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(homelessness legislation)
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SUBMISSION TO THE INQUIRY INTO HOMELESSNESS LEGISLATION

August 2009

Introduction

The Richmond Fellowship of NSW is the auspice agency in the Young Women's Dual Diagnosis Project in the Penrith region. The project co-ordinates community development and partnership activities to develop the potential of young women aged 17-25 with dual diagnosis (mental health and substance abuse issues).

Many of our consumers experience stigma in the community and social isolation. They frequently fall between the gaps of services, particularly accommodation, mental health and drug and alcohol due to the complexity to their presentation and the exclusion criteria's. Many services struggle to meet demand and provide best practice care as a result of limited resources. It is not uncommon for our consumers to have experienced abuse, homelessness and discrimination. Because of past experiences and the impact of disability many clients are highly vulnerable and unable to fully advocate for their rights and representation.

The Richmond Fellowship of NSW is a not-for-profit, non-government organisation that provides support in the community to people who have mental health issues. RFNSW's mission is to enhance the lives of people affected by mental illness. This is achieved by providing community based rehabilitation and advocating for the rights of people with a mental illness.

Issues for Consideration

It is noted that the Senate Inquiry Committee has asked services to consider the terms of reference and the Young Women's Dual Diagnosis Project with the Richmond Fellowship is grateful for the opportunity of being able to provide input based on its experiences of working with a highly vulnerable group of people who frequently experience homelessness and issues that place them at risk.

As a participant at the YAA and Homelessness NSW Forum, the YWDD Project of the Richmond Fellowship supports their submissions and wishes to highlight issues pertaining to young women with Dual Diagnosis and subsequent recommendations. In doing so this letter outlines the strengths of the current Supported Accommodation Assistance Act 1994 (Cth), its limitations and recommendations for future legislation. We advocate for the rights of the homeless as societies most powerless and marginalised groups to be recorded in an overarching Australian Bill of Human Rights.

In submitting this consultation the dedication and positive work of services and advocates for the homeless, mental health, drug and alcohol, dual diagnosis and youth is recognised.

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

- A right to appropriate housing and support, regardless of the circumstances surrounding homelessness.
- Maximise self-resilience and independence.
- Empowering and client focused; promote and protect the dignity of people experiencing homelessness.
- Sustainable- support services to address ongoing needs once housing is provided.
- Holistic- responding to individual needs across health, income support, education, employment opportunities, social inclusion and participation in public life as identified in consultation with the individual when ever possible.
- Flexible, allowing consumers multiple entry and exit points. Transitional supported accommodation options provided in response to changing needs.
- Equitable access to fundamental resources including; employment, education and training, health services (including mental health and drug and alcohol), disability and rehabilitation services, income support, adequate housing and other appropriate opportunities and resources.
- Proactive approach to consumers at risk of homelessness, providing proactive preventative and early interventions.
- Linked to current legislation- ensure government and non-government services are responsible and obligated to meet the needs of those experiencing or at risk of homelessness.

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

- Reflect issues of social inclusion (social, cultural, economic and political life)
- Enforceability around Human Rights and reporting/accountability.
- Nationally consistent, not all states and territories have a Homelessness Act.
- Broad definition, which recognises all levels of homelessness, particularly capturing rough sleepers, which goes under reported as an invisible population in reviews. There is a lack of appropriate accommodation for youth who are vulnerable that leads to couch surfing or crisis accommodation which places them at risk of adopting the subcultures associated with homelessness i.e. substance abuse, petty crime, thus placing them at further risk of long term homelessness.
- Priority need and vulnerability for those who are not able to advocate and seek services independently such as the disabled, youth and mentally ill.
- Low threshold for interim accommodation. The system frequently sets the bar too high, requiring the individuals to prove themselves each step of the way, failing to recognise the complexity of homelessness and challenges faced i.e. issues of mental illness, limited support networks, addiction issues.

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

- Provision of appropriate resources to provide support to meet individual needs and ensure their right to an equitable share of the community's resources.
- Incorporation of continued quality assurance
- Mechanism for consumer feedback and consultation
- Broad standards, which encompass all services providing welfare. Government and Non-Government services require knowledge of the legislation in order to sufficiently utilise it, engage in quality assurance and advocacy.

TOR 4. The effectiveness of existing legislation and regulations governing homeless services in Australia or oversees.

<u>Supported Accommodation Assistance Act 1994 (Cth)</u>

Strengths:

Social justice concerns represented:

-The Parliament recognises the need to redress social inequalities and to achieve a reduction in poverty.

- Recognition that homeless people form one of the most powerless and marginalised groups in society.

- Australia recognises and seeks to protect the universal rights and fundamental freedoms of all its citizens including those who are homeless or at risk of homelessness. Six international human rights instruments are referenced.
- Focus on the individual needs of people and their right to non-discrimination and equality.

- Holistic, attending to issues impacting on homelessness; employment, education and training, health services (including mental health and drug and alcohol), disability and rehabilitation services, income support, adequate housing and other appropriate opportunities and resources
- Inclusion of community development, to address systemic issues to prevent the structural causes of homelessness.
- Broad definition addresses homeless and those at risk of homelessness.

Limitations:

- Outcome data does not adequately capture those who are "rough sleepers" or sustainability of accommodation.
- Inadequate promotion of quality assurance.
- Despite general services needing to cater for homeless population i.e. health, Centrelink do not come under the act and thus consumers are impacted.
- Lack of accountability. The Act makes platitudes about the need to provide accommodation and services, however there is no obligation imposed or regulation.
- Auditing is inconsistent. Smaller services are required to undergo rigorous audits, while larger organisations do so across the service. Welfare services providing care to the homeless population do not fall under the Act.

Housing Assistance Act 1996 (Cth)

Strengths:

- National housing framework. Provides funding to assist those whose needs for appropriate housing cannot be met by the private market.
- Outlines housing and shelter are basic human rights acknowledging Universal Human Rights Australia is Signatory to.

Limitations:

- Contains no specific mention of Crisis Accommodation Programs and therefore the Act does not provide a safeguard for the continuation of specific homelessness response.

Housing Act 1996 (UK)

Strengths

- Enforceable duty of local authorities to find accommodation for some homeless people
- Identified priority needs, advocating for those who are not in the position to do so for themselves:

- Pregnant women
- Those with dependent children
- Single people who are vulnerable (disabilities, mental illness, youth)
- Those who have lost their home in an emergency (fire and flood)

Limitations:

- Identifies intentional homelessness, which does not adequately recognise the complexity of homelessness. Defined as "deliberately done or failed to do something in consequence of which they have ceased to occupy available accommodation." Particularly problematic for mental health consumers and youth who do not necessary have the capacity to maintain accommodation without considerable support.
- Does not have a broad definition of homelessness required to make systemic changes and early intervention.
- Fails to tackle the causes of homelessness such as health, employment.
- Standards for temporary accommodation not included.

<u>McKinney-Vento Homeless Assistance Act of 1987 (USA)</u>

Federal legislation,[3] describes a "homeless" person as being:

1. An individual who lacks a fixed, regular, and adequate night-time residence;
2. And an individual who has a primary night-time residence that is--
   a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
   b). An institution that provides a temporary residence for individuals intended to be institutionalized; or
   c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Strengths:

- Housing First solution reintegrates those persons experiencing homelessness back into society by providing appropriate accommodation and support services without the individual needing to prove him or herself. In doing so services do not put the person up to evadible failure and achieve engagement earlier in their homeless cycle.

Limitations:

Critics argue that such a definition does not account for all of those who are in-effect homeless, and therefore excludes many needy individuals from certain federal assistance programs who do not meet eligibility requirements. There is some debate around expanding the definition of homelessness to certain at-risk living situations which some believe should be included:

- Multiple families (or individuals) doubling or tripling up in insufficient living space.
- Weekly "rental" of economy motel rooms. With a growing lack of affordable housing across the country, low-wage earners are increasingly residing in cheap (and often ill-maintained) motels.
- Individuals living in their automobiles. Often the vehicles used in such a manner do not even operate but simply provide shelter from the elements.
- Exclusive "couch-surfers." Instead of sleeping on the streets or in a shelter, otherwise homeless persons are forced to rely on the hospitality of willing friends or family for a place to sleep. Patience for such arrangements often runs dry, and many soon find themselves without a place to stay.

Lastly, there is discrepancy over which sub groups of the homeless population are most in need. The US federal government is currently promoting a 10-year plan approach to end homelessness which targets those who are "chronically" homeless—defined as, "An unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or has had at least four episodes of homelessness in the past three years." Many direct service providers are concerned that such a definition will exclude the majority of those who experience homelessness from receiving needed services.

This definition is not satisfactory to many providers, researchers and advocates, because it misses the population of "hidden homeless" who are currently doubling-up with family or friends. Some advocates also want "homelessness" to include those at serious risk of homelessness, but not yet experiencing it.

The Australian Government therefore needs to be mindful when attempting to define homelessness and it is strongly advocated that the community sector is consulted and test cases applied to ensure the validity of any definition.

Homeless Kids Act (USA)- Pending

"Each State and local educational agency shall ensure that each homeless child and each homeless youth has access to the same free, appropriate public education, including State- funded or local educational

agency-funded preschool programs, as is provided to other children and youths. In any State where compulsory residency requirements or other requirements of laws, regulations, practices, or policies may act as a barrier to the enrollment, attendance, or success in school or in State-funded or local educational agency-funded preschool programs of homeless children and youths, the State, and local educational agencies, shall review and revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths."

TOR 5. The applicability of existing legislative and regulatory models used in other community service system, such as disability services, aged care and childcare, to the homelessness sector.

- Standards need to be consistent across sectors, which all service consumers who experience or are at risk of homelessness. This is particularly relevant for individuals where duty of care dictates interventions, as is the case with child protection, mental health and disability where guardianship is involved.
- Discrimination and injustice towards the homeless in existing legislation needs to be considered. Examples that affect youth are moving on legislation, compulsory engagement in education or study to receive social welfare benefits, bail requirements etc. all which contribute to the risk of homelessness and youth's ability to exit the cycle.
- Consistent accreditation to efficiently deliver quality assurance activities, ensure rights are upheld and prevent duplication. Some organisations undergo a range of accreditations due to the scope of services they provide, which is laborious for smaller services.
- Scope for advocacy and broader community work is required to address issues underpinning and impacting on homelessness.
- Collaboration amongst service sectors encouraged to maximise limited services, share knowledge and ensure innovative practice.

Relationship between homelessness, mental illness and substance abuse:

There is a high incidence of mental illness and substance abuse issues in those experiencing homelessness. Such issues impact on the individual's ability to exit the homeless cycle and therefore must inform policy and service plans. Research presented by Dr Guy Johnson RMT (Nepean Campaign Against Homelessness Forum July 2009) outlines:

- Data shows people whose pathway was mental health problems are frequently exploited in the early stages of their homeless careers. Most retreat to the margins of society to avoid this, which increases their isolation, and feelings of exclusion. These are the longest homeless careers (average 73 months)

- In contrast, most people who became homeless because of substance use, and many of those who became homeless before they were 18 years of age (youth), engage with the homeless subculture. Engaging with the homeless subculture commonly results in a range of cognitive and behavioural adaptations, which typically 'lock' them in the homeless population. Consequently, these tend to be longer homeless careers (average 50 months)
- Overall, the longitudinal study found that two thirds of the people who reported substance abuse problems developed them after they became homeless. (See Substance Abuse)
- It also found three quarters of the people with mental health problems developed them after they became homeless, and for many this was also connected to drug use.

This challenging research highlights the need for ongoing research and education around the issues of homelessness. This will assist in addressing stigma and ensure legislation; policy and services are not based on ill-informed information.

Recommendations

The white paper, *The Road Home*, identifies three broad strategies, which must be supported in the legislation:

1.Early intervention: targeting high-risk groups
2.Improving existing services: the role of the homelessness service system
3.Breaking the cycle: sustaining exits from homelessness.

In doing so Australia requires an innovative approach to addresses the unique needs of our homeless community, while drawing on the experiences of oversees.

The Young Women's Dual Diagnosis Project; Penrith NSW (Richmond Fellowship NSW) believes the following should be included in any change to Homelessness Legislation in response to the outlined issues:

Qualities:

- Nationally consistent.
- A legislative response that entrenches a human rights framework to homelessness. Homeless needs are incorporated into the development of a Australian Bill of Human Rights
- Engagement with the community and consumers.
- Involvement of services in drafting legislation and funding of peak organisation in states and territories in monitoring and rolling out National strategies and plans.
- A legislative focus on all levels of government.
- Incorporation of a Housing First Model.

Best Practice:

- A broad operational definition of homelessness, incorporating three levels of homelessness. Provide associated rights and protection not restricted to the level of homelessness, allowing for seamless transition between services.
- Focus on prevention and early intervention.
- Whole system approach. Standards are required to hold government and non-government services accountable. Accreditation built in to include all services in contact with those who experience or at risk of homelessness.
- Building research knowledge base, which informs decisions.
- Need for greater co-ordination of services. Effective and useful data collection.
- A needs response, which is client centred and not program driven. Specialisation of services to attend to specialised needs in the community i.e. indigenous, new arrivals, linguistically diverse, youth, GLBT.

Rights:

- Ratification of Human Rights of the homeless into legislation.
- Allow for broader community work to be achieved i.e. lobbying and advocacy.
- Legislative response, which ensures the responses to homeless people not subject to the vagaries of political funding cycles.
- Adequate resources available to deliver services of a high standard.
- The right to access to services regardless of an ability to pay.
- A right to non-discriminatory access to services.

In closing, we wish the Committee well in its deliberations and reiterate our appreciation of being able to present our views on a matter which we consider of vital importance for the future of young women with dual diagnosis issues and Australian's experiencing homelessness.

Yours Sincerely,

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APPENDIX 1

YWDD consumer experiences:
Consumers and community services, advocating for the needs of Young Women with Dual Diagnosis issues, have reported the information presented below. It does not necessarily reflect the views of all services.

There is a chronic shortage of stable community accommodation options. There has been a decline in group homes and boarding houses, which have previously been one of the few affordable options for consumers (though it is also recognised many were in substandard condition and inappropriate for dually diagnosed youth).

Social Housing accommodation is challenging to access if the person has substance abuse issues. Consumers struggle to demonstrate adequate home maintenance skills as impaired by their disability. Applications rely on the endorsement and advocating of health and community workers who need to consider the bigger picture of advocating for future consumers and are thus in a challenging ethical position of needing to weigh up supporting applications where they do not have full confidence in the individual's ability to maintain tenancy.

Community Housing stock is increasingly moved to outer regions which are not accessible by public transport and services essential to the young person's recovery and reducing the risk of homelessness. It is not uncommon for the young person to be relocated away from what is familiar and where they have established social networks.

The shortage of Social Housing stock means that if the young person is fortunate in securing priority housing with rental subsidy, they are not in a financial position to make competitive applications in the private rental market. Many of these young people have limited tenancy history and have been black listed often as a result of vulnerability and exploitation of others when acutely unwell. This places them at a significant disadvantage in securing a private rental property.

Crisis accommodation offered to young people is frequently inappropriate, as evident in the Housing NSW crisis accommodation offered in the Nepean, which included rooms above licensed premises.

Services of the Blue Mountains and Western Sydney are reporting an increase in youth homelessness and pregnancy. This is compounded by there being few supportive accommodation options for young single women. Many of these young women are then introduced to the drug and criminal activity culture, coming to the attention of the justice system and a cycle of continuing disadvantage.

It needs to be recognised that purely providing someone with a roof does not address the underlying issues or the cycle that occurs if someone is not adequately supported. Research has shown that timely, needs based interventions is essential in the first four months of homeless experience, otherwise long-term issues are indicated. Once the individual has experienced longer-term homelessness their exit is more challenging.

Consumers report coming to the attention of law officers more readily. Increased incidence of homelessness, 'zero tolerance' to drug and alcohol use and inadequate funding of youth services compound the risk of youth coming into contact with the criminal system.

Consumers frequently report negative experiences in the health system. It is not unheard of for security guards to be used as behaviour management in place of staff trained in psychiatric care. This traumatises homeless consumers who may be experiencing acute psychotic symptoms and are fearful. Consumers with a mental illness are also more likely to be discharged prematurely from general hospitals due the expense of specialling and to limit the impact of their presence to the service and fellow patients. Consumers report substandard care in government services. Some consumers have recounted the experience of being turned away from hospitals and health services mistaken for seeking a bed for the night. Possession of discharge accommodation is frequently an entry criterion of services, thus a barrier.

In general consumers report feeling inadequate and embarrassed when accessing services. Systemic issues mean that eligibility for services is a barrier. Improved co-ordination is required.

All the above-mentioned issues impact on a young person experiencing dual diagnosis's prospects of engaging in public life and achieving autonomy. Community services which attempt to support individuals with mental health issues are under resourced and due to necessity often have to attend to crisis cases, limiting their ability to provide rehabilitation, quality of life services and community development. Many dually diagnosed persons experience social isolation and report feeling alienated from the broader community.

APPENDIX 2

Supporting Documents:

Right to adequate housing and income support

Australian Bureau of Statistics

* Adults who lived in the most socioeconomically disadvantaged areas experienced a higher prevalence of mental or behavioural problems (16%) compared with people who lived in the least socioeconomically disadvantage areas (9%) (as measured by being in the lowest and highest quintiles of the index of disadvantage respectively)

* Similarly, adults aged 18 years and over living in the most socioeconomically disadvantaged areas were more likely to report a high/very high level of psychological distress (20%) compared with those living in the least socioeconomically disadvantaged areas (8.0%).

2006 Senate Inquiry

14.60 People with co-morbid conditions experience high levels of unemployment. At the same time, they are least able to meet Centrelink and disability payment requirements, because these services do not comprehensively assess or take into account the extent of the debilitation caused by behavioural and mental disorders:

14.61 Very frequently the homeless and other marginalised people are depressed, have great difficulty in personal contact, and lack confidence in their own capacity to relate to other people or indeed to initiate contact with them. The way income support arrangements are implemented at this level does far more harm than the intended good (namely encouraging people back to work).

14.62 The Australian government submission confirms that it is not possible to assess how many people with co-morbid disorders access the Disability Support Pension (DSP). Mental illness represents a major category of disability condition under the Australian Government's DSP[1596]. However, the DSP statistics only report the primary disability that qualifies the person for payment; the data does not indicate how many people with co-morbidities, such as anxiety and substance use, receive these payments.[

A right to equality, free from discrimination in accessing services

Australian Bureau of Statistics

* In 2004-05, people aged 15 years and over with mental or behavioural problems were three times more likely to report fair/poor health than those

without mental or behavioural problems (36% compared with 14%). Persons with mental or behavioural problems were less likely to report very good/excellent health than those without mental or behavioural problems (34% compared with 58%).

* While mental health-related separations accounted for 4.5% of all hospital separations in 2003-04, they accounted for 12% of total days spent by patients in hospitals (AIHW 2006a).

* In 2004-05, principal diagnoses of depressive disorders (36%), neurotic and stress-related disorders (17%), mental and behavioural disorders due to alcohol (12%) and schizophrenia (11%) accounted for the largest proportions of mental health related hospital separations (AIHW 2006b).

* Expenditure on mental health services ($3.0 billion) for 6.0% of all health expenditure in 2000-01 (AIHW 2004).

* In 2003-04, expenditure on all hospital services (public and private) accounted for 34.8% of total recurrent health expenditure. Of this expenditure on hospital services, 2% was for public psychiatric hospitals (AIHW 2006a).

2006 Senate Inquiry

14.50 Studies have shown that people with co-occurring psychotic and substance use disorders are also at higher risk of experiencing certain physical disorders than people with mental illness alone. These include diabetes, hypertension, heart disease, asthma, gastrointestinal disorders, skin infections, malignant neoplasms and acute respiratory disorders.[1582] The South Australian Division of General Practice advised that these health needs are largely unaddressed by overwhelmed emergency services and doctors who are disconnected from alcohol and drugs services.

14.51 The inability of the public health system to deal compassionately with threats of suicide and self-harming behaviours among the mentally ill even more profound for patients with dual diagnosis. Emergency departments are ill-prepared to deal with repeated presentations of this type.

14.52 There can be great difficulty disentangling the effects of drugs from the symptoms of mental illness when patients present at emergency departments with psychosis. Some patients can enter and leave hospital without proper diagnosis or treatment.

14.53 Modern health legislation has been drafted to protect the rights of the mentally ill. While the legislation was drafted this way for sound human rights reasons, the legal distinction underpins the development of the now distinct and different service streams for mental health disorders as against substance abuse disorders.[1603] Evidence suggested that overwhelmed mental health service providers are now using this distinction as a legal loophole to deny access to people with dual diagnosis.

14.68 Under current service criteria, people with alcohol and drug problems can be turned away from mainstream mental health systems, which are not required to treat substance affected people. Meanwhile drug and alcohol services may also reject clients with mental health problems. People with dual diagnosis are thus effectively excluded from both 'service silos' and left to wander from provider to provider-seeking treatment.

14.69 Submissions provided ample confirmation that the 'buck passing' of high need dual diagnosis patients between the 'service silos' is widespread:

1996 Census Data (ABS):

- On Census 26 night in 1996, there were:
  20,579 people in improvised dwellings, or sleeping out
  23,299 in boarding houses
  12,926 in SAAP funded accommodation, added to
  48,500 staying with friends and relatives, leading to an estimated
  105,304 people in Australia as 'homeless' on that one night!
- In the year July 1996 to June 1997, an estimated 147,000 people (of which 31% were children) used homeless services across Australia, some more than once.
- It is estimated that a further 304,000 requests for support or accommodation were not met over that period, mainly due to the lack of accommodation places.
- *There are over 1,200 agencies receiving SAAP funding to assist homeless people across Australia.
- *Over 90,000 homeless people used SAAP services in 1999-2000. 30
- Many people are assisted by other charitable, community and church-related organisations, including Wesley Mission.
- Many needing help do not seek assistance from formal agencies at all.

Census 2006 (ABS),

The homeless population in Australia was 105,000.

Counting the Homeless, 2006 (which includes data from the 2006 Census and other sources) found that absolute homelessness, such as sleeping out or in an improvised shelter, accounted for 16% of homelessness in Australia.

Most homeless people were sheltered somewhere on Census night, with 45% staying temporarily with friends or relatives, 21% staying in boarding houses, and 19% staying in supported accommodation (such as hostels for the homeless, night shelters and refuges).

The majority of homeless people were single (57,182 people or 55%), while 20% were couples without accompanying children (20,704 people, or 10,160 couples with 384 accompanying adults) and 26% were in homeless families with children (26,790 people, or 7,483 families).

In 2006, more than two-thirds (67%) of the homeless population were adults over 18 years of age, with 12% under 12 years of age, and 21% from 12 to 18 years old. Less than half (44%) of homeless people were female.

The number of homeless youth aged 12 to 18 years decreased from 22,600 in 2001 to 17,891 in 2006, a decrease of 21%. In 2006, there were 26,790 people in families, an increase of 17% on the 2001 figure. There was also a 10% increase in the number of homeless adults outside of families. This was the largest group with about 60,000 people on Census night.

Limitations of Data:

In short, the official figures identifying the numbers of homeless people are conservative indicators of the much larger group of people who are marginalized by the very nature of current data collection methods.