

QUEENSLAND YOUTH HOUSING COALITION INC

Submission No. 50  
(homelessness legislation)

A.O.C. Date: 24/08/09

# QYHC Submission

Proposed National Homelessness Legislation

2009

*Statesmen, with the nation's laws,  
With power to force unfriendly doors,  
Give leadership in this our cause  
That leaders owe.*

The Queensland Youth Housing Coalition would like to acknowledge the participants of the National Homelessness Legislation forum for their contributions to the development of this submission.

The Queensland Youth Housing Coalition would also like to acknowledge the expertise of our members and colleagues' that assisted in crafting and in some cases drafting sections of the submission.

\*Oodgeroo Noonuccal(Kath Walker), '*WE ARE GOING*' , Jacaranda Press Pty Ltd, October 1964

## EXECUTIVE SUMMARY

### ESTABLISH A HUMAN RIGHTS BASED LEGISLATIVE FRAMEWORK FOR THE HOMELESSNESS SECTOR:

QYHC proposes that there be a stand alone Federal Homelessness Act that is underpinned by clear legislative principles.

These principles should mandate that:

- ⊕ the use of a human rights framework and broader principles of social inclusion must underpin any decisions or actions taken under the Act;
- ⊕ common definition of homelessness and so creating community understanding of homelessness
- ⊕ access to homelessness services must be broadbased and non-discriminatory;
- ⊕ homeless people can participate, complain and enforce their rights under the Act, and must be able to access support to do so;
- ⊕ government regularly consults with relevant stakeholders about service provision to the homeless sector;
- ⊕ service standards for service providers are set out in the Act, along with a mechanism for audits, complaints investigations, and other appropriate regulations;
- ⊕ the Commonwealth and State governments share responsibility for responding to the needs of homeless people and will work together, particularly to ensure that standard data is collected across all states and territories, and sectors of the community, to ensure broad and accurate information informs government responses.

QYHC's proposes that the national homeless legislation have three major parts:

- ⊕ Part I Principles that underpin the legislation within a human rights framework
- ⊕ Part II Binding the legislation to government
- ⊕ Part III Binding the legislation to specialist homelessness service providers

**This submission is endorsed by the following individuals and organizations:**

Integrated Family and Youth Service Inc (Sunshine Coast)	Cooloola Youth Service Inc (Gympie)	Gold Coast Project for Homeless Youth Inc
BABI Youth and Family Support Inc	Bundaberg Area Youth Service Inc	Inala Youth Service Inc
Lorraine Dupree	Ipswich Community Youth Service Inc	Youthcare Pine River
The Lodge Youth Support Service Inc	St Bartholomew's Youth Accommodation	Youth Advocacy Centre Inc
Brisbane Catholic Education	Gold Coast Youth Service Inc	Centacare Townsville
Wally Dethlefs	Carina Youth Agency	Community Living Association Inc
Beenleigh Youth Accommodation Support Service	Zig Zag Young Women's Resource Centre	Open Doors
In-Sync Youth Service (Cleveland)	Jeff Buckley	Youth and Family Services Inc
Young People Ahead- Mt Isa Youth Shelter	Beenleigh Adult and Youth Services	Youthlink Inc (Cairns)
Soroptimist International Pine Rivers Inc (see Appendix 2 for further information)	Goodna Youth Service Inc	Girls Time Out (Rockhampton)
Brisbane Youth Service Inc	Chameleon Housing (Redcliffe)	YouthBail Accommodation Support Service
North West Youth Accommodation Service Inc	United Synergies (Sunshine Coast)	Alice Thompson
Young Women's Place Inc (Toowoomba)	Youth Housing Project Inc	Blair Athol Accommodation and Support Programme
Toowoomba Youth Service	Othilas	

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## 1. THE PRINCIPLES THAT SHOULD UNDERPIN THE PROVISION OF SERVICES TO AUSTRALIANS WHO ARE HOMELESS OR AT RISK OF HOMELESSNESS

QYHC believes that the development of a set of Principles as the most critical element of any proposed new national homelessness legislation as this would provide detailed and robust parameters of the legislation.

### 1.1 PART I: PRINCIPLES

It would be in Part I of the proposed new national homelessness legislation that QYHC strongly believes the human rights of homeless people need to be incorporated.

If the intent of the White Paper is to improve service delivery arrangements for homeless people both by government and non government providers, legislation that contains a set of detailed principles would should support this intent.

The *SAA Act 1994* has been the de-facto homelessness legislation in Australia. This Act has ensured that a set of human rights for homeless people, through the Preamble, could be enforced.

So in effect the current preamble of the *SAA Act 1994* articulates a set of ‘principles’ even though there they are not listed as principles – see points i to vi below.

- i. Reduction and amelioration of poverty
- ii. Empower and maximize their independence – respects dignity as individuals, enhances self esteem, sensitive to social and economic circumstances and respects cultural backgrounds and beliefs.
- iii. Australia as a signatory to the following UN conventions including International Covenants on Economic, Social and Cultural rights and on Civil and Political rights and Convention on the Elimination of all Forms of Racial discrimination and on the Elimination of all forms of Discrimination against Women and on the Rights of the Child, and the UN Declaration of Human Rights and lastly the Declaration on the elimination of violence against women.
- iv. A focus on the provision of support to meet the individual needs of clients.
- v. The *SAA Act 1994* in the preamble notes that *“The involvement of the community to be involved in the development of policies ... and that the Minister should establish an advisory committee drawn from the general community”*.

- vi. To ensure that people who are homeless or at risk of homelessness are given opportunities to redress their circumstances and that their human rights are not prejudiced by the manner in which services are provided.

The *SAA Act 1994* also contains a range of other statements that are human rights based. These include (but not limited to):

- ⊕ “To promote an image of people who are homeless that emphasises their human dignity and the fact that, irrespective of their current circumstance, they are entitled to opportunities that will enable them to participate fully in community life” (Part 1 Section 5 clause 4(d)).
- ⊕ “SAAP is to safeguard client’s rights and deal with client’s responsibilities through measures including, but not limited to the development of grievance and appeals procedures and the development of charters of client rights and responsibilities” (Part 1 Section 5 clause 4(f)).

The current SAA Program has interpreted the statement about ‘*sensitive to social and economic circumstances*’<sup>1</sup> from the *SAA Act 1994* to ensure that people should not be denied access to services due to an inability to pay rent. Therefore the new proposed national homelessness legislation needs to include a principle for a safety net that gives emergency accommodation promptly to those who are homeless in the broadest sense and that capacity to pay should not be a criterion of entry to the service system. A key learning from the United Kingdom is that it is important to have a low threshold in terms of access to homeless services.

The ‘principle’ that assistance should be easily accessible should also be retained – this means that there should be no requirement to have a local connection to an area before being assisted.

However 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.

A proposed framework for developing a set of principles to guide the new proposed national homelessness legislation could be to synthesize both the current *SAA Act 1994* (Preamble and other relevant provisions) and the rights contained in the PILCH submission<sup>2</sup> to the National Human Rights consultation (see appendix 1).

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<sup>1</sup> SAA Act 1994 page 1

<sup>2</sup> PILCH submission to the National Human Rights Consultation, Strengthening the Protection and Promotion of Human Rights: A Human Rights Act for Australia June 2009

In looking at homelessness through this broader human rights lens a comprehensive set of Principles can be developed for the new national homelessness Act.

## **1.2 COVERAGE AND ENFORCEMENT OF THE PRINCIPLES**

Unlike the *Disability Services Act 1986* it is imperative that the Principles (and any associated objectives should they be included) be stated in the Act so as to ensure consistency of the intent of the Act over time, and maximum protection for homeless young people.

In addition the Principles should be protected from being eroded by provisions relating to limited resourcing or for consideration of equity and merit (as this is about prioritization). These provisions in effect could undermine the Principles and the intent of the proposed new national homelessness legislation. In the UK the homelessness legislation seems to be weakened by the provisions in relation to the prioritization of need, intentionality of homelessness, and its application has had the result of discriminating against homeless young people. In response most of the UK governments have needed to amend their homelessness legislation to incorporate young people. In Scotland there is a move to abolish the provisions that relate to the prioritization of need altogether.

It is essential that the Principles are able to be enforced and state clearly which section/s of government and/or community they apply.

Enforcement of the new proposed national homelessness legislation can be ensured by a provision within the Act that any decision made contrary to the Principles should be an offence under the Act. The appropriate penalty for this offence should reflect the serious nature of this conduct.

There also needs to be strong consideration given to the capacity for homeless young people to enforce their rights, and considering their circumstances in many cases young people find it difficult to assert their rights or represent themselves. A focus on how the Federal Anti Discrimination legislation, though the inclusion of discrimination on the basis of social status, must be pursued. Further considerations must also be given to supporting homeless young people through these processes. This could be achieved by ensuring access to legal representation and funding for this to be streamlined through community legal centres and homeless persons legal clinics.

The proposed national legislation Principles should at a minimum cover specialist homelessness services, the Federal and State and Territory governments.



Consideration needs to be given to the inclusion of local government if they are in receipt of Federal Government funding. The current SAA Act 1994 (Part 1, Section 5, clause 4 (c)) notes

*... the parties to such agreements are to endeavor to work cooperatively with local government bodies and service providers in connection with the provision of services under SAAP.*

### 1.3 DEFINITIONS

It is essential that the proposed new national homelessness legislation is as clear as possible and so it is essential that the terms used in the legislation are defined.

In particular the proposed national homelessness legislation must define (at least):

- ⊕ Primary, secondary and tertiary homelessness
- ⊕ Specialist homelessness services

The *Indigenous Homelessness within Australia*<sup>3</sup> report identified five distinctive types of ATSI homelessness:

- ⊕ Spiritual homelessness (separation from traditional land and family)
- ⊕ Overcrowding (a hidden form of homelessness)
- ⊕ Relocation and transient homelessness
- ⊕ Escaping from an unsafe or unstable home (mainly women and children)
- ⊕ Lack of access to any stable shelter ie “no where to go”

The report goes on to say that:

*In short, it appears that Chamberlain and McKenzie’s three-tier definition of homelessness overlaps sufficiently well with the Aboriginal and Torres Strait Islander experience of homelessness to remain the most useful national definition of homelessness within Australia. However, this sufficiency for enumeration purposes should not disguise the cultural reality that while there may appear to be similarities between certain forms of Aboriginal and Torres Strait Islander and non-Indigenous homelessness, the causes and contexts of Aboriginal and Torres Strait Islander people’s experience of homelessness are fundamentally different.*

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<sup>3</sup>Indigenous homelessness within Australia / prepared by: the Commonwealth Advisory Committee on Homelessness and the Australian Government Department of Families, Community Services and Indigenous Affairs and supported by the National Aboriginal and Torres Strait Islander Homelessness Consultations.

The current *SAA Act 1994* also defines who is a homeless person and the nature of the service – specific or general:

*(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;*

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

*Gazettal of specified group*

*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.*

The most important aspect of the type of services in terms of general or specific is that they are not exclusionary categories and embrace indigenous concepts of homelessness.

## 2. THE SCOPE OF ANY LEGISLATION WITH RESPECT TO RELATED GOVERNMENT INITIATIVES IN THE AREAS OF SOCIAL INCLUSION AND RIGHTS

### 2.1 STAND ALONE LEGISLATION

QYHC proposes that the new national homelessness legislation needs to be stand alone legislation. There would be too many limitations in terms of the scope of response to homelessness if it is an adjunct to another Act.

In the UK, homelessness provisions were contained in the Chapter 7 of the *Housing Act 1996*. This arrangement has created a situation where the responses to homelessness have been limited to housing responses, and in particular the role of local authorities. It would seem that having legislation so limited in its scope has not dealt with the causes of homelessness, nor assisted in dealing with the myriad of issues facing homeless young people once they become homeless. Further much of the ongoing development of homelessness legislation in the UK has seen the development of distinct pieces of legislation such as the *Homelessness Act 2002* and *Homelessness Etc. (Scotland) Act 2003*, acknowledging the specific nature of the homeless issue.

### 2.2 SCOPE OF THE LEGISLATION

QYHC proposes that the scope of the new proposed national homelessness legislation should be broad enough to ensure that there will be a holistic response to homeless young people.

Homelessness is a complex issue and is more than just providing a roof over someone's head. Young people become and remain homeless due to a range of factors. The data on homelessness has found that homeless young people have a diverse range of needs and that there is no one size fits all solution to the issues of youth homelessness.

The 2006 Census counted that there were 104,676 people who were homeless (53 per 10,000 population) in Australia. A quarter (26,782) of these homeless people were living in Queensland at a rate (69 per 10,000) higher than the national average (53 per 10,000).

The data has shown that young people form a large part of the homeless population. The 2006 Census data counted 32,444 young people between the ages of 12–24 years as homeless, this accounts for nearly 31% of all homeless people. If exploring all children and young people they account for 43% of all clients.

The responses to young homeless people needs to meet the range individual circumstances that young people are presenting with as well as taking into account their age, circumstances and growth (adolescent development). These responses must be along a continuum of care to ensure multiple and flexible access points and support models. Adult responses to homelessness do not meet the needs of young people, further housing responses only to homelessness do not meet the needs of young people who are still in the process of developing their living skills. The 'Youth Homelessness 2001' report notes that:

*As age can be a determining factor in a young person's ability to access services and in the types of services they require, it is not surprising that the main reasons children sought support varied depending on their age. It does, however, highlight the fact that different responses may be needed depending on the age and circumstance of the child. For example, early intervention and family counselling may work well for younger children where family reconciliation is still possible and a homeless state is not yet entrenched as a way of life. However, as unaccompanied children get older and family ties become more eroded more intensive support may be required (Chamberlain & MacKenzie 2003). That the family connections for older children have been eroded is demonstrated by the reduced proportion of older children who leave support to live with their parent(s).*

This broader approach in the proposed new national homelessness legislation would also ensure that it is aligned to a social inclusion agenda. However we must not confuse the social inclusion agenda as being necessarily a social justice agenda. One of the more influential definitions is that of the UK Social Exclusion Unit (1997), which defined social exclusion as:

*a shorthand label for what can happen when individuals or areas suffer from a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime environments, bad health and family breakdown.*

**Social inclusion** is important and necessary for a democratic society. "The Social Inclusion Principles for Australia" document from the Australia Government contains fundamental principles which our country should embrace. The Australian Government has identified the following early priority areas in which to focus its work in the area of social inclusion:

- ⊕ 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
- ⊕ Addressing the incidence of homelessness
- ⊕ Employment for people living with a disability or mental illness
- ⊕ Closing the gap for Indigenous Australians

However, social inclusion no matter how laudable its aspirations and approaches is largely individualist ,personalist and patronising. Social inclusion promotes a “we – they” approach. Social inclusion could be summed up as “*we’ve got it all together, you must/should join us*” and “*You’ve got the problem and we have the answers as well as the resources.*”

On the other hand **social justice** is based on the dignity of all people and situates all people as members of society possessing skills gifts and experiences which should be heard. Social justice promotes the following, “*We are struggling with a number of issues, Let’s see if we can work on them together. You are in a particular situation, e.g., a homeless person, a refugee, a prisoner and we need to hear from you. For instance, what is our society doing wrong that is causing people to be homeless, or be in prison? Let’s work together to remedy this situation.*”

With social justice responsibility for society’s problems is place fairly and squarely on all citizens.

The *SAA Act 1994* acknowledges that a holistic response is required to assist people to move out of homelessness. This broad focus has been supported in all the evaluations of SAAP.

As a result the *SAA Act 1994* can be viewed as being quite progressive legislation for its time. QYHC proposes that Section 7(b, c and d) of the *SAA Act 1994* be retained as it provides a broad scope consistent with social inclusion and focusing this more within a social justice framework:

*(b) to further the integration of 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 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*

QYHC proposes that Part I of the new proposed legislation can stipulate the scope of the legislation.

### **3. THE ROLE OF LEGISLATION IN IMPROVING THE QUALITY OF SERVICES FOR PEOPLE WHO ARE HOMELESS OR AT RISK OF HOMELESSNESS.**

This section of the submission is a precursor for the response to section 5 of this submission. This section will deal with why we should have standards in legislation for specialist homeless services and section 5 will deal with the models of accreditation.

The proposed new national homelessness legislation has a role for improving the quality of service for young people who are homeless or at risk of homelessness.

QYHC proposes that legislation can ensure the quality of service delivery by guaranteeing that both government and non government services are bound to the Principles of the Act. This could be achieved by legislating that each State and Territory should develop homelessness strategies including a process of review, and defining the types of service to be recognized as specialist and developing a set of standards related to these services. Further QYHC proposes that there should be participatory mechanisms of engagement (built into the legislation) by government with services and homeless young people to provide a level of transparency and accountability.

#### **3.1 GOVERNMENT SERVICE RESPONSES**

##### **3.1.1 ADVISORY ARRANGEMENTS**

QYHC proposes that Part II of the national homelessness legislation include specific provisions about the engagement of government with the community through advisory arrangements.

The advisory arrangement would be drawn from the principle of community engagement.

The Federal Government White Paper *“The Road Home – a national approach to reducing homelessness”* called for a Prime Ministers Council on Homelessness. The role and function of this council could be similar to the Commonwealth Advisory Committee on Homelessness (CACH) outlined in the *SAA Act 1994*. The *SAA Act 1994* also created a process where all State and Territory governments developed similar arrangements. In Queensland this was the Ministerial Advisory Arrangement (MAA).

##### **3.1.2 HOMELESSNESS STRATEGIES**

It is essential that the Principles of the proposed new national homelessness legislation have a mechanism for implementation. QYHC proposes that the new legislation has within it the requirement that each State and Territory must develop homelessness strategies and processes of review.

### 3.1.3 NATIONAL DATA COLLECTION

The *SAA Act 1994* has within it a provision about the development of a national data collection system and a national research program. SAAP data has provided important insights into the characteristics and needs of homeless people who are accessing the homeless service system. QYHC proposes that these provisions need to be retained. This data would also support the homelessness strategies and review process that States and Territories would undertake.

The UK Homelessness Act 2002 has a provision within it that notes the “duty of a local authority to formulate a homelessness strategy” however this Act goes further and states that the local authority must carry out regular reviews and, based on these, develop homelessness strategies. This Act also defines what is meant by a homelessness review and the purpose of the review. The authority is also required to make public the homelessness reviews and strategies.

## 3.2 SPECIALIST HOMELESSNESS SERVICES

### 3.2.1 DEFINING SPECIALIST HOMELESSNESS SERVICES

QYHC proposes that Part III of the national homelessness legislation needs to define specialist homelessness services, further that this needs to include the current SAAP services.

QYHC would be quite concerned that if specialist homelessness services are not defined in the proposed new homelessness legislation, then the service system could residualise over time down to a crisis shelter model only. Australia is very advanced in our understanding of, and responses to homeless young people. In particular there is an understanding that there are a range of responses that are needed to meet the varying social, emotional and practical living skills of young people.

Further learning’s from the UK in terms of the inappropriate use of Bed and Breakfast accommodation reaffirm the need for the current models of homelessness in SAAP and the limitations of the use of private accommodation.

The *SAA Act 1994* is clear about what SAAP services are as outlined in Part 1 Section 5, and the type of responsibilities of SAAP services as outlined in Part 2, Division 2, Section 7, and goes further by stating the type of service activities.

## 4. THE EFFECTIVENESS OF EXISTING LEGISLATION & REGULATIONS GOVERNING HOMELESSNESS SERVICES IN AUSTRALIA & OVERSEAS.

[Proviso: The Queensland Youth Housing Coalition has only had a limited opportunity to explore legislation and regulations from overseas countries. We have chosen to explore the UK and the US as there is homeless legislation in each and these can provide us with key learnings.]

### 4.1 SUPPORTED ACCOMMODATION ASSISTANCE (SAA) ACT 1994

The current legislation and regulations governing homelessness services in Australia is the *Supported Accommodation Assistance Act 1994 (SAA Act 1994)*.

It is the view of the Queensland Youth Housing Coalition that this legislation has served Australia and homeless young people well. This has been reflected in the Evaluations of the SAA Program over 5 year periods since the program's inception in the 1980s. Research such as the AHURI report 'International Approaches to Homelessness' also support the value of the SAA program concluding that Australia has a much more advanced response to addressing homelessness than European countries, the UK and the USA.

The purpose/object of the *SAA Act 1994* is to grant financial assistance to the states to administer a program of transitional supported accommodation and related support services to assist people who are homeless or at risk of homelessness. The program, known as SAAP, aims to achieve the maximum possible degree of self-reliance and independence. The Preamble to the *SAA Act 1994* provides the following:

- ⊕ That Parliament recognises the need to redress social inequalities and to achieve a reduction in poverty;
- ⊕ That homeless people form one of the most powerless and marginalized groups in society. SAAP therefore aims to empower people experiencing homelessness and maximise their independence;
- ⊕ That Australia recognises and seeks to protect the universal human rights and fundamental freedoms of all of its citizens, including people who are homeless or at risk of homelessness, making specific reference to six international human rights instruments; and
- ⊕ That legislation relating to homeless people should focus on the individual needs of people experiencing homelessness and their right to nondiscrimination and equality.
- ⊕ That there must be community consultation mechanisms in terms of the development of policies relating to, or impacting on, people who are homeless or at risk of homelessness.



The *SAA Act 1994* provides a national definition for:

- ⊕ Homelessness or people who are homeless.
- ⊕ Inadequate housing

These aspirations are reflected in section 5 of the Act, which provides, inter alia, that SAAP must:

- ⊕ Provide transitional supported accommodation and related support services to homeless people;
- ⊕ Assist people who are homeless or at risk of homelessness to achieve the maximum possible degree of self-reliance and independence;
- ⊕ Promote and protect the dignity of people experiencing homelessness;
- ⊕ Ensure that homeless people are empowered to participate fully in social, cultural, economic and political life;
- ⊕ Encourage innovation in the provision of services to people who are homeless; and
- ⊕ Help people who are homeless to obtain long-term, secure and affordable housing.

In short, SAAP aims to promote and protect the rights of people experiencing homelessness. Section 7 of the Act recognises the relationship between the achievement of these objectives and the increased access of people experiencing homelessness to such fundamental resources as:

- ⊕ employment;
- ⊕ education and training;
- ⊕ health services (including mental health services);
- ⊕ disability and rehabilitation services;
- ⊕ income support;
- ⊕ other appropriate opportunities and resources; and
- ⊕ adequate housing.

The *SAA Act 1994* provides a range of safeguards for homeless people in that there is:

- ⊕ A legislative response to homelessness that ensures the responses to homeless people and that are not subject to the vagaries of political funding cycles;
- ⊕ A national response to homelessness (targeted at homelessness not an adjunct to another policy);
- ⊕ A legislative response entrenches a human rights framework to homelessness;
- ⊕ A right to access to services regardless of an ability to pay;
- ⊕ A right to non discriminatory access to services;
- ⊕ An engagement with the community;
- ⊕ A programmatic response to homelessness that guarantees a level of funding; and
- ⊕ A legislative focus on all levels of government to work together.

## 4.2 UNITED KINGDOM

The United Kingdom has a long history of having homelessness responses based in legislation however there have been a number of key issues that have been recently debated. These debates are noted below<sup>4</sup>:

1. Retaining a broad definition of homelessness

A broad view of homelessness is essential if the true scale of the homelessness problem is to be understood. If only those who are roofless (ie rough sleeping) are counted in homelessness statistics, this will lead to solutions and policies that only tackle half the problem. In the UK only those who are eligible for assistance, unintentionally homeless and in priority need are counted in the homeless statistics – those who are intentionally homeless, not in priority need and ineligible for assistance are not counted.

2. Tackling the causes of homelessness

Discussion regarding government policy approaches – in particular a belief that the UK government focuses too much on pre-crisis intervention without enough focus on preventing the structural causes of homelessness. Issues regarding inadequate supply of social rental housing, the need to develop a strategy for the private rental sector, reducing the number of repossessions and evictions and strategies to assist tenancies have all been discussed at some length.

3. Retention of the low threshold for interim accommodation

There is a strong belief that any system that is designed to assist homeless households should be easily accessible and have a low threshold. This is seen as one of the most important legacies of the 1977 Act in the UK.

4. Priority need and vulnerability

Issues regarding extending the priority needs criteria beyond just those households that had children to those that did not has been lobbied for. The *Housing Act 1996* currently gives grounds for the government to confer priority need on those who have spent time in prison or in the armed forces so that they no longer need to pass the vulnerability test. It has also been found that people from Culturally and Linguistically Diverse backgrounds including migrants and refugees are particularly disadvantaged as they are excluded from any assistance under

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<sup>4</sup> Source YAA and Homelessness NSW briefing paper 2009 (with some additional comments from QYHC)

the Act. The issue about who is eligible or not has fluctuated and at this point unemployed European Union nationals are also excluded.

Young people were particularly disadvantaged due to the fact that they were not in the initial priority allocation. This was changed in England with the introduction of the *Homelessness Act 2002* and young people were included in the priority group. It is interesting to note that most UK countries now all include certain groups of young people in the priority group. Scotland is the most progressive in terms of young people aged 18 -20 as they take into account risk factors over and above the 'leaving care' category. These factors include young people at risk of exploitation and substance misuse. Young people have however been deterred as they fear that they will not be prioritised and are instead encouraged to return home.

There has also been some concern expressed about the paper based process of determining vulnerability.

#### 5. Standards of temporary accommodation

In the UK there have been significant concerns about the standards of temporary accommodation. In particular there has been strong concern about the use of private provision through Bed and Breakfast places especially for young people 16 – 17 years of age. Further, people are staying for extended periods of time in this option due to the lack of appropriate alternative housing options.

### 4.3 UNITED STATES OF AMERICA

The legislation in the United States of America (USA) is the *Stewart B. McKinney Homeless Assistance Act*. There was an extension of the Act to incorporate *McKinney-Vento Homeless Education Assistance Act 2001*. However the critical issue for the US seems to be the need for funding to meet the demand, and that there needs to be better coordination and strategic responses to youth homelessness.

The National Alliance to End Homelessness have stated the changes to legislation currently required in the USA (Feb 2009).

*“Pass legislation to reauthorize HUD’s McKinney-Vento Homeless Assistance Grants Program focused on prevention activities and permanent housing for families, people with disabilities, youth, and single adults:*

*Legislation should:*

⊕ *Consolidate the programs,*

⊕ *Provide permanent housing renewals out of the same account that funds Section 8,*

- ⊕ *Increase priority on homeless families with children by providing funding for rapid re-housing programs, designating funding to permanent house families, and ensuring that families are included in incentives that serve people who experience long-term homelessness,*
- ⊕ *Continue assisting people with disabilities by targeting thirty percent of funding for permanent housing for homeless people with disabilities and their children,*
- ⊕ *Dedicate resources to prevent homelessness for families and individuals living doubled up, in hotels, or in other unstable housing situations,*
- ⊕ *Expand the definition of homelessness to include those who “couch surf” (move from place to place), but retain a targeted definition to ensure that homeless assistance continues to focus on its mission of meeting the emergency needs of people with no place to live, and*
- ⊕ *Increase competitiveness of rural areas.*

## 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.

### 5.1 STANDARDS AND ACCREDITATION

The National Community Housing forum has made the following statements on standards and accreditation.

*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. Together, standards and the accreditation process form a framework for the delivery and management of a service, and a means of assessing performance to ensure quality and accountability.<sup>5</sup>*

The International Organization for Standardization (ISO) formal definition of accreditation is:

*“third party attestation related to a conformity assessment body conveying formal demonstration of its competence to carry out specific conformity assessment tasks.” (ISO/IEC 17000:2004)*

QYHC supports the need for standards of service delivery in services. The set of minimum standards currently in use within the homeless service system are now quite dated as they were drafted in 1993.

Some pieces of legislation such as the Queensland *Disability Service Act 2006* has within it service delivery principles prior to any discussion about standards, and this may be worth exploring in any new legislation.

The drafting of new standards needs to be developed in consultation with the community sector and needs to be quite specific to homelessness. The standards should have a greater focus on quality of service delivery as opposed to a risk management framework for services. It must be noted that standards do not necessarily improve practice – any homelessness response needs to be coupled with a strong resourcing framework for networking and professional development opportunities for the workforce.

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<sup>5</sup> National Community Housing Forum website <http://www.nchf.org.au/framework.html>

Many of the standards and accreditation processes also contain provisions with regard to workforce issues and the screening of staff prior to being employed. It would seem that the current Blue Card system with the Children's Commission would cover many of the issues. Any provisions with regard to the screening of staff would need strong consultation with the youth sector. There is a significant component of people entering the youth homelessness service system have been homeless themselves. In turn they may have a criminal history in terms of property and street related offences however this does not make them incompatible for being a youth worker.

The issue for most services is the accreditation process as this can be a quite costly and time consuming process. In Queensland there are currently a range of other regulatory systems that services need to comply with depending on the range of service activities that they are undertaking. These include but are not limited to the:

- ⊕ QLD Housing Act, Community housing standards;
- ⊕ QLD Community Services Act, Community Services Standards; and
- ⊕ QLD Child Protection Act, Child Protection licensing and regulations processes

There needs to be some streamlining and simplification of standards and accreditation processes to minimise duplication.

Consideration also needs to be given to having levels of compliance based on the size of the service.

## 5.2 EXISTING LEGISLATIVE AND REGULATORY MODELS

While it is difficult to examine the other Acts to gauge their application to the homelessness sector, an analysis of the *Disability Services Act 1986*, the *Aged Care Act 1997*, and the *Child Care Act 1972* demonstrate the specific nature of the service delivery that they are addressing. As a result the standards and accreditation model for the homelessness sector needs to be specific and extensive consultation will need to occur.

Some key learning's can be found in looking at each Act.

### 5.2.1 Disability services act 1986

This Act commences quite well as there are broad objectives, however the Act in its application only applies to the standards and accreditation of services.

A real limitation of the Act is that the Principles are not stated within the Act but are rather developed according to ministerial discretion.

A strength of the Act is that it contains a section on definitions which is very comprehensive.

### 5.2.2 Aged care act 1997

This Act is 400 odd pages and at first glance is overwhelming. It is clear that the residential aged care accreditation process requires strong support and it is no surprise that there is the Aged Care Standards and Accreditation agency.

It would seem that this legislation does not allow for flexibility in service delivery and whilst this may not be important in the aged care sector, this is essential for specialist homelessness services. There are a range of target groups who have varying levels of needs and presenting issues so a prescriptive act such as the Aged Care Act may not be relevant to the proposed new national homelessness legislation.

It is clear that if any standards and accreditation process becomes onerous there must be support and resourcing provided for services.

### 5.2.3 Child care act 1972

There is a significant difference in terms of the service delivery agencies in the child care industry as opposed to the homelessness sector. Many child care providers are private/for profit providers and so the Act and its associated regulations need to have a greater focus on financial arrangements (taking the 'ABC learning centres' as a key lesson).

This Act has within it the need for advisory committees and research agendas.

It must be noted again that this industry has support and resourcing through the National Childcare Accreditation Council.

## APPENDIX 1

PILCH recommends that a *Human Rights Act* should enshrine the following rights, amongst others:

- ⊕ right to self-determination;
- ⊕ the right to legal recourse when rights have been violated, even if the violator was acting in an official capacity;
- ⊕ the right to equality of men and women in the enjoyment of their human rights;
- ⊕ the right to life;
- ⊕ the freedom from inhuman or degrading treatment or punishment;
- ⊕ the freedom from arbitrary arrest or detention;
- ⊕ the right to humane treatment in detention;
- ⊕ the right not to be imprisoned for an inability to fulfil a contractual obligation;
- ⊕ the right to non-discrimination;
- ⊕ the freedom of movement;
- ⊕ the right to a fair hearing;
- ⊕ the prohibition against double jeopardy;
- ⊕ the right to presumption of innocence until proven guilty;
- ⊕ the right to appeal a conviction;
- ⊕ the prohibition against retrospective punishment and penalty;
- ⊕ the right to be recognised as a person before the law;
- ⊕ the right to privacy and protection of that right by law;
- ⊕ the freedom of thought, conscience, and religion;
- ⊕ the freedom of opinion and expression;
- ⊕ the freedom of assembly and association;
- ⊕ the right to protection of the family;



- ⊕ the right of children to special protection and assistance;
- ⊕ the freedom from slavery and servitude;
- ⊕ the right to liberty and security of the person;
- ⊕ the right to vote;
- ⊕ the right to equality of and before the law;
- ⊕ the right of ethnic, religious or linguistic minorities to enjoy their own culture, religion and language;
- ⊕ the right to take part in cultural life;
- ⊕ the right to an adequate standard of living, including adequate housing;
- ⊕ the right to work, including the right to gain one's living at work that is freely chosen and accepted;
- ⊕ the right to just conditions of work and wages sufficient to support a minimum standard of living;
- ⊕ the right to equal pay for equal work and equal opportunity for advancement;
- ⊕ the right to form trade unions and the right to strike;
- ⊕ the right to adequate food, water and sanitation;
- ⊕ the right to the enjoyment of the highest attainable standard of physical and mental health;
- ⊕ the right to social security; and,
- ⊕ the right to education, including free primary education, and accessible education at all levels.

## APPENDIX 2

a global voice  
for women

Soroptimist  International

Federation of the South West Pacific

Pine Rivers

### ***WHERE WE STAND – POSITION STATEMENT – YOUTH***

Soroptimist International believes that the imagination, ideals and energies of youth ages 15-24 are vital for the continuing development of the societies in which they live. Their problems, vision and aspirations are essential parts of the challenges facing today's societies and that of future generations.

Soroptimist International urges governments to:

- act to eliminate discrimination against youth particularly girls and young women
- promote development of skills for effective participation in society by education in their human rights and responsibilities
- encourage the social, political, and environmental participation of youth,
- allow the full and effective participation of youth in decision-making
- legislate to protect youth from forced military service, unsuitable working conditions, sexual exploitation and abuse.