14.

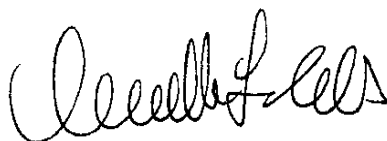
73 NSW Government, Submission No 96, p 14.

74 FaHCSIA, Submission No 86, p 9.

Therefore the Committee recommends that a national standards framework include provision for reciprocal recognition of compliance with other service quality frameworks.

### **Recommendation 15**

- 5.78 **That the Minister for Housing ensure provision for reciprocal recognition of existing quality service frameworks is incorporated into a national standards and accreditation system for homelessness services.**

A handwritten signature in black ink, appearing to read 'Annette Ellis', written in a cursive style.

**Annette Ellis MP**  
**Chair**





## Appendix A – List of Submissions

- 001 Mr Mike Jessop
- 002 Mr Brian Woods
- 003 Women With Disabilities Australia
- 004 Southern Youth and Family Services Association Inc
- 005 Asylum Seeker Resource Centre
- 006 Equal Opportunity Commission (Western Australia)
- 007 Commissioner for Children and Young People (Western Australia)
- 008 Allergy, Sensitivity & Environmental Health Association QLD Inc
- 009 Kids Under Cover
- 010 Name Withheld
- 011 YP Space MNC Inc
- 012 Quality Management Services
- 013 The Royal Australian & New Zealand College of Psychiatrists
- 014 City of Melbourne
- 015 Aboriginal Hostels Limited
- 016 Women's Health Victoria
- 017 Cairns Community Legal Centre Inc
- 018 Quality Improvement Council, Quality Management Services & Quality Improvement and Community Services Accreditation
- 019 Australian Housing and Urban Research Institute



- 020 Ms Esther Dourado
- 021 Inner Sydney Catholic Social Justice Group
- 022 Central Coast Group of Amnesty International
- 023 Coalition Against Youth Homelessness
- 024 Youthlaw: Young People's Legal Rights Centre
- 025 The Victorian Children's Resource Program
- 026 The Hon Dr Bob Such MP JP, South Australian Parliament
- 027 NSW Young Lawyers Human Rights Committee
- 028 Homelessness NSW
- 029 Law Institute of Victoria Ltd
- 030 Byron Emergency Accommodation Project Inc
- 031 ANGLICARE Diocese of Sydney
- 032 Welfare Rights and Legal Centre Ltd
- 033 Regional Youth Development Officers' Network
- 034 Hanover Welfare Services
- 035 Christo Youth Services
- 036 Women's Legal Service Victoria
- 037 Australian Christian Lobby
- 038 NSW Association for Adolescent Health Inc & NSW Youth Health Council
- 039 Homelessness Australia
- 040 The Australian Psychological Society Ltd
- 041 UnitingCare Australia
- 042 Salvation Army Tasmanian Division
- 043 St Vincent de Paul Society National Council of Australia
- 044 Financial and Consumer Rights Council Inc
- 045 Community Housing Tasmania Ltd
- 046 NSW Women's Refuge Movement Working Party Inc
- 047 Queensland Public Interest Law Clearing House Inc

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- 048 The Richmond Fellowship of NSW
  - 049 Domestic Violence Victoria
  - 050 Queensland Youth Housing Coalition Inc
  - 051 Mercy Foundation
  - 052 National Youth Coalition for Housing Inc
  - 053 Mission Australia
  - 054 Youth Accommodation Association
  - 055 Salvation Army Australia Eastern Territory
  - 056 Shelter NSW
  - 057 Mr Max Vardanega
  - 058 NSW Women's Refuge Movement (South Western/ Western Metropolitan Region)
  - 059 Welfare Rights Centre
  - 060 Australian Council of Social Service
  - 061 Australian Lawyers for Human Rights
  - 062 Hotham Mission Asylum Seeker Project
  - 063 National Shelter Inc
  - 064 Alcohol & other Drugs Council of Australia
  - 065 Homeless Persons' Legal Service
  - 066 City of Sydney Council
  - 067 Australian Government - Department of Health and Ageing
  - 068 Catholic Social Services Australia
  - 069 Australian Government - Department of Education, Employment and Workplace Relations
  - 070 Wesley Mission Melbourne
  - 071 St Bartholomew's House Inc
  - 072 North Australian Aboriginal Justice Agency and Larrakia Nation Aboriginal Corporation
  - 073 Aboriginal Legal Service of Western Australia

- 074 Queensland Commission for Children and Young People and Child Guardians
- 075 Victorian Aboriginal Legal Service Co-operative Ltd
- 076 Supported Accommodation Providers' Association Inc
- 077 Australian Red Cross
- 078 ACT Government
- 079 Homeless Outreach Psychiatric Service
- 080 Council to Homeless Persons
- 081 Mental Health Council of Australia
- 082 Human Rights Law Resource Centre Ltd
- 083 Australian Institute of Health and Welfare
- 084 Tenants Union of Victoria Ltd
- 085 PILCH Homeless Persons' Legal Clinic
- 086 Australian Government - Department of Families, Housing, Community Services and Indigenous Affairs
- 087 Network of Immigrant and Refugee Women of Australia Inc
- 088 National Children's and Youth Law Centre
- 089 Ms Wendy Talbot
- 090 Australian Human Rights Commission
- 091 Salvation Army Australia Southern Territory
- 092 Queensland Government - Premier of Queensland
- 093 Tasmanian Government - Department of Premier and Cabinet
- 094 McAuley Community Services for Women
- 095 Australian Government - Attorney-General's Department
- 096 New South Wales Government
- 097 South Australian Government



## Appendix B – List of Exhibits

1. Parity Magazine, *Young People Leaving State Care and Homelessness: What needs to be done?* Vol 21, No 6, July 2008, pp 9-11. (Provided by Dr Philip Mendes)
2. Queensland Government Department of Communities and SGS Economics & Planning, *Final Evaluation of Government Reforms in the Residential Services Sector, Final Report*, March 2008. (Provided by Supported Accommodation Providers' Association (SAPA) Inc – Relates to Submission No 76)
3. Australian Institute of Health and Welfare, *Counting the homeless 2006: Queensland*, Ch 1, Definition of Homelessness, Cat No HOU 205, June 2009, pp 17-20. (Provided by SAPA Inc – Relates to Submission No 76)
4. Queensland Residential Tenancies Authority, *Form R18 – Residential Service Agreement* and information for residents and providers of rooms in residential services. (Provided by SAPA Inc – Relates to Submission No 76)
5. Inner City Level 3 Residential Service, *Resident Profiles*, August 2009. (Provided by SAPA Inc – Relates to Submission No 76)
6. South Australian Government Department of Human Services, *Financial Analysis of Supported Residential Facilities in South Australia*, April 2003. (Provided by SAPA Inc – Relates to Submission No 76)
7. Department of Justice, *Final Report - Project 5: Costs of Accommodation and Care Alternatives for People with Intellectual or Psychiatric Disabilities*, October 1998. (Provided by SAPA Inc – Relates to Submission No 76)
8. Letter to Queensland Government regarding the consistency of treatment with the aged care sector for Land Tax purposes, 13 August 2008. (Provided by SAPA Inc – Relates to Submission No 76)
9. SAPA Inc, *Proposed Model for Government Support for Private Sector Supported Accommodation Facilities to help Combat Homelessness*, August 2009

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## Appendix C – List of Public Hearings

**Wednesday, 19 August 2009 - Canberra**

**Homelessness Australia**

Mr Simon Smith, Executive Officer

**Southern Youth and Family Services Association Inc**

Ms Narelle Clay AM, Chief Executive Officer

**Wednesday, 9 September 2009 - Canberra**

**Homeless Persons' Legal Service**

Mr Chris Hartley, Policy Officer

Ms Julie Hourigan Ruse, Coordinator

**Public Interest Law Clearing House (Vic) Inc Homeless Persons' Legal Clinic**

Mr James Farrell, Manager/Principal Lawyer

**Wednesday, 16 September 2009 - Canberra**

**Wesley Mission Melbourne**

Ms Micaela Cronin, General Manager, Community Services

Ms Maidie Graham, Support Worker

Shawn & Brad, Clients

## Wednesday, 21 October 2009 - Canberra

### **Supported Accommodation Providers' Association Inc**

Mr Damien Negus, President

Ms Kay Johnston, Vice-President

Mr John Moran, Policy Adviser

## Wednesday, 28 October 2009 - Canberra

### **Department of Families, Housing, Community Services and Indigenous Affairs**

Ms Kate Gumley, Branch Manager, Homelessness Branch

Ms Julie Baracz, Section Manager, Legislation and Accreditation, Homelessness Branch

### **Department of Education, Employment and Workplace Relations**

Mr Derek Pigram, Manager, Employment Pathways Branch, Specialist Employment Services Group

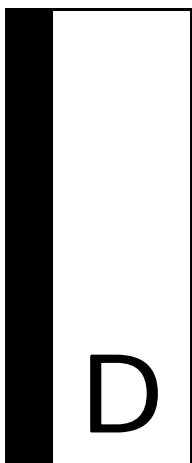
Ms Debbie Mitchell, Manager, Participation Policy Branch, Social Inclusion & Participation Group

### **Department of Health and Ageing**

Ms Lesley Podesta, First Assistant Secretary, Ageing & Aged Care Division

Mr Keith Tracey-Patte, Assistant Secretary, Community Programs Branch, Ageing & Aged Care Division

Ms Virginia Hart, Assistant Secretary, Mental Health Reform Branch



## Appendix D – Supported Accommodation Assistance Act 1994





# **Supported Accommodation Assistance Act 1994**

**Act No. 162 of 1994**

This compilation was prepared on 23 January 2003

Prepared by the Office of Legislative Drafting,  
Attorney-General's Department, Canberra

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# **An Act relating to financial assistance to the States, the Australian Capital Territory and the Northern Territory in connection with the jointly-funded program known as the Supported Accommodation Assistance Program (“SAAP”), and for related purposes**

## **Preamble**

This Preamble sets out considerations taken into account by the Parliament of Australia in enacting the law that follows.

The Parliament recognises the need to redress social inequalities and to achieve a reduction in poverty and the amelioration of the consequences of poverty for individuals.

Homeless people form one of the most powerless and marginalised groups in society. Responses to their needs should aim to empower them and to maximise their independence. These responses should be provided in a way that respects their dignity as individuals, enhances their self-esteem, is sensitive to their social and economic circumstances, and respects their cultural backgrounds and their beliefs.

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
- (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*.

Legislation relating to homeless people should include a focus on the provision of appropriate support to meet the individual needs of the clients of

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## Part 1 Preliminary

### Section 1

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the Supported Accommodation Assistance Program (“SAAP”) and on their right to an equitable share of the community’s resources.

It is essential then that the community has the opportunity to be involved in the development of policies relating to, or impacting on, people who are homeless or at risk of homelessness. Accordingly, the Parliament intends that, under the law that follows, the Minister should establish an advisory committee drawn from members of the community with:

- (a) relevant expertise in, or experience of, homelessness; or
- (b) an understanding of the principal issues affecting homeless people; or
- (c) other relevant expertise or experience.

The Parliament intends that the Commonwealth Government should work co-operatively with State and Territory governments to ensure that people who are homeless or at risk of homelessness are given opportunities to redress their circumstances and that their universal human rights are not prejudiced by the manner in which services are provided to them.

The Parliament of Australia enacts:

## Part 1—Preliminary

### 1 Short title [see Note 1]

This Act may be cited as the *Supported Accommodation Assistance Act 1994*.

### 2 Commencement [see Note 1]

This Act commences on the day on which it receives the Royal Assent.

### 3 Definitions

In this Act:

**CACH** means the Commonwealth Advisory Committee on Homelessness established by section 20.

**client** means a person in receipt of services under SAAP.

***participating State*** means a State in respect of which a SAAP agreement is in force.

***people who are homeless*** includes:

- (a) people who are in crisis and at imminent risk of becoming homeless; and
- (b) people who are experiencing domestic violence and are at imminent risk of becoming homeless.

***SAAP*** means the Supported Accommodation Assistance Program.

***SAAP agreement*** means an agreement of the kind mentioned in subsection 17(2), and includes such an agreement as varied and in force from time to time.

***service provider*** means a person or body that provides services under SAAP.

***services*** includes, but is not limited to, accommodation.

***State*** includes the Australian Capital Territory and the Northern Territory.

***State Minister*** means:

- (a) in relation to a State other than the Northern Territory or the Australian Capital Territory—the Minister of the Crown of the State who is responsible for the administration of SAAP in the State; or
- (b) in relation to the Northern Territory—the Minister of the Northern Territory who is responsible for the administration of SAAP in the Northern Territory; or
- (c) in relation to the Australian Capital Territory—the Minister of the Australian Capital Territory who is responsible for the administration of SAAP in the Australian Capital Territory.

#### **4 Definition of *homeless***

*When a person is homeless*

- (1) For the purposes of this Act, a person is homeless if, and only if, he or she has inadequate access to safe and secure housing.

Section 5

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*Inadequate access to safe and secure housing*

- (2) For the purposes of this Act, a person is taken to have inadequate access to safe and secure housing if the only housing to which the person has access:
- (a) damages, or is likely to damage, the person's health; or
  - (b) threatens the person's safety; or
  - (c) marginalises the person through failing to provide access to:
    - (i) adequate personal amenities; or
    - (ii) the economic and social supports that a home normally affords; or
  - (d) places the person in circumstances which threaten or adversely affect the adequacy, safety, security and affordability of that housing.

*Person living in SAAP accommodation*

- (3) For the purposes of this Act, a person is taken to have inadequate access to safe and secure housing if:
- (a) the person is living in accommodation provided under SAAP; and
  - (b) the assessment of the person's eligibility for that accommodation was based on the application of subsection (1) or (2) (ignoring the effect of this subsection).

*Generality of subsection (1)*

- (4) Subsections (2) and (3) do not limit the generality of subsection (1).

**5 Object**

*Funding of SAAP*

- (1) The object of this Act is to grant financial assistance to the States to administer a program, to be known as the Supported Accommodation Assistance Program ("SAAP").

Note: A description of the aims etc. of SAAP is set out below.

*Aim of SAAP*

- (2) The overall aim of SAAP is to provide transitional supported accommodation and related support services, in order to help people who are homeless to achieve the maximum possible degree of self-reliance and independence. Within this aim the goals are:
- (a) to resolve crisis; and
  - (b) to re-establish family links where appropriate; and
  - (c) to re-establish a capacity to live independently of SAAP.

*How the aim of SAAP is to be achieved*

- (3) The aim of SAAP is to be achieved by:
- (a) providing or arranging for the provision of support services and supported accommodation; and
  - (b) helping people who are homeless to obtain long-term, secure and affordable housing or accommodation and support services.

Services are said to be **provided under SAAP** if the provision of the services is covered by paragraph (a) or (b).

*Other key features of SAAP*

- (4) Other key features of SAAP are as follows:
- (a) SAAP is to be implemented principally through common-form agreements between the Commonwealth and the States;
  - (b) the parties to such agreements are to endeavour to work together in a co-operative relationship where the contributions of each party are valued equally;
  - (c) the parties to such agreements are to endeavour to work co-operatively with local government bodies and service providers in connection with the provision of services under SAAP;
  - (d) SAAP is to promote an image of people who are homeless that emphasises their human dignity and the fact that, irrespective of their current circumstances, they are entitled to opportunities that will enable them to participate fully in community life;
  - (e) SAAP is to encourage innovation in the provision of services to people who are homeless;



**Section 5**

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- (f) SAAP is to safeguard clients' rights and deal with clients' responsibilities through measures including, but not limited to:
  - (i) the development of grievance and appeals procedures;  
and
  - (ii) the development of charters of clients' rights and responsibilities.

## **Part 2—SAAP Agreements**

### **Division 1—Form of SAAP agreement**

#### **6 Form of SAAP agreement**

*Minister may specify form of agreement*

- (1) For the purposes of this Act, the Minister may, by written instrument, specify a form of agreement dealing with SAAP.

*Variation or revocation*

- (2) If the form is varied or revoked, the variation or revocation does not affect the validity of a SAAP agreement entered into before the variation or revocation took effect.

*Disallowable instrument*

- (3) An instrument under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

## **Division 2—Matters dealt with by form of SAAP agreement**

### **7 Responsibilities of service providers**

A form of agreement specified in an instrument under section 6 must include provisions that are directed towards assisting service providers, over time, to fulfil the following responsibilities:

- (a) to help people who are homeless to resolve crisis, and to achieve greater independence, through the following:
  - (i) case management;
  - (ii) assessment and referral;
  - (iii) if appropriate—early intervention and re-establishment of family links;
- (b) to further the integration into the community of people who are homeless by increasing access to the following:
  - (i) employment;
  - (ii) education and training;
  - (iii) health services (including mental health services);
  - (iv) disability and rehabilitation services;
  - (v) children’s support services;
  - (vi) income support;
  - (vii) other appropriate opportunities and resources;
- (c) to help people who are homeless to obtain long-term, secure and affordable housing and accommodation by providing access to a range of options suitable to their needs;
- (d) to complement other services available to people who are homeless.

### **8 Key matters to be dealt with in form of agreement**

A form of agreement specified in an instrument under section 6 must deal with the following matters:

- (a) implementing case management;
  - (b) developing assessment and referral mechanisms;
  - (c) introducing early intervention and outreach;
-

- (d) enhancing the skill levels of the service provider work force compatible with core competencies;
- (e) strengthening the links between service sectors;
- (f) the efficiency and effectiveness of program management (including both Commonwealth and State planning, administration and advisory mechanisms);
- (g) establishing the means by which the civil, political, economic and social rights of people who are homeless may be preserved and protected by service providers;
- (h) ensuring that outcomes and/or targets in relation to people who are homeless are taken into account in the granting of financial assistance for the provision of services under SAAP;
- (i) establishing reporting and accountability arrangements;
- (j) establishing networks of support between service providers.

## **9 Services dealt with by form of agreement**

*Services may vary in type and duration*

- (1) A form of agreement specified in an instrument under section 6 may provide that services under SAAP are to be of a varying duration, type and level according to the needs of individuals.

*Examples of service activities*

- (2) The following are examples of service activities that may be dealt with by the form of agreement:
  - (a) case management;
  - (b) assessment and referral;
  - (c) supported accommodation;
  - (d) brokerage;
  - (e) early intervention;
  - (f) outreach;
  - (g) mediation, including re-establishment of family links where appropriate;
  - (h) counselling;
  - (i) advocacy.

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For this purpose, service activity means a particular type or kind of assistance to address the specific needs of individuals.

**10 Services not to be dealt with under SAAP**

*No duplication of services*

- (1) Except with the joint written consent of the Minister and the State Minister of each participating State, a form of agreement specified in an instrument under section 6 must provide that SAAP will not replace or duplicate a service that is already provided by, or is the responsibility of, any other government, program or organisation.

*Gazettal of consent*

- (2) If a consent is given under this section, the Minister must cause a copy of the consent to be published in the *Gazette*.

**11 National SAAP Co-ordination and Development Committee**

*Establishment*

- (1) A form of agreement specified in an instrument under section 6 must provide for the establishment of a committee, to be known as the **National SAAP Co-ordination and Development Committee**.

*Representation on Committee*

- (2) The form of agreement must provide that the Commonwealth and each participating State is to be represented on the National SAAP Co-ordination and Development Committee.

**12 National data collection system and national research program**

*Data collection system and research program*

- (1) A form of agreement specified in an instrument under section 6 must provide for the development of:
    - (a) a national data collection system; and
    - (b) a national research program; for the following purposes:
-

- (c) informing the development of policies relating to people who are homeless;
- (d) improving the management of SAAP;
- (e) measuring outcomes in SAAP.

*Privacy*

- (2) The form of agreement must include provisions directed towards ensuring that the national data collection system and the national research program safeguard the privacy of clients' personal information.

*Interpretation*

- (3) For the purposes of this section:
  - (a) **personal information** has the same meaning as in the *Privacy Act 1988*; and
  - (b) the meaning of "privacy" is to be determined having regard to the principles set out in that Act.

### **13 Services may be general or specific**

*Services*

- (1) A form of agreement specified in an instrument under section 6 may deal with:
  - (a) services provided generally to people who are homeless; or
  - (b) services provided to meet the special needs of people who are homeless and who belong to any of the following groups:
    - (i) women;
    - (ii) women and accompanying children;
    - (iii) independent young people above the school-leaving age for the State concerned;
    - (iv) Aboriginal and Torres Strait Islander peoples;
    - (v) people from non-English speaking backgrounds;
    - (vi) families;
    - (vii) single men;
    - (viii) single women;

**Part 2** SAAP Agreements

**Division 2** Matters dealt with by form of SAAP agreement

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- (ix) any other group specified in writing by the Minister and the State Minister of each participating State.

*Gazettal of specified group*

- (2) If a group is specified under subparagraph (1)(b)(ix), the Minister must cause a copy of the specification to be published in the *Gazette*.

**14 Evaluation**

A form of agreement specified in an instrument under section 6 must contain provisions directed towards ensuring that the program performance of SAAP is evaluated at regular intervals. The intervals must not be longer than 5 years.

**15 Outcomes**

*Agreement may deal with outcomes*

- (1) A form of agreement specified in an instrument under section 6 may deal with outcomes determined by the Minister under subsection (2) of this section.

*Minister may determine outcomes*

- (2) The Minister may, by writing, determine outcomes for the purposes of SAAP agreements. A determination has effect accordingly.

*Minister to obtain the consent of State Ministers*

- (3) Before making a determination under subsection (2), the Minister must obtain the written consent of the State Minister of each participating State.

*Disallowable instrument*

- (4) A determination under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

## **Part 3—Grants under SAAP Agreements**

### **18 Grants of financial assistance**

*When section applies*

- (1) This section applies if a SAAP agreement is in force between the Commonwealth and a State.

*Minister may authorise payments*

- (2) The Minister may authorise payments (including advances) to be made to the State, by way of financial assistance, in accordance with the SAAP agreement.

*Payments to be under an appropriation*

- (3) Payments under this section are to be made out of money appropriated by the Parliament for the purposes of this Act.

### **19 Repayment of grants**

An amount repayable by a State to the Commonwealth under a SAAP agreement is a debt due by the State to the Commonwealth.



**16 Division not to limit generality of section 6**

This Division does not, by implication, limit the generality of section 6.

## Division 3—SAAP agreements

### 17 SAAP agreements

*When section applies*

- (1) This section applies if an instrument (the *disallowable instrument*) is in force under section 6.

*Original SAAP agreement*

- (2) The Commonwealth may enter into an agreement with a State substantially in accordance with the form set out in the disallowable instrument. The agreement is to be known as a **SAAP agreement**.

*Variation of SAAP agreement—further agreement*

- (3) The Commonwealth may enter into a further agreement made under and varying a SAAP agreement. The varied SAAP agreement must be substantially in accordance with the form set out in the disallowable instrument.

## **Part 4—Commonwealth Advisory Committee on Homelessness**

### **20 Commonwealth Advisory Committee on Homelessness**

#### *Establishment*

- (1) The Minister may establish a committee, to be known as the **Commonwealth Advisory Committee on Homelessness** (“CACH”).

#### *Qualifications of members*

- (2) Before appointing a person as a member of CACH, the Minister must have regard to:
  - (a) the person’s expertise in, or experience of, homelessness; or
  - (b) the person’s understanding of the principal issues affecting people who are homeless; or
  - (c) such other expertise or experience of the person as the Minister considers relevant.

### **21 Function of CACH**

#### *Function*

- (1) The function of CACH is to advise the Minister about matters referred to it by the Minister.

#### *Matters that may be referred*

- (2) Each matter referred to CACH must be:
  - (a) a matter that relates to the operation of this Act or a SAAP agreement; or
  - (b) a matter that relates to people who are homeless and is relevant to the powers of the Parliament or of the Commonwealth Government.

## **22 Remuneration and allowances**

### *Remuneration Tribunal to determine remuneration*

- (1) A member of CACH is to be paid such remuneration (if any) as is determined by the Remuneration Tribunal.

### *Minister to determine remuneration if no Remuneration Tribunal determination*

- (2) If no determination of that remuneration by the Remuneration Tribunal is in operation, a member of CACH is to be paid such remuneration as is determined, in writing, by the Minister.

### *Minister to determine allowances*

- (3) A member of CACH is to be paid such allowances as the Minister determines in writing.

### *Disallowable instrument*

- (4) A determination under subsection (2) or (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

### *Section has effect subject to the Remuneration Tribunal Act 1973*

- (5) This section has effect subject to the *Remuneration Tribunal Act 1973*.

## **23 Disclosure of interests at meetings**

### *Member to disclose interests*

- (1) A member of CACH who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by CACH must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of CACH.

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*Disclosure to be recorded in minutes*

- (2) A disclosure under subsection (1) must be recorded in the minutes of the meeting.

**24 Member's appointment to be terminated for non-disclosure of interests**

*Termination of appointment*

- (1) The Minister must terminate the appointment of a member of CACH if the member fails, without reasonable excuse, to comply with section 23.

*Subsection (1) not to limit Minister's power to terminate*

- (2) Subsection (1) does not, by implication, limit the Minister's power to terminate the appointment of a member of CACH.

**25 Resignation**

A member of CACH may resign from CACH by writing signed by the member and sent to the Minister.

## **Part 5—Regulations**

### **26 Regulations**

The Governor-General may make regulations prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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**Table of Acts**

**Notes to the *Supported Accommodation Assistance Act 1994***

**Note 1**

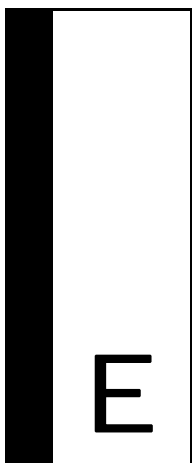
The *Supported Accommodation Assistance Act 1994* as shown in this compilation comprises Act No. 162, 1994 amended as indicated in the Tables below.

**Table of Acts**

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Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Supported Accommodation Assistance Act 1994</i>	162, 1994	16 Dec 1994	16 Dec 1994	

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## Appendix E – National Affordable Housing Agreement<sup>1</sup>



# NATIONAL AFFORDABLE HOUSING AGREEMENT

Council of  
Australian  
Governments

An Agreement between

- the Commonwealth of Australia;
- the States and Territories, being:
  - ◆ the State of New South Wales;
  - ◆ the State of Victoria;
  - ◆ the State of Queensland;
  - ◆ the State of Western Australia;
  - ◆ the State of South Australia;
  - ◆ the State of Tasmania;
  - ◆ the Australian Capital Territory; and
  - ◆ the Northern Territory of Australia; and
  - ◆ the Australian Local Government Association on behalf of local government.

This Agreement defines the objectives, outcomes, outputs and performance indicators, and clarifies the roles and responsibilities, that will guide the Commonwealth and the States and Territories in the delivery of services across the housing and homelessness services sector.

# National Affordable Housing Agreement

## INTERGOVERNMENTAL AGREEMENT ON FEDERAL FINANCIAL RELATIONS

### PRELIMINARIES

1. This agreement is created subject to the provisions of the *Intergovernmental Agreement on Federal Financial Relations* and should be read in conjunction with that Agreement and subsidiary schedules. In particular, the schedules include direction in respect of performance reporting and payment arrangements.
2. The Parties are committed to addressing the issue of social inclusion, including responding to Indigenous disadvantage. That commitment is embodied in the objectives and outcomes of this agreement. However, the Parties have also agreed other objectives and outcomes - for example, in the National Indigenous Reform Agreement - which the Parties will pursue through the broadest possible spectrum of government action. Consequently, this agreement will be implemented consistently with the objectives and outcomes of all National Agreements and National Partnerships entered into by the Parties.
3. This National Affordable Housing Agreement provides the framework for the Parties to work together to improve housing affordability and homelessness outcomes for Australians.
4. The Parties to this Agreement are committed to:
  - (a) providing direction for a range of measures including: social housing; assistance to people in the private rental market; support and accommodation for people who are homeless or at risk of homelessness; and home purchase assistance;
  - (b) working towards improving coordination across housing related programs to make better use of existing stock and under-utilised Government assets and achieve better integration between housing and human services, including health and disability services; and
  - (c) reducing the rate of homelessness.
5. This Agreement is ongoing, but may be amended as necessary by the Agreement of the Council of Australian Governments (COAG).

### OBJECTIVES

6. The aspirational objective is that all Australians have access to affordable, safe and sustainable housing that contributes to social and economic participation.

## OUTCOMES

7. The Parties commit to the achievement of the following outcomes:
  - (a) people who are homeless or at risk of homelessness achieve sustainable housing and social inclusion;
  - (b) people are able to rent housing that meets their needs;
  - (c) people can purchase affordable housing;
  - (d) people have access to housing through an efficient and responsive housing market;
  - (e) Indigenous people have the same housing opportunities (in relation to homelessness services, housing rental, housing purchase and access to housing through an efficient and responsive housing market) as other Australians; and
  - (f) Indigenous people have improved housing amenity and reduced overcrowding, particularly in remote areas and discrete communities.

## OUTPUTS

8. The objectives and outcomes of this Agreement will be achieved through a range of outputs. The outputs include the:
  - (a) number of people who are homeless or at risk of homelessness who are assisted to secure and sustain their tenancies;
  - (b) number of people who are assisted to move from crisis accommodation or primary homelessness to sustainable accommodation;
  - (c) number of households assisted in social housing;
  - (d) number of households in private rental receiving subsidies;
  - (e) number of people receiving home purchase assistance;
  - (f) number of zoned lots available for residential construction; and
  - (g) number of Indigenous households provided with safe and appropriate housing.
9. The COAG Reform Council, subject to the provisions of the *Intergovernmental Agreement on Federal Financial Relations*, will report on the baseline output in 2008-09 and will report annually to COAG on performance data relating to this National Agreement.

## ROLES AND RESPONSIBILITIES

10. Each Party is accountable to the community for achieving outcomes in its area of responsibility. This section clarifies the outputs or roles that are the responsibility of each Party.

## Role of the Commonwealth

11. The Commonwealth is responsible for:
  - (a) leadership for national housing and homelessness policy including Indigenous housing policy;
  - (b) income support and rental subsidies;
  - (c) immigration and settlement policy and programs;
  - (d) financial sector regulations and Commonwealth taxation settings that influence housing affordability;
  - (e) competition policy relating to housing and buildings;
  - (f) provision of national infrastructure;
  - (g) housing-related data collected by the Australian Bureau of Statistics and Centrelink; and
  - (h) coordination of homelessness data collection from States and Territories.

## Role of the States and Territories

12. The States and Territories are responsible for:
  - (a) leadership for housing and homelessness policy, including Indigenous housing policy;
  - (b) housing and homelessness services, administration and delivery;
  - (c) housing for Indigenous people, including in remote areas;
  - (d) land use, supply and urban planning and development policy;
  - (e) housing-related financial support and services for renters and home buyers;
  - (f) housing-related State and Territory taxes and charges that influence housing affordability;
  - (g) infrastructure policy and services associated with residential development;
  - (h) tenancy and not-for-profit housing sector legislation and regulation; and
  - (i) collection and publication of data from housing providers and agencies that provide services to people who are homeless.

## Role of the Local Government

13. Local governments operate under State regulation, local governments (and the Australian Capital Territory Government and the Northern Territory Government) are responsible for:
  - (a) building approval processes;
  - (b) local urban planning and development approval processes; and
  - (c) rates and charges that influence housing affordability.

## Shared roles and responsibilities

14. The Parties will collaborate to:
  - (a) develop national policy for housing, homelessness and Indigenous housing;
  - (b) identify and share best practices;
  - (c) share data, including a commitment to provide data for the national minimum data set and a commitment to the continuous improvement of data;
  - (d) provide home purchase assistance; and
  - (e) set joint priorities for evaluation and research.

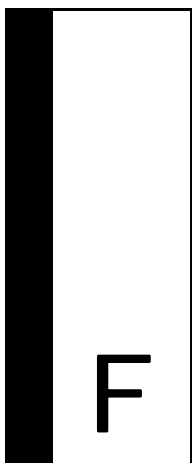
## PERFORMANCE INDICATORS

15. All Parties are accountable to the community for their performance, against the agreed objectives and outcomes, and in respect of their allocated roles and responsibilities.
16. To assist the community to assess the performance of governments toward achieving these outcomes, performance will be indicated by the following performance indicators:
  - (a) proportion of low income households in rental stress;
  - (b) proportion of homes sold or built that are affordable by low and moderate income households;
  - (c) proportion of Australians who are homeless;
  - (d) proportion of people experiencing repeat periods of homelessness;
  - (e) proportion of Australian households owning or purchasing a home;
  - (f) proportion of Indigenous households owning or purchasing a home;
  - (g) proportion of Indigenous households living in overcrowded conditions; and
  - (h) proportion of Indigenous households living in houses of an acceptable standard.
17. Performance indicators will be developed specifically regarding:
  - (a) supply meeting underlying demand for housing; and
  - (b) housing market efficiency.
18. The Steering Committee for the Review of Government Service Provision will identify the baseline performance indicators in 2008-09, and the COAG Reform Council, subject to the provisions of the *Intergovernmental Agreement on Federal Financial Relations*, will report annually to COAG on performance data relating to these indicators.

## REFORM AND POLICY DIRECTIONS

19. The reform and policy directions listed below are priority areas for effort over the near term, noting that the rate of progress in many areas will be contingent on available resources.

20. The Parties commit to ongoing reforms in the housing sector. The agreed policy actions to achieve this are:
- (a) improving integration between the homelessness service system and mainstream services;
  - (b) taking joint action and a nationally coordinated approach on homelessness;
  - (c) creating mixed communities that promote social and economic opportunities by reducing concentrations of disadvantage that exist in some social housing estates;
  - (d) improving access by Indigenous people to mainstream housing, including home ownership;
  - (e) contributing to the achievement of 'Closing the Gap' housing targets;
  - (f) establishing a nationally consistent approach to social housing to create a more transparent, accountable and efficient sector, including common costing and financial management reporting, practices and methodologies;
  - (g) providing compulsory rent deductions and improved information exchange between the Commonwealth and the States and Territories to improve the operational efficiency of public housing and to reduce evictions from public housing;
  - (h) creating incentives for public housing tenants to take up employment opportunities within the broader employment framework;
  - (i) enhancing the capacity and growth of the not-for-profit housing sector, supported by a nationally consistent provider and regulatory framework;
  - (j) planning reform for greater efficiency in the supply of housing;
  - (k) improving supply of land for new dwellings identified through audits of Commonwealth, State and Territory surplus land; and
  - (l) increasing capacity to match new housing supply with underlying demand, including as a result of work undertaken by the National Housing Supply Council.



## Appendix F – National Partnership Agreement on Homelessness<sup>1</sup>

# NATIONAL PARTNERSHIP AGREEMENT ON HOMELESSNESS

Council of  
Australian  
Governments

An agreement between

- the **Commonwealth of Australia** and
- the **States and Territories**, being:
  - ◆ The State of New South Wales;
  - ◆ The State of Victoria;
  - ◆ The State of Queensland;
  - ◆ The State of Western Australia;
  - ◆ The State of South Australia;
  - ◆ The State of Tasmania;
  - ◆ The Australian Capital Territory; and
  - ◆ The Northern Territory of Australia

This Agreement aims to facilitate significant reforms to reduce homelessness.



# National Partnership Agreement on Homelessness

## NATIONAL AFFORDABLE HOUSING AGREEMENT

### PRELIMINARIES

1. This agreement is created subject to the provisions of the Intergovernmental Agreement on Federal Financial Relations and should be read in conjunction with that Agreement and subsidiary schedules. In particular, the schedules include direction in respect of performance reporting and payment arrangements.
2. The Parties are committed to addressing the issue of social inclusion, including responding to Indigenous disadvantage. That commitment is embodied in the objectives and outcomes of this agreement. However, the Parties have also agreed other objectives and outcomes - for example, in the National Indigenous Reform Agreement - which the Parties will pursue through the broadest possible spectrum of government action. Consequently, this agreement will be implemented consistently with the objectives and outcomes of all National Agreements and National Partnerships entered into by the Parties
3. Reducing homelessness will require all governments to pursue improvements to a wide range of policies, programs and services.
4. This Agreement recognises that a reduction in homelessness requires targeting key groups: rough sleepers, people experiencing homelessness more than once, people escaping violence especially women and children, children and young people including those subject to or exiting care and protection, Indigenous people and people exiting social housing, institutional care such as health, mental health, juvenile justice, or adult prisons.
5. This Agreement has been developed within the context of the broader Council of Australian Governments (COAG) Reform Agenda, which includes actions in healthcare, mental health, substance abuse, disabilities, housing, employment, education/training and overcoming disadvantage of Indigenous people. Together with other elements of the broader COAG Reform Agenda, this Agreement will improve the social inclusion of homeless Australians.
6. The objectives of this Agreement will be achieved through State and Territory Implementation Plans. These plans will establish the priorities and relative effort for each jurisdiction based on their share of the homelessness population, their current service system, and the funding available under this Agreement.
7. This National Partnership is created subject to the provisions of the Intergovernmental Agreement on Federal Financial Relations and its schedules, and should be read in conjunction with them.

## PART 1 – FORMALITIES

### Parties to this Agreement

8. In entering this Agreement, the Commonwealth and the States and Territories recognise that they have a mutual interest in improving outcomes in the area of homelessness and need to work together to achieve those outcomes.

### Term of the Agreement

9. This Agreement will commence as soon as the Commonwealth and on other Party signs the Agreement and will expire on 30 June 2013, subject to completion of review by COAG three years after commencement, unless terminated under paragraph 36 of this Agreement..

### Delegations

10. The Minister for Housing, Community Services and Indigenous Affairs/Minister for Housing is authorised to agree the Implementation Plans on behalf of the Commonwealth and certify that payments may be made to the States and Territories on the achievement of performance benchmarks specified in the Implementation Plans.
11. State and Territory Premiers or Chief Ministers (or their nominees) are authorised to agree the Implementation Plan on behalf of their State or Territory.

### Interpretation

12. Unless otherwise specified, the following terms and definitions are used throughout this Agreement:
  - (a) *Primary homelessness* means people without conventional accommodation, and it includes people living on the streets and in other public places such as parks, squatting in buildings or using vehicles, for temporary shelter.
  - (b) *Rough sleeping* means primary homeless people.
  - (c) *SAAP* means the Supported Accommodation Assistance Programme.
  - (d) *Secondary homelessness* means people staying in emergency or transitional accommodation and people residing temporarily with other households because they have no accommodation of their own. It also includes people staying in emergency or transitional accommodation provided by governments and non-government organisations and people residing temporarily in boarding houses for 12 weeks or less.
  - (e) *Tertiary homelessness* means people living in boarding houses on a medium to long term basis for over 12 weeks.

## PART 2 – OBJECTIVES, OUTCOMES AND OUTPUTS

### Objectives

13. This Agreement contributes to the National Affordable Housing Agreement Outcome:

*People who are homeless or at risk of homelessness achieve sustainable housing and social inclusion.*

## Outcomes

14. This Agreement will contribute to 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.

## Outputs

15. This Agreement will support the achievement of the agreed objective and outcomes through a range of outputs.
16. The parties will deliver the following core outputs:
- (a) Implementation of the A Place to Call Home initiative;
  - (b) Street to home initiatives for chronic homeless people (rough sleepers);
  - (c) Support for private and public tenants to help sustain their tenancies, including through tenancy support, advocacy, case management, financial counselling and referral services; and
  - (d) Assistance for people leaving child protection services, correctional and health facilities, to access and maintain stable, affordable housing.
17. Priorities and relative effort applied to the following additional outputs will be established in jurisdictional Implementation Plans:
- (a) Support services and accommodation to assist older people who are homeless or at risk of homelessness;
  - (b) Services to assist homeless people with substance abuse to secure or maintain stable accommodation;
  - (c) Services to assist homeless people with mental health issues to secure or maintain stable accommodation;
  - (d) Support to assist young people aged 12 to 18 years who are homeless or at risk of homelessness to re-engage with their family where it is safe to do so, maintain sustainable accommodation and engagement with education and employment;
  - (e) Improvements in service coordination and provision;
  - (f) Support for women and children experiencing domestic and family violence to stay in their present housing where it is safe to do so;
  - (g) Assistance for homeless people, including families with children, to stabilise their situation and to achieve sustainable housing;

- (h) Outreach programs to connect rough sleepers to long-term housing and health services;
- (i) National, State, and rural (including remote) homelessness action plans to assist homeless people in areas identified as having high rates of homelessness;
- (j) Support for children who are homeless or at risk of homelessness including to maintain contact with the education system;
- (k) Legal services provided to people who are homeless or at risk of homelessness as a result of legal issues including family violence, tenancy or debt; and
- (l) Workforce development and career progression for workers in homelessness services.

#### **KEY STRATEGIES UNDER THIS AGREEMENT**

18. This Agreement recognises that addressing homelessness will require action around three key strategies:
- (a) More effort is required to prevent and intervene early to stop people becoming homeless and also lessen the impact of homelessness. Effective prevention and early intervention strategies need to address both individual and structural causes of homelessness.
  - (b) Breaking the cycle of homelessness will require investment in services that can help people get back on their feet, find stable accommodation and, wherever possible, obtain employment. More effort is required to target people who are: regular rough sleepers; repeatedly homeless; living with a high risk of homelessness; struggling with the impact of cycles of homelessness; disempowered due to mental illness; and unaccompanied children. Causes of homelessness such as escaping violence and special needs must be responded to with better access to sustainable housing and significant follow up support.
  - (c) A better connected service system is a key to achieving long-term sustainable reductions in the number of people who are homeless. This Agreement acknowledges that providing emergency and transitional housing is not the sole rationale for the service system. Reforms to the service system will build more connected, integrated and responsive services which achieve sustainable housing, and improve economic and social participation of those at risk of homelessness. Improved links between homelessness services, and between homelessness services and mainstream services, will improve outcomes for individuals, reduce duplicate processing across agencies, and enable faster transition from temporary accommodation for the homeless to stable housing. Improved integration of homelessness services, employment and training providers and Centrelink will lift economic and social participation outcomes for people who are homelessness.

### **PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY**

19. To realise the objectives and commitments in this Agreement, each Party has specific roles and responsibilities, as outlined below.

#### **Role of the Commonwealth**

20. The Commonwealth will have responsibility for:
- (a) Supporting the State and Territories to deliver funded measures in their respective Implementation Plans;
  - (b) delivering the Commonwealth-only funded measures in the Implementation Plans;

- (c) contributing funding to the States and Territories as specified in paragraph 27 of this Agreement;
- (d) monitoring performance against the performance indicators and benchmarks specified in this Agreement and the Implementation Plans; and
- (e) providing performance and financial reporting as required.

## Role of the States and Territories

21. The States and Territories will have responsibility for:
- (a) delivering the State-only funded measures in their respective Implementation Plans;
  - (b) contributing funding as specified in paragraph 28;
  - (c) delivering the measures funded by the Commonwealth and identified for delivery by the States and Territories in their respective Implementation Plans;
  - (d) participating in processes to support the Commonwealth in its delivery of its measures; and
  - (e) providing performance and financial reporting as required.

## Shared Responsibilities

22. Within the COAG framework, the Commonwealth, the States and Territories will:
- (a) work in partnership to refine or further develop performance indicators and provide data to enable performance reporting and evaluation of outcomes of this Agreement; and
  - (b) maintain and develop national data sets required to allow comparative reporting of jurisdictional service delivery effort.

## PART 4 – PERFORMANCE BENCHMARKS AND REPORTING

### Performance benchmarks and indicators

23. This section sets out national performance indicators and benchmarks, for overall national performance. Performance against the indicators and the extent to which benchmarks are attained will reflect efforts by all three levels of government, noting that some factors are beyond the control of governments. The contribution of each level of government will vary according to the individual indicator or benchmark.
24. Performance Indicators have been developed where possible to measure outcomes. Where this is not possible output measures have been developed as substitutes to measure progress.

**Table 1:**

Performance Indicator	Baseline	Performance Benchmark
Proportion of Australians who are homeless	9,531 Indigenous people are homeless 104,676 Australians who are homeless	By 2013, a decrease of 7 per cent the number of Australians who are homeless to less than 97,350 people By 2013, a decrease of a third to 6,300 Indigenous Australians

	9,531 Indigenous people are homeless (ABS Census 2006)	who are homeless (ABS Census 2011)
Proportion of Australians who are experiencing primary homelessness (rough sleeping)	Eight people per 10,000 16,375 Australians rough sleeping or equivalent measures of 8 homeless people sleeping rough per 10,000 population (ABS Census 2006)	A decrease by 25 per cent the number of Australians sleeping rough to less than 12,300 people or equivalent measure of 6 homeless people sleeping rough per 10,000 population (ABS Census 2011)
The number of families who maintain or secure safe and sustainable housing following family violence	Interim Measure: 42,000 SAAP(a) support periods <sup>(b)</sup> for women and women with children	To be developed and agreed prior to finalisation of the Implementation Plans
Increase in the number of people exiting care and custodial settings into secure and affordable housing	Interim Measure: 4,736 SAAP <sup>(a)</sup> support periods <sup>(b)</sup>	The number of people released from such institutions into homelessness is reduced by 25 per cent (3,552) by 2013
Reduce the number of people exiting social housing and private rental into homelessness.	4,037 SAAP <sup>(a)</sup> support periods <sup>(b)</sup>	The number of people exiting from social housing and private rental to homelessness is reduced by less than 25 per cent (3,027) by 2013
The proportion of people experiencing repeat periods of homelessness	14,800 SAAP <sup>(a)</sup> clients required three or more support periods <sup>(b)</sup> in a 12 month period	25 per cent reduction (13,700) in three repeat periods of homelessness at an emergency service in 12 months
Number of young people (12 to 18 years) who are homeless or at risk of homelessness who are re-engaged with family, school and work	To be developed and agreed prior to finalisation of the Implementation Plans	To be developed and agreed prior to finalisation of the Implementation Plans
Number of children (under 12 years) who are homeless or at risk of homelessness who are provided with additional support to maintain contact with their school.	To be developed and agreed prior to finalisation of the Implementation Plans	To be developed and agreed prior to finalisation of the Implementation Plans
Number of families who are homeless or at risk of homelessness who receive financial advice, counselling and/or case management.	To be developed and agreed prior to finalisation of the Implementation Plans	To be developed and agreed prior to finalisation of the Implementation Plans
Number of people who are homeless or at risk who are provided with legal services	To be developed and agreed prior to finalisation of the Implementation Plans	To be developed and agreed prior to finalisation of the Implementation Plans
Number of staff of specialist homeless services provided with formal training and development opportunities	To be developed and agreed prior to finalisation of the Implementation Plans	To be developed and agreed prior to finalisation of the Implementation Plans

(a) Use of SAAP service data is a proxy measure until better data becomes available under this Agreement

(b) Number of people not known – a client may receive more than one 'support period'

## Implementation plan

25. The Commonwealth will agree an Implementation Plan with each State and Territory to achieve the objectives of this Agreement. The Plans will be reviewed by the Parties on an annual basis.
  - (a) The Commonwealth will, in consultation with each State and Territory, maintain the Plans and provide an agreed updated Plan to the relevant State and Territory following the review;
  - (b) The Plans will include the timelines for achieving the performance benchmarks, including phased achievement of performance benchmarks where appropriate; and
  - (c) Amendments to the Plan can be requested by any Party to the Agreement at any time, to accommodate emerging issues.
26. The Implementation timeline is as follows:
  - (a) The Implementation Plan for each State and Territory to achieve the objectives of this Agreement is to be agreed by no later than 31 March 2009.

## Reporting

27. Reporting requirements under this National Partnership should be read in conjunction with the provisions in Schedule C to the Intergovernmental Agreement on Federal Financial Relations.
28. The States and Territories will each provide a detailed report on an annual basis to the Commonwealth against the outputs, performance indicators and timelines, as detailed in their respective Implementation Plans.
29. The Commonwealth will provide reports to the States and the Northern Territory and other relevant stakeholders against the performance indicators and timelines, as detailed in the Implementation Plans.
30. The reports will be provided within 12 weeks of the end of the relevant period, or as otherwise specified in the agreed Implementation Plans.

## PART 5 – FINANCIAL ARRANGEMENTS

### Funding

31. This Agreement will be based on facilitation payments.
32. Funding available to the States and Territories will be:
  - 2009-10 – \$71.1 million
  - 2010-11 - \$102.5 million
  - 2011-12 - \$107.5 million
  - 2012-13 - \$107.5 million
33. Funding will be allocated between the States and Territories in proportion with their shares of the homeless population as estimated by the Australian Bureau of Statistics in the 2006 Census of Population and Housing.

34. The States and Territories will match the Commonwealth's total contribution towards this agreement of \$400 million, including estimated Commonwealth Own Purpose Expenditure of \$11.4 million, as follows:
  - 2009-10 – \$75.0 million
  - 2010-11 - \$105.0 million
  - 2011-12 - \$110.0 million
  - 2012-13 - \$110.0 million
35. State and Territory matching funding will directly address the outputs of this Agreement. This matched funding must be new effort and may include new recurrent and capital funding provided in State and Territory 2008-09 Budgets.
36. State and Territory proposals for matching funding from their 2008-09 budgets will be assessed by the Commonwealth and, where agreed, included in bilateral implementation plans.
37. States and territories will also receive funding for A Place to Call Home, as follows:
  - 2008-09 - \$24.4 million
  - 2009-10 - \$26.6 million
  - 2010-11 - \$26 million
  - 2011-12 - \$24 million
  - 2012-13 - \$49 million
38. The States and Territories will match the Commonwealth's total contribution towards A Place to Call Home funding, as set out in their implementation plans.
39. The distribution of this maximum funding between the States and Territories will be as set out in the Implementation Plans.

## **Payment schedule**

40. The Commonwealth will make monthly payments to the States and Territories. This is subject to an annual review of achievement of performance milestones agreed in Implementation Plans.

## **PART 6 – GOVERNANCE ARRANGEMENTS**

### **Dispute resolution**

41. Any Party may give notice to other Parties of a dispute under this Agreement.
42. The relevant delegates will attempt to resolve any dispute in the first instance.
43. If a dispute cannot be resolved between the relevant delegates, it may be escalated to relevant Ministerial Council or COAG Working Group for consideration.
44. If a dispute cannot be resolved by the relevant Ministerial Council or COAG Working group, it may be referred by a Party to COAG for consideration.



## **Review of the Agreement**

45. This Agreement will be reviewed by December 2011 with regard to progress made by the Parties in respect of achieving the agreed outcomes, and any issues regarding this Agreement, the Plan and their performance monitoring.

## **Variation of the Agreement**

46. The agreement may be amended at any time by agreement in writing by all the Parties and under terms and conditions as agreed by all the Parties.
47. A Party to the Agreement may terminate their participation in the Agreement at any time by notifying all the other Parties in writing.

The Parties have confirmed their commitment to this agreement as follows:

**Signed** *for and on behalf of the Commonwealth of Australia by*

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**The Honourable Kevin Rudd MP**

Prime Minister of the Commonwealth of Australia

January 2009

**Signed** *for and on behalf of the State of New South Wales by*

**Signed** *for and on behalf of the State of Victoria by*

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**The Honourable Nathan Rees MP**

Premier of the State of New South Wales

December 2008

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**The Honourable John Brumby MP**

Premier of the State of Victoria

December 2008

**Signed** *for and on behalf of the State of Queensland by*

**Signed** *for and on behalf of the State of Western Australia by*

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**The Honourable Anna Bligh MP**

Premier of the State of Queensland

December 2008

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**The Honourable Colin Barnett MP**

Premier of the State of Western Australia

December 2008

**Signed** *for and on behalf of the State of South Australia by*

**Signed** *for and on behalf of the State of Tasmania by*

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**The Honourable Mike Rann MP**

Premier of the State of South Australia

December 2008

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**The Honourable David Bartlett MP**

Premier of the State of Tasmania

December 2008

**Signed** *for and on behalf of the Australian Capital Territory by*

**Signed** *for and on behalf of the Northern Territory by*

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**Jon Stanhope MLA**

Chief Minister of the Australian Capital Territory

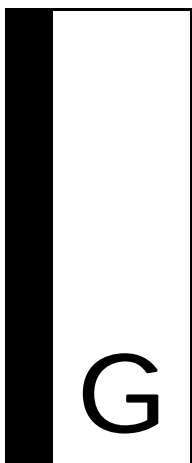
December 2008

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**The Honourable Paul Henderson MLA**

Chief Minister of the Northern Territory of Australia

December 2008



## Appendix G – National Partnership Agreement on Social Housing<sup>1</sup>

# NATIONAL PARTNERSHIP AGREEMENT ON SOCIAL HOUSING

Council of  
Australian  
Governments

An agreement between

- the Commonwealth of Australia and
- the States and Territories, being:
  - ◆ the State of New South Wales;
  - ◆ the State of Victoria;
  - ◆ the State of Queensland;
  - ◆ the State of Western Australia;
  - ◆ the State of South Australia;
  - ◆ the State of Tasmania;
  - ◆ the Australian Capital Territory; and
  - ◆ the Northern Territory of Australia.

This Agreement facilitates the establishment of a 'Social Housing Growth Fund' that will support reforms to increase the supply of social housing.

# National Partnership Agreement on Social Housing

## NATIONAL AFFORDABLE HOUSING AGREEMENT

### PRELIMINARIES

1. This agreement is created subject to the provisions of the *Intergovernmental Agreement on Federal Financial Relations* and should be read in conjunction with that Agreement and subsidiary schedules. In particular, the schedules include direction in respect of performance reporting and payment arrangements.
2. The Parties are committed to addressing the issue of social inclusion, including responding to Indigenous disadvantage. That commitment is embodied in the objectives and outcomes of this agreement. However, the Parties have also agreed other objectives and outcomes – for example, in the National Indigenous Reform Agreement – which the Parties will pursue through the broadest possible spectrum of government action. Consequently, this agreement will be implemented consistently with the objectives and outcomes of all National Agreements and National Partnerships entered into by the Parties.
3. This National Partnership Agreement has been established to facilitate the implementation of a 'Social Housing Growth Fund'. This fund will provide capital funding to support a range of projects to increase the supply of social housing in the short term and enable more disadvantaged households to access safe and secure housing that meets their needs. Through this increase in supply, enhanced assistance to help persons who are homeless or at risk of homelessness to transition to longer term accommodation and improved housing opportunities for Indigenous Australians will also be achieved.
4. The primary aim of the 'Social Housing Growth Fund' is to increase the supply of social housing through new construction, and contribute to reduced homelessness, and improved outcomes for homeless and Indigenous Australians.
5. Proposals for the 'Social Housing Growth Fund' will be considered only if they result in new social housing dwellings in a particular jurisdiction and meet the key priorities for funding that are outlined in this Agreement. All projects funded through this Agreement must be completed and ready for occupation within two years of funding being allocated.
6. Funding will be offered to States and Territories on a per capita basis. States and Territories will need to lodge proposals with the Commonwealth that meet the requirements outlined in paragraphs 29 and 30 of this Agreement. Further details will be provided in an Implementation Plan.
7. As part of this Agreement, the Parties will commit to consideration of further reforms with a report to COAG by the end of 2009:

- (a) to address supply shortfalls including through identifying areas of housing need based on work of the National Housing Supply Council, through City Wide Planning Authorities and/or State planning mechanisms; and
  - (b) possible payment of Commonwealth funding assistance for social housing through means such as Commonwealth Rent Assistance.
8. Funding will only be available to States and Territories that are parties to the National Partnership Agreement on Homelessness.

## PART 1 – FORMALITIES

### Parties to this Agreement

9. In entering this Agreement, the Commonwealth and the States and Territories recognise that they have a mutual interest in increasing the supply of social housing to provide improved housing, social inclusion and economic participation outcomes for disadvantaged households.

### Term of the Agreement

10. This Agreement will commence on 1 January 2009 subject to the Commonwealth and one other Party signing the Agreement.
11. The Agreement will expire on 30 June 2010.

### Delegations

12. The Minister for Families, Housing, Community Services and Indigenous Affairs or the Minister for Housing is authorised to agree the Implementation Plans on behalf of the Commonwealth and certify the payments to be made to the States and Territories for proposals that are approved for funding.
13. State and Territory Housing Ministers are authorised to agree the Implementation Plan on behalf of their State or Territory.

## PART 2 – OBJECTIVES, OUTCOMES AND OUTPUTS

### Objectives

14. This Agreement contributes to the overarching Objective of the National Affordable Housing Agreement:
- “All Australians have access to affordable, safe and sustainable housing that contributes to social and economic participation”.**
15. The specific objectives of this Agreement are as follows:
- (a) to increase the supply of social housing through new construction;
  - (b) to provide increased opportunities for persons who are homeless or at risk of homelessness to gain secure long term accommodation; and
  - (c) to develop options for reform that will:

- (i) address supply shortfalls including through identifying areas of housing need based on work of the National Housing Supply Council, through City Wide Planning Authorities and/or State planning mechanisms; and
- (ii) propose possible payment of Commonwealth funding assistance for social housing through means such as Commonwealth Rent Assistance.

## Outcomes

16. This Agreement will contribute to the following outcomes:
- (a) people are able to rent housing that meets their needs;
  - (b) people who are homeless or at risk of homelessness achieve sustainable housing and social inclusion; and
  - (c) Indigenous people have improved housing amenity and reduced overcrowding.

## Outputs

17. This Agreement will support the achievement of the agreed objective and outcomes through a range of outputs. These include:
- (a) additional social housing dwellings achieved through new construction;
  - (b) improved housing opportunities for Indigenous people;
  - (c) accommodation options to assist persons who are homeless or at risk of homelessness to transition to secure long term accommodation;
  - (d) Options Paper for a 'Commonwealth Housing Funding Assistance Options Paper'; and
  - (e) Options Paper to address anticipated supply shortfalls.

## PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY

18. To realise the objectives and commitments in this Agreement, each Party has specific roles and responsibilities, as outlined below.

### Role of the Commonwealth

19. The Commonwealth will have responsibility for assessing proposals and determining the projects that will be granted Commonwealth funding.
20. The Commonwealth will be responsible for allocating the total agreed level of Commonwealth funds to the States and Territories for each social housing project that is approved for funding under this Agreement.

### Role of the States and Territories

21. The States and Territories will be responsible for submitting proposals to the Commonwealth within the timeframes specified within this Agreement and their respective Implementation Plan.
22. The States and Territories will be responsible for allocating the total agreed level of funds for each social housing project that is approved for funding under this Agreement.

23. The States and Territories will either own or regulate all projects funded through this Agreement and will be responsible for overseeing and monitoring each project within their jurisdiction.

## Shared Responsibilities

24. All parties to this Agreement will be jointly responsible for establishing the 'Social Housing Growth Fund' including the development of the Implementation Plan that will be negotiated in accordance with paragraphs 26 to 30 of this Agreement.
25. All parties will be responsible for working on reforms.

## PART 4 – IMPLEMENTATION

26. All parties to this Agreement will negotiate and develop an Implementation Plan which will include, but is not limited to, the following matters:
  - (a) financial arrangements for the fund;
  - (b) the process by which States and Territories will submit proposals for funding;
  - (c) the process to be followed by the Commonwealth in considering and approving projects; and
  - (d) requirements for reports provided under this Agreement.
27. Proposals for funding under the 'Social Housing Growth Fund' must have the following key requirements:
  - (a) involve the construction of new social housing dwellings;
  - (b) add to the supply of social housing dwellings within a jurisdiction;
  - (c) all projects funded through this Agreement must be completed and ready for occupation within two years of funding being allocated; and
  - (d) provide an appropriate response to an area of unmet need for social housing within the jurisdiction.
28. In addition to the key requirements in paragraph 27, proposals for funding under the 'Social Housing Growth Fund' should also meet one or more of the following criteria:
  - (a) projects that facilitate or support the transition of persons who are homeless or at risk of homelessness to secure, long term accommodation;
  - (b) projects that adhere to universal design principles that facilitate better access for persons with disability and older persons;
  - (c) projects that target improved housing opportunities for Indigenous Australians;
  - (d) projects that support the growth of the not-for-profit sector; and
  - (e) projects that offer new and innovative approaches that will support a more effective and efficient provision of social housing.



29. States and Territories will submit proposals to the Commonwealth for 2008-09 funding at any time between the signing of the Agreement and 2 March 2009, and for 2009-10 funding at any time between the signing of the Agreement and 15 May 2009. Jurisdictions may submit for consideration proposals that exceed that jurisdiction's per capita share.
30. When determining which proposals will be funded under this Agreement, the Commonwealth may also take into account the broader housing needs and circumstances in individual jurisdictions.

## PART 5 – REPORTING

31. Reporting requirements under this National Partnership should be read in conjunction with the provisions in Schedule C to the *Intergovernmental Agreement on Federal Financial Relations*.
32. Each State and Territory will provide a report to the Commonwealth every six months detailing the status and progress of each social housing project within their jurisdiction.

## PART 6 – FINANCIAL ARRANGEMENTS

### Funding

33. This Agreement will be based on facilitation payments.
34. The maximum amount of funding available under this Agreement is:
  - (a) 2008-09 — \$200 million; and
  - (b) 2009-10 — \$200 million.
35. Funding allocated under this Agreement may only be used to meet capital costs. Funding may not be used for ongoing or administration costs.
36. The Commonwealth will offer \$200 million in each of 2008-09 and 2009-10 to the States and Territories on a national per capita distribution basis. Each jurisdiction will receive the amount determined subject to that jurisdiction submitting proposals to the Commonwealth that:
  - (a) demonstrate how the funding will be expended within the agreed timeframe;
  - (b) comply with the requirements outlined in paragraph 27; and
  - (c) address one or more of the funding criteria outlined in paragraph 28.
37. Funds committed by the States and Territories through the 'Social Housing Growth Fund' must be allocated to the projects within their jurisdiction as outlined in the bilateral Agreement.
38. If the notional allocation of funds is not supported by suitable applications, the Commonwealth may re-allocate funds to other jurisdictions.

### Bilateral Agreements

39. The Commonwealth and each other party to this Agreement will enter into a bilateral Agreement prior to the first allocation of Commonwealth funding under the Agreement. The bilateral Agreement will detail projects for which funding has been approved, the expected construction and development timeline and the key deliverables and milestones.

40. The bilateral Agreement will be amended as necessary to update project details or to include the details of any newly funded projects.

## **Payment Schedule**

41. The Commonwealth will make payments to the States and Territories according to the agreed payment schedule included in each jurisdiction's project proposal.

## **Expenditure of funds**

42. At the completion of this Agreement, each State and Territory is required to provide the Commonwealth with a report (in accordance with the requirements set out in Implementation Plans) detailing any Commonwealth funding allocated under this Agreement that has not been spent or committed to be spent as at the last day of this Agreement. The Commonwealth may elect to recover parts of this funding in accordance with the process outlined in the Implementation Plan.

## **PART 7 – GOVERNANCE ARRANGEMENTS**

### **Dispute resolution**

43. Any Party may give notice to other Parties of a dispute under this Agreement.
44. The relevant delegates will attempt to resolve any dispute in the first instance.
45. If a dispute cannot be resolved between the relevant delegates, it may be escalated to the Ministerial Council for Federal Financial Relations for consideration.
46. If a dispute cannot be resolved by the Ministerial Council for Federal Financial Relations, it may be referred by a Party to COAG for consideration.

### **Variation of the Agreement**

47. The Agreement may be amended at any time by Agreement in writing by all of the Parties and under terms and conditions as agreed by all of the Parties.
48. A Party to the Agreement may terminate their participation in the Agreement at any time by notifying all the other Parties in writing.

The Parties have confirmed their commitment to this agreement as follows:

**Signed** *for and on behalf of the Commonwealth of Australia by*

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**The Honourable Kevin Rudd MP**  
Prime Minister of the Commonwealth of Australia  
January 2009

**Signed** *for and on behalf of the State of New South Wales by*

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**The Honourable Nathan Rees MP**  
Premier of the State of New South Wales  
December 2008

**Signed** *for and on behalf of the State of Queensland by*

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**The Honourable Anna Bligh MP**  
Premier of the State of Queensland  
December 2008

**Signed** *for and on behalf of the State of South Australia by*

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**The Honourable Mike Rann MP**  
Premier of the State of South Australia  
December 2008

**Signed** *for and on behalf of the Australian Capital Territory by*

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**Jon Stanhope MLA**  
Chief Minister of the Australian Capital Territory  
December 2008

**Signed** *for and on behalf of the State of Victoria by*

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**The Honourable John Brumby MP**  
Premier of the State of Victoria  
December 2008

**Signed** *for and on behalf of the State of Western Australia by*

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**The Honourable Colin Barnett MP**  
Premier of the State of Western Australia  
December 2008

**Signed** *for and on behalf of the State of Tasmania by*

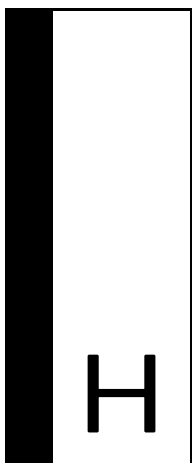
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**The Honourable David Bartlett MP**  
Premier of the State of Tasmania  
December 2008

**Signed** *for and on behalf of the Northern Territory by*

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**The Honourable Paul Henderson MLA**  
Chief Minister of the Northern Territory of Australia  
December 2008



## Appendix H – National Partnership Agreement on Remote Indigenous Housing<sup>1</sup>

# NATIONAL PARTNERSHIP AGREEMENT ON REMOTE INDIGENOUS HOUSING

Council of  
Australian  
Governments

An agreement between

- the Commonwealth of Australia and
- the States and Territories, being:
  - ◆ the State of New South Wales;
  - ◆ the State of Victoria;
  - ◆ the State of Queensland;
  - ◆ the State of Western Australia;
  - ◆ the State of South Australia;
  - ◆ the State of Tasmania; and
  - ◆ the Northern Territory of Australia.

This Agreement aims to facilitate significant reform in the provision of housing for Indigenous people in remote communities and to address overcrowding, homelessness, poor housing condition and severe housing shortage in remote Indigenous communities.

# National Partnership Agreement on Remote Indigenous Housing

NATIONAL INDIGENOUS REFORM AGREEMENT

## PRELIMINARIES

1. This agreement is created subject to the provisions of the *Intergovernmental Agreement on Federal Financial Relations* and should be read in conjunction with that Agreement and subsidiary schedules. In particular, the schedules include direction in respect of performance reporting and payment arrangements.
2. The Parties are committed to addressing the issue of social inclusion, including responding to Indigenous disadvantage. That commitment is embodied in the objectives and outcomes of this agreement. However, the Parties have also agreed other objectives and outcomes – for example, in the National Indigenous Reform Agreement – which the Parties will pursue through the broadest possible spectrum of government action. Consequently, this agreement will be implemented consistently with the objectives and outcomes of all National Agreements and National Partnerships entered into by the Parties.
3. This National Partnership Agreement has been established as a ten year funding strategy to reform responsibilities between the Commonwealth, the States and the Northern Territory in the provision of housing for Indigenous people in remote communities and to address overcrowding, homelessness, poor housing condition and severe housing shortage in remote Indigenous communities.
4. Improvements to the current poor standard of housing and infrastructure, and measures to address the high levels of overcrowding and homelessness in remote Indigenous communities are critical to meeting the Council of Australian Governments (COAG) endorsed targets to address Indigenous disadvantage.
5. The Commonwealth, States and the Northern Territory recognise that addressing the current sub-standard provision of housing and housing-related services to Indigenous Australians in remote Australia will require a shared commitment over the long term.

## PART 1 – FORMALITIES

### Parties to this Agreement

6. In entering this Agreement, the Commonwealth, States and the Northern Territory recognise that they have a mutual interest in improving housing outcomes for Indigenous people in remote communities and that they need to work together to achieve those outcomes. The Parties acknowledge that implementation of this Agreement will be different in each State and the Northern Territory.

## Term of the Agreement

7. This Agreement will commence as soon as the Commonwealth and one other Party signs this Agreement and will expire on 30 June 2018, unless terminated under paragraph 38 of this Agreement.

## Delegations

8. The Minister for Families, Housing, Community Services and Indigenous Affairs or the Minister for Housing is authorised to agree the Implementation Plans on behalf of the Commonwealth and certify that payments may be made to the States and the Northern Territory on the achievement of performance benchmarks specified in the Implementation Plans.
9. State and Territory Premiers or Chief Ministers (or their nominees) are authorised to agree the Implementation Plan on behalf of their State or Territory.

## Interpretation

10. Unless otherwise specified, the following terms and definitions are used throughout this Agreement:
  - (a) **Agreement** means this Agreement and any attached bilateral implementation plans, schedules or annexures.
  - (b) **Essential and Municipal Services** means power, water and sewerage operation and maintenance, road maintenance, waste disposal, landscaping and dust control, dog control, environment health activities, and management of infrastructure and municipal services.
  - (c) **Housing related Infrastructure** refers to the connection and supply of power, drinking water and sewerage to permanent dwellings.
  - (d) **Indigenous** means people who identify as Aboriginal and/or Torres Strait Islander.
  - (e) **Normalised service arrangements** mean that a remote Indigenous community is serviced by municipal and essential services delivery arrangements that are accountable through an agreed framework and reflect a standard of service delivered to non Indigenous people in communities of similar size and location.
  - (f) **Remote and very remote** have the same meaning as definitions of remote and very remote under the Accessibility/Remoteness Index of Australia (ARIA).
  - (g) **Remote Indigenous community** means a community that is classified as either 'remote' or 'very remote' (as defined by the ARIA index).
  - (h) **Repairs and replacement** means the significant repair and or replacement of existing Indigenous housing in remote communities.
  - (i) **Tenancy management** means a standard consistent with the existing States and Northern Territory tenancy and asset management delivery framework.
  - (j) **Town Camps** means Indigenous communities in, adjacent to, or within close proximity to town boundaries.

## PART 2 – OBJECTIVES, OUTCOMES AND OUTPUTS

### Objectives

11. Housing investment for the benefit of Indigenous people in remote Indigenous communities is a central plank to achieving the targets for 'Closing the Gap' on Indigenous disadvantage. This National Partnership Agreement will establish a ten year remote Indigenous housing strategy aimed at:
  - (a) significantly reducing severe overcrowding in remote Indigenous communities;
  - (b) increasing the supply of new houses and improving the condition of existing houses in remote Indigenous communities; and
  - (c) ensuring that rental houses are well maintained and managed in remote Indigenous communities.

### Outcomes

12. This Agreement will contribute to the following outcome in the National Affordable Housing Agreement:

*Indigenous people have improved amenity and reduced overcrowding, particularly in remote and discrete communities.*

### Outputs

13. This Agreement will support the achievement of the agreed objective and outcomes through a range of outputs. These include:
  - (a) supply of safe and adequate housing that will contribute to improved living standards for Indigenous people in remote communities;
  - (b) robust and standardised tenancy management of all remote Indigenous housing that ensures rent collection, asset protection and governance arrangements consistent with public housing standards;
  - (c) a program of ongoing maintenance and repairs that progressively increases the life cycle of remote Indigenous housing from seven years to a public housing-like lifecycle of up to 30 years;
  - (d) construction of new houses and ongoing repair and maintenance of houses in remote Indigenous communities;
  - (e) increased employment opportunities for local residents in remote Indigenous communities;
  - (f) accommodation such as hostels and subsidised rental housing in regional areas to support people from remote communities to access training, education, employment and support services;
  - (g) progressive resolution of land tenure on remote community-titled land in order to secure government and commercial investment, economic development opportunities and home ownership possibilities in economically sustainable communities;
  - (h) upgraded housing and housing-related infrastructure in town camps where appropriate; and



- (i) improved data collection through a three-yearly Community Housing and Infrastructure Needs Survey (CHINS) - like collection.

## **PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY**

14. To realise the objectives and commitments in this Agreement, each Party has specific roles and responsibilities, as outlined below.

### **Role of the Commonwealth**

15. The Commonwealth will have responsibility for:
  - (a) funding for additional Indigenous housing and housing-related infrastructure in remote Australia, conditional on secure land tenure being settled, to significantly reduce overcrowding and homelessness with the aim that a significant level of unmet housing need is met by the end of this period;
  - (b) subject to paragraphs (c) ), funding for the provision of some municipal and essential services under existing arrangements to Indigenous communities pending the development and take up of agreed funding responsibilities with the States and the Northern Territory; and
  - (c) agreeing a process with each jurisdiction on the scope and timing for comprehensive audits of the state of municipal and essential services within relevant Indigenous communities to be undertaken from 2009. The audits will assess the level and need for municipal and essential services as well as an assessment of required housing related infrastructure.

### **Role of the States and Territories**

16. The States and the Northern Territory will have responsibility for:
  - (a) provision of housing in Indigenous communities and through State and Territory housing authorities be the major deliverer of housing for Indigenous people in remote areas of Australia;
  - (b) ensuring provision of standardised tenancy management and support for all Indigenous housing in remote areas consistent with public housing standards of tenancy management including through, where appropriate existing service providers; and
  - (c) developing and implementing land tenure arrangements to facilitate effective asset management, essential services and economic development opportunities.

### **Shared Responsibilities**

17. Within the COAG framework, the Commonwealth, the States and the Northern Territory governments will work together towards:
  - (a) A report back to COAG by December 2009 on a proposal for
    - clearer roles and responsibilities and funding with respect to municipal services and ongoing maintenance of infrastructure and essential services in remote areas.:
    - a timeframe for implementation of new arrangements and for these arrangements to be in place from 1 July 2012.

- (b) refining or further developing performance indicators and provide data to enable performance reporting and evaluation of outcomes of this Agreement; and
- (c) maintaining and developing national minimum data sets required to allow comparative reporting of jurisdictional service delivery effort.

## PART 4 – PERFORMANCE BENCHMARKS AND REPORTING

### Performance benchmarks and indicators

18. This section sets out national performance indicators and benchmarks, noting that individual States and Territories may contribute in different proportions.
19. To the extent they contribute to the achievement of objectives and outcomes under the National Affordable Housing Agreement and the National Indigenous Reform Agreement or contribute to the aggregate pace of activity in progressing COAG's agreed reform agenda, these performance benchmarks may be the subject of monitoring, analysis and reporting for each State and Territory by the COAG Reform Council.
20. Progress in relation to the achievement of the objectives will be measured by:

Performance Indicators	Baseline Measure	Benchmarks
Overcrowding and Homelessness Average occupancy rate	Average occupancy per remote dwelling = 8.8 (CHINS 2006)	Average occupancy per remote dwelling to reduce by 2018
The incidence of homelessness	3,000 Homeless Indigenous people in remote and very remote areas (ABS 2006)	Incidence of homelessness in remote Australia reduces by: 30 per cent by 2013; and 50 per cent by 2018
Number and percentage of dwellings that are overcrowded by State and Territory based on the Australian Bureau of Statistics definition (currently Canadian National Occupancy Standard - CNOS)	No. of overcrowded remote households requiring one or more additional bedrooms (CNOS)) (ABS 2006)	Reduce no of overcrowded dwellings houses in remote Australia by 4,200 by 2018
New Dwellings Number of new dwellings constructed Number of dwellings replaced or significantly upgraded Total Number of dwellings		New housing construction of 4,200 houses completed by 2018 Repair and replacement for existing 4,876 houses completed by 2014

Performance Indicators	Baseline Measure	Benchmarks
<p>Tenancy Management</p> <p>Number of households covered by tenancy management arrangements overseen by State or Territory Governments</p>	<p>Proportion of ICHOs reported to have housing management plans in place (AIHW 2005-06)</p>	<p>Tenancy management , rent collection and tenancy support services in place for all existing and 'repaired and replaced' houses in remote Indigenous communities by 2015</p> <p>All prospective tenants of new houses to be offered Living Skills support training as part of tenancy management.</p>
<p>Repairs and Maintenance</p> <p>Number of dwellings inspected through a standard property inspection regime</p> <p>Number of dwelling Repairs and maintenance works completed as programmed using property condition data</p> <p>Average time taken to complete identified repairs and maintenance</p>	<p>69 per cent of houses require minor or no repairs in remote and very remote areas (CHINS 2006)</p> <p>Existing habitable remote and very remote permanent dwellings; Plus permanent dwellings to have major repairs and replacement (CHINS 2006)</p> <p>Plus 4,200 new houses to be constructed</p> <p>76 per cent of ICHOs have housing management plans in place (AIHW 2005-06).</p>	<p>Comprehensive rolling program of repairs and maintenance in place for all houses in remote Indigenous communities by 2010 as per jurisdictional Implementation Plans</p> <ul style="list-style-type: none"> <li>- current dwelling property condition data to inform rolling program</li> <li>- repaired and replaced houses and new houses to be incorporated into the rolling program as they come 'on line'</li> </ul>
<p>Essential and Municipal Services</p> <p>Number of communities and dwellings (including town camps) covered by normalised service level standards and delivery arrangements for essential and municipal services</p> <p>Number of permanent dwellings with working connections to the full range of housing related infrastructure (power, water, sewage)</p> <p>Number of communities (including town camps) connected to essential services (power, water, sewerage)</p>	<p>1,121 communities connected to water, sewerage and power (AIHW 2005-06)</p> <p>1,009 communities with rubbish disposal (CHINS 2006)</p> <p>15,868 dwellings connected to water, sewerage and electricity (AIHW 2005-06)</p>	<p>All communities connected to operating water, sewerage and power by 2018</p> <p>All communities with rubbish disposal by 2018</p> <p>All dwellings connected to operating water, sewerage and power by 2018</p>

Performance Indicators	Baseline Measure	Benchmarks
<p>Employment Related Accommodation (such as hostel or rental accommodation)</p> <p>Number of family-style dwellings and single accommodation/ beds provided for flexible employment related accommodation</p> <p>Number of Indigenous people from remote communities housed in employment related accommodation in regional areas</p>	<p>ABS data</p> <p>Centrelink data</p> <p>Employment statistics</p>	<p>Bilateral arrangements between State Government agencies, employers to partner phased roll-out of construction of employment and training - related affordable rental accommodation for people from remote areas in areas of high employment need.</p> <ul style="list-style-type: none"> <li>- number of hostel-style accommodation facilities constructed by 2018</li> <li>- number of family-style accommodation facilities constructed by 2018</li> </ul> <p>100 percent availability for Indigenous people from remote communities</p>
<p>Employment and Training</p> <p>Number of local housing related jobs created for Indigenous people</p>	<p>20 per cent local Indigenous employment (NT SIHIP, 2008)</p>	<p>20 per cent local employment to be included as part of procurement requirement for new housing construction</p>

## Implementation plan

21. The Commonwealth will jointly develop and agree an Implementation Plan with each State and the Northern Territory to achieve the objectives of this Agreement. The Plans will be reviewed by the Parties on an annual basis.
  - (a) The Commonwealth will in consultation with each State and the Northern Territory maintain the Plans and provide an agreed updated Plan to the relevant State and the Northern Territory following the review.
  - (b) The Plans will include the identification of sites for additional houses, timelines for achieving the performance benchmarks, including phased achievement of performance benchmarks where appropriate.
  - (c) Amendments to the Plan can be requested by any Party to the Agreement at any time to accommodate emerging issues.
22. The Implementation timeline is as follows:
  - (a) The Implementation Plan for each State and the Northern Territory to achieve the objectives of this Agreement is to be agreed by no later than 31 March 2009.

## Reporting

23. Reporting requirements under this National Partnership should be read in conjunction with the provisions in Schedule C to the *Intergovernmental Agreement on Federal Financial Relations*.
24. The States and the Northern Territory will each provide a detailed report on an annual basis to the Commonwealth against the performance indicators and timelines, as detailed in the Implementation Plans.
25. The Commonwealth will provide reports to States and the Northern Territory and other relevant stakeholders against the performance indicators and timelines as detailed in the Implementation Plans.
26. The reports will be provided within 12 weeks of the end of the relevant period, or as otherwise specified in the agreed Implementation Plans.

## PART 5 – FINANCIAL ARRANGEMENTS

### Funding

27. This Agreement will be based on facilitation payments.
28. The maximum amount of funding available to the States and the Northern Territory in total will be:
  - (a) 2008-09 — \$333.807 million
  - (b) 2009-10 — \$432.733 million
  - (c) 2010-11 — \$412.783 million
  - (d) 2011-12 — \$463.941 million
  - (e) 2012-13 — \$478.971 million
  - (f) 2013-14 — \$746.792 million
  - (g) 2014-15 — \$594.352 million
  - (h) 2015-16 — \$463.176 million
  - (i) 2016-17 — \$411.729 million
  - (j) 2017-18 — \$447.627 million
29. The distribution of this maximum funding between the States and the Northern Territory will be as set out in the Implementation Plans.

### Payment schedule

30. The Commonwealth will make payments to the States and the Northern Territory in accordance with a schedule reflecting the achievement of key milestones identified in the Implementation Plans.

## **PART 6 – GOVERNANCE ARRANGEMENTS**

### **Dispute resolution**

31. Any Party may give notice to other Parties of a dispute under this Agreement.
32. The relevant delegates will attempt to resolve any dispute in the first instance.
33. If a dispute cannot be resolved between the relevant delegates, it may be escalated to relevant Ministerial Council or COAG Working Group for consideration.
34. If a dispute cannot be resolved by the relevant Ministerial Council or COAG Working group, it may be referred by a Party to COAG for consideration.

### **Review of the Agreement**

35. This Agreement will be reviewed in 2012 and 2017 with regard to progress made by the Parties in respect of achieving the agreed outcomes.
36. The review will be undertaken by an independent party engaged by the Commonwealth.

### **Variation of the Agreement**

37. This Agreement may be amended at any time by Agreement in writing by all the Parties and under terms and conditions as agreed by all the Parties.
38. A Party to this Agreement may terminate their participation in this Agreement at any time by notifying all the other Parties in writing.

The Parties have confirmed their commitment to this agreement as follows:

**Signed** *for and on behalf of the Commonwealth of Australia by*

**The Honourable Kevin Rudd MP**

Prime Minister of the Commonwealth of Australia

February 2009

**Signed** *for and on behalf of the State of New South Wales by*

**The Honourable Nathan Rees MP**

Premier of the State of New South Wales

December 2008

**Signed** *for and on behalf of the State of Queensland by*

**The Honourable Anna Bligh MP**

Premier of the State of Queensland

December 2008

**Signed** *for and on behalf of the State of South Australia by*

**The Honourable Mike Rann MP**

Premier of the State of South Australia

December 2008

**Signed** *for and on behalf of the Northern Territory by*

**The Honourable Paul Henderson MLA**

Chief Minister of the Northern Territory of Australia

December 2008

**Signed** *for and on behalf of the State of Victoria by*

**The Honourable John Brumby MP**

Premier of the State of Victoria

December 2008

**Signed** *for and on behalf of the State of Western Australia by*

**The Honourable Colin Barnett MP**

Premier of the State of Western Australia

December 2008

**Signed** *for and on behalf of the State of Tasmania by*

**The Honourable David Bartlett MP**

Premier of the State of Tasmania

December 2008