



Towards a Safer Future
NSW WOMEN'S REFUGE MOVEMENT WORKING PARTY INC.

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(homelessness legislation)

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The Chair
Inquiry into Homelessness Legislation
Standing Committee on Family, Community, Housing and Youth
PO Box 6021
House of Representatives,
Parliament House,
Canberra ACT 2600

Dear Ms Ellis and Committee Members

The NSW Women's Refuge Movement Working Party is pleased to provide a submission to the inquiry and we thank you for the opportunity. We are hopeful that the Inquiry will contribute to the development of new Homelessness legislation that provides a solid foundation for improving the safety of women and children experiencing domestic and family violence who are homeless or at risk of homelessness.

We would be pleased to contribute further to the Inquiry should the committee require this, or respond to any questions arising out of our submission.

Yours Sincerely

Catherine Gander
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NSW Women's Refuge Movement Resource Centre
On behalf of the NSW Women's Refuge Movement Working Party Inc

NSW WRM WP Inc Submission to the House of Representatives
Standing Committee on Family, Community, Housing and Youth
Inquiry into Homelessness Legislation

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About the NSW Women's Refuge Movement Working Party Inc (WRM WP Inc)

The NSW Women's Refuge Movement has been operating for over 30 years and is incorporated as the NSW Women's Refuge Movement Working Party Inc (WRM WP Inc). This is a non-profit state-wide representative body specialist domestic violence services. Member women and children's services aim to respond to community needs by providing a continuum of services to women and children who are homeless or at imminent risk of homelessness particularly when this is due to domestic and family violence.

The WRM WP Inc:

- Provides a supportive network and forum for refuge workers to discuss and promote best practice and exchange skills and knowledge
- Undertakes projects to facilitate the work and effective operation of member refuges
- Develops and provides resources and information about women and children's homelessness, domestic violence and related matters for refuge workers, the sector and the community
- Advises and informs Government about issues relating to domestic violence and sexual abuse, women and children's homelessness, and the needs of women and children as clients of SAAP and other services
- Works with government and community groups to improve responses to women and children escaping domestic violence, sexual assault and other forms of abuse

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

The NSW WRM WP Inc wishes to stress the importance of the inclusion of broad principles that underpin the overall response to homelessness in addition to principles that underpin the provision of services to people experiencing homelessness or at risk of homelessness that apply to both the Government and non-Government sector.

Definition of Homelessness

The definition of homelessness in the SAAP Act acknowledges that a person is homeless if they do not have access to “safe and secure housing”¹. This is an acknowledgement that homelessness is “not merely about not having a roof over one’s head”². The SAAP Act clearly articulates what inadequate access to safe and secure housing is and captures the link between domestic and family violence and homelessness. Section 3 of the SAAP Act (‘Definitions’) clearly identifies that, for the purposes of the SAAP Act a person who is homeless includes “people who are experiencing domestic violence and are at imminent risk of becoming homeless”³.

Domestic violence, as the committee may already be aware, has consistently been the primary reason for women becoming homeless and seeking support and accommodation through the Supported Accommodation Assistance Program (SAAP) since data collection began over a decade ago. The definition of homelessness for the new Act should build on the strengths of the current SAAP Act definition but also specifically acknowledge and highlight the link between domestic and family violence and homelessness.

¹ Commonwealth Parliament. Supported Accommodation Assistance Act 1994, Section 4 (1),

² Miloon Kothari, *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)*, Human Rights Council

³ Commonwealth Parliament. Supported Accommodation Assistance Act 1994, Section 4 (1),

Recommendation

The NSW WRM WP Inc therefore, recommends that the new Act retain the definition under Section 4 of the SAAP Act and an additional point in subsection 2 be included that specifically identifies domestic and family violence. That is, a new subsection should be inserted that reads: ‘recognising that these sections above often relate to women and children’s experiences of domestic and family violence’.

The inclusion of this section would assist maintaining the commitment of both Government and the community to responding to homelessness driven by domestic and family violence.

It is critical that the new homelessness legislation clearly articulates the link between lack of safety and homelessness as outlined in the SAAP Act and builds on this by explicitly highlighting the link between domestic and family violence and homelessness as recommended above.

An alternative, and commonly used, definition is the cultural definition of homelessness, which is a three tiered definition of homelessness⁴:

- Primary homelessness Includes all people sleeping rough, for example on the streets, in cars etc.
- Secondary Homelessness Includes all people residing in temporary accommodation, for example SAAP services or living temporarily with friends or family.
- Tertiary homelessness Refers to people living in boarding houses etc, who are defined as homeless because the standard of accommodation is below the community standard, i.e. a self contained flat

Although this definition is used for data collection, we believe the use of a definition such as this does not adequately recognize the issue of safety in the home and its relationship

⁴ Chamberlain, C., MacKenzie, D, 2008, Counting The Homeless 2006 Australia, Australian Bureau of Statistics, Commonwealth of Australia, p.vii

to homelessness. While some women and children escaping domestic and family violence may fall into any one of the three categories listed above, the definition does not capture the issue of 'housed homelessness' for other women and children experiencing domestic and family violence⁵.

Recommendation

If the cultural definition is used this must be supplemented with an additional category of 'Housed Homelessness' to capture the situation of women and children living with domestic and family violence, who are seeking but unable to obtain safe accommodation. This category should also include people living in housing that is overcrowded.

Principles for Inclusion into the Act

The Commonwealth Government has provided numerous guiding principles for responding to homelessness within the Homelessness White Paper – *The Road Home: A National Approach to Reducing Homelessness (The Road Home)*. What was not articulated in *The Road Home* is the need to respond to homelessness within a human rights based framework.

Human rights obligations

The SAAP Act acknowledged Australia's international human rights obligations highlighting Australia's ratification and acceptance of the following:

- The International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights;

⁵T ually, D., Faulkner, D., Cutler, C., Slatter, M. (2008), *Women, Domestic and Family Violence and Homelessness*, Commonwealth of Australia, http://www.ofw.facs.gov.au/publications/synthesis_report04/content.htm, p.6

- The Convention on the Elimination of all Forms of Racial Discrimination;
- Convention on the Elimination of all Forms of Discrimination Against Women;
- The Convention on the Rights of the Child;
- The Universal Declaration of Human Rights;
- The Declaration on the Elimination of Violence Against Women.

The new legislation should also acknowledge and seek to fulfill Australia's International obligations including the Declaration on the Rights of Indigenous People which Australia recently became a signatory to, when responding to homelessness.

The NSW WRM WP Inc is aware of the recent consultation process on Human Rights that occurred across Australia and that the Committee is due to report to the Government in September this year; however we urge the Parliament to include provisions within the Homelessness Act that affirms Australia's commitment to the provision of adequate housing as a human right. This recommendation is consistent with recommendations made by the Special Rapporteur of Adequate Housing and the Committee on Economic, Social and Cultural Rights⁶.

Additionally the Act must also recognize and that a person's experience of homelessness or risk of homelessness impinges on many other rights, including the right to personal safety, the right to health, the right to work, the right to education⁷.

Therefore the NSW WRM WP Inc recommends that through the Act the Australian Parliament recognizes that;

Access to safe and adequate housing is a fundamental human right.

⁶ YWCA Australia & Women's Legal Services Australia, 2009m, NGO Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in Australia, no.258, p.90.

⁷ Australian Human Rights Commission, 2008, Homelessness and Human Rights, http://www.humanrights.gov.au/human_rights/housing/homelessness_2008.html#6

This should be the over-arching principle within the Act, in order to uphold this right and to realize the vision articulated in *The Road Home*, the NSW WRM WP Inc recommends the following principles for inclusion in the Act:

Broad principles

- Responding to the key drivers of homelessness is essential to addressing homelessness. This principle should name the key drivers including domestic and family violence
- Addressing homelessness requires a strong and cooperative relationship between and within all levels of Government and the non-Government sector that acknowledges and utilizes the expertise of these different sectors
- Coordination must occur at all levels of policy development and service provision.
- Service system reforms and ongoing development be driven by strong evidence base and occur through meaningful consultation with NGO partners and service users;
- Responding to homelessness requires action across the continuum of support and accommodations options, including the provision of crisis accommodation to those who require the safety and support provided by these services. The NSW WRM WP Inc wishes to emphasise the importance of this principle in relation to women and children escaping domestic and family violence, particularly when women identify that this is the safest option (or indeed their only option) available to them and their children.

Service Provision Principles

The principles should underpin the provision of services to homelessness people and those at risk from homelessness from a broad range of agencies from within both the Government and non-Government sector. This is consistent with the acknowledgement in *The Road Home* that a broad range of mainstream services must improve their responses to homelessness and to those experiencing homelessness or those at risk of homelessness.

Proposed Principles;

- “Clients need to be placed at the centre of service delivery and design”.
- “The safety and wellbeing of all clients is essential⁸”.
- Services must provide equal access to and equity of service provision for clients within their relevant target groups
- Responses to women and children who are homeless or at risk of homelessness as a result of domestic and family must ensure the safety of clients is given primary consideration;
- Women and children who are homeless as a result of domestic and family violence are supported to stay together through, programs and interventions (including child protection responses) that aim to strengthen their relationship.
- Services must be provided in a manner that respects service users cultural background, religious beliefs, sexuality, age, transgender status. Additionally services must seek to overcome any additional barriers to appropriate service provision to different population groups
- Specialist accommodation services have a role in service system development, community development and prevention activities in their local area.

Children accessing specialist homelessness services

The Road Home highlighted the need to improve responses to children; the NSW WRM WP Inc welcomes this acknowledgement⁹. Previously children accessing SAAP services with their guardian have not been acknowledged as clients in their own right within policy frameworks. It is critical the new Act acknowledge:

- Children that accompany their guardian to homelessness services are clients in their own right

⁸ Commonwealth of Australia, 2008, The Road Home: A National Approach to Reducing Homelessness, pp.19-20.

⁹ Ibid,p.46

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

As already discussed above the scope of the legislation must not just be about providing a legislative framework for the provision of accommodation and support from specialist homelessness services, rather the Act must provide a framework for improving the overall response to homelessness. The scope of the legislation should include provisions:

- For the adequate provision of specialist accommodation and support services to people who are at risk of homelessness or are homeless – this should include specifying the aim and goals of specialist homelessness services as contained within the SAAP Act under Section 5 Subsections 2 and 3 with an additional section on improving the safety of women and children experiencing domestic and family violence. Therefore we would recommend the following wording

“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”¹⁰

(d) To improve the safety of women and children experiencing domestic and family violence through the provision of accommodation and support services and advocacy to related legal and human service systems.

How the aim of SAAP is to be achieved

“(3) The aim of SAAP is to be achieved by:

¹⁰ Commonwealth Parliament. Supported Accommodation Assistance Act 1994, Section 5 Subsection 2, p.5

- (a) providing or arranging for the provision of support services and supported accommodation; and
- (b) helping people who are homeless to obtain long-term, **[safe]**, secure and affordable housing or accommodation and support services.¹¹

The scope of the legislation continued:

- For improving Government and other mainstream agencies service provision to people who are homeless or those at risk of homelessness that requires agencies and Government at all levels to address:
 - Policies and practices that lead to homelessness or compromise the safety of the homeless or those at risk, including women and children experiencing domestic and family violence;
 - Barriers to service provision to homeless people or those at risk of homelessness;
 - That ensure ongoing evaluation and monitoring Government and non-Government responses to homelessness, evaluations must seek input from the NGO sector and service users and examine the following:
 - Effectiveness and capacity of specialist homelessness services
 - Barriers to effective specialist service provision to homeless people or those at risk-including legislation and other policy frameworks and mainstream agencies practices that exacerbate homelessness;
 - Effectiveness of mainstream agency responses to homelessness and the drivers to homelessness. For example domestic and family violence responses must be evaluated to measure improvements in coordination between the broad range of justice and human service responses required to improve the safety and wellbeing of all women and children experiencing domestic and family violence.

¹¹ Ibid, Section 5 Subsection 3, p.5

- The ongoing practice of data collection through the NDCA and the development of data collection strategies for mainstream agencies to assist in monitoring their performance in responding to the needs of homeless people or those at risk of homelessness. Additionally reporting on NDCA data should be strengthened by requiring the NDCA to provide regular detailed reports on the different target groups accessing specialist homelessness services (SAAP). For example, the last specific report on women and children accessing SAAP due to domestic and family violence was for 2003-04.

Links with other Reforms

The Road Home also highlights the importance of addressing the different drivers to homelessness, through prevention and early intervention strategies. In the case of homelessness driven by domestic and family violence *The Road Home* identifies the important role of the National Plan to Reduce Violence Against Women and Children in reducing homelessness. The Act should therefore provide framework that underpins an improvement in the way mainstream agencies respond to homelessness driven by domestic and family violence and facilitates integration with other key areas of reform addressing key drivers to homelessness e.g. responses to violence against women, child protection and addressing Indigenous disadvantage.

3. The role of legislation in improving the quality of services for people who are homeless or at risk of homelessness & 5. The applicability of existing legislative and regulatory models used in other community service systems , such as disability services, aged care and child care, to the homelessness sector.

'The Road Home' provides a platform for Australia's ongoing response to homelessness and sets targets for the reduction of homelessness. In order to realize a substantial reduction in homelessness by 2020 the legislation underpinning this response, as already highlighted throughout this submission, must not only provide a legislative framework for strengthening the provision of specialist homelessness services but provide a framework

for mainstream Government and non-Government services responses. It must seek to ensure homelessness is not exacerbated by the policies and practices of these agencies. It must also include provisions that acknowledge the importance of an ongoing commitment of all levels Government to the prevention of homelessness and to the provision of services that provide both accommodation and support to those that require it.

The NSW WRM WP Inc would welcome and support any initiatives that promote good practice and continuous improvement within the service system. The inclusion of service standards within the Act as flagged within *The Road Home*, however should be developed with enough flexibility to incorporate the diverse range of service models and responses required for different target groups and geographical areas. Therefore, we feel it is critical that the development of any service standards should occur with meaningful consultation with the community, particularly the specialist homelessness sector and the people they support.

It is worth noting, however that the development of service standards and associated accreditation systems will in many respects duplicate the monitoring and reporting systems already in place for SAAP service in NSW and no doubt across the country and therefore risk placing significant additional burden on an already stretched service system. Currently women's refuges in NSW receive funding through a performance based contracting system and must report annually on how they comply with the Department of Community Services (DoCS) Good Practice Practices to DoCS. In addition to the existing monitoring and reporting frameworks, there is also no well founded evidence to suggest that the provision of services through SAAP have not been of a high quality. To the contrary the numerous evaluations of SAAP have highlighted that the main limitation of the program has been the lack of adequate funding.

Additionally, some services also receive multiple sources of funding and are required to comply with other reporting and monitoring services. Many of these systems can place an excessive administrative and financial burden on services and act as an unnecessary

distraction to core business of our services, which is improving the safety and wellbeing of women and children experiencing domestic and family violence.

We would therefore argue that the Government and the Parliament give more thorough consideration of the proposal to develop service standards and an accreditation system and whether this proposal will actually lead to improved service provision.

If the Act includes service standards and provisions for the accreditation of specialist homelessness services then this must include measures that facilitate a system that:

- Has maximum integration with the existing reporting requirements between funded agencies and their funding bodies. This could occur through the development of system that recognizes existing services compliance with these existing monitoring systems
- Provides adequate supports for agencies during the accreditation process, funding to support this should not be re-directed from existing funding pool allocated for the provision of specialist homelessness services;
- Does not place agencies under additional financial burden.
- Has standards that are congruent with the resource capacity of services (i.e. is achievable and realistic)
- Acknowledges the reciprocal relationship between the Government and non-Government sectors and the responsibilities of both sectors, including the provision of adequate funding
- Provides a framework for reporting and addressing barriers for services achieving established service standards (for example standards in relation to the development of partnerships with other agencies can only be achieved if the commitment to partnership is mutual and respectful, or indeed dependent upon the existence of other relevant agencies in the service's local community)

Adequate support to the sector

It also must be noted that the inclusion of service standards within legislation will not address the issue of severe underfunding of SAAP services that has failed to keep pace with increased operational costs let alone improve the capacity of the system to address the alarming turn away rates from SAAP services.

The NSW WRM WP Inc acknowledges the increased commitment of the Commonwealth and NSW Government to respond to homelessness. Despite this we are concerned that there has been no action to improve the viability of the specialist homelessness sector (formerly SAAP). The specialist homelessness service sector is an important foundation from which to improve the overall responses to homelessness, failure to adequately support and resource the sector will jeopardize the success of the reforms outlined in *The Road Home*.

Currently SAAP services for women and children experiencing domestic and family violence are being forced to turn away one in every two women and children who are making new requests for accommodation¹². Failure to address turn away rates will continue to place the safety of women and children at risk, this is unacceptable. We recognize that the Government has taken steps to improve responses to women and children experiencing domestic and family but these actions will take time realise a reduction in the risk of homelessness due to domestic and family violence. Indeed improved responses from mainstream justice and human services agencies, in our opinion will increase the demand on our member services. Therefore urgent action is required to address the lack of capacity within the service system to accommodate and support all women and children seeking the safety and support provided by refuges for women and children.

¹² Australian Institute of Health and Welfare (AIHW) 2009. *Demand for SAAP accommodation by homeless people 2007–08: a report from the SAAP National Data Collection*. SAAP NDC report series 13. Cat. no. HOU 211. Canberra: AIHW., p.40 & p.47

Compounding these concerns is the changes to funding arrangements through the National Affordable Housing Agreement, which in our view have made the provision of funding to specialist homelessness services even less secure. The NSW WRM WP Inc recognises that the States are required to report to the Commonwealth on agreed outcomes and indicators included in these funding agreements, however much of the data required to monitor to these agreed targets have yet to be developed. Consequently we believe that there is a risk that funding to homelessness services will be less transparent and there will be an increased possibility of cost shifting to mainstream agencies; Agencies whose primary focus is not on improving the safety and wellbeing of people who are experiencing homelessness or at risk of homelessness due to domestic and family violence.

The inclusion of service standards for specialist homelessness services within the Act should be accompanied with an acknowledgement that a stable and adequate funding environment is an essential component to responding to homelessness and driving ongoing service improvement.

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

The NSW WRM WP Inc recommends that there are many key elements of the SAAP Act that should be retained and strengthened in the new Act, these include:

- The definition of homelessness, which must be strengthened to increase the visibility of domestic and family violence as a key contributor to homelessness. Indeed the new Act should seek to improve the visibility of domestic and family violence throughout the Act. We believe this is necessary because despite regular recognition of the strong link between domestic and family violence and homelessness in our experience the specific needs of women and children escaping domestic and family violence are frequently overlooked in development of policy and programs targeted at addressing homelessness. Indeed this is evident in the National Homelessness Partnership Agreement where

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supporting women and children escaping domestic and family violence was not identified as 'core output' of the agreement.

- Recognition of the expertise within the community in relation to responding to homelessness and utilising that expertise in the ongoing development and implementation of homelessness responses;
- A broad framework outlining of the types of specialist support services, including residential services, to be provided by specialist homelessness services yet remain flexible enough to enable services to respond to the needs of their local community
- Provisions for a national data collection system, research program and ongoing evaluation.
- Promotion of client's rights
- Section 10 subsection 1 'No duplication of services' must be retained in the new Act to aid in the prevention of specialist homelessness services are being used to compensate for inadequacies in other service systems.

Other Legislative and Policy Frameworks impacting on the provision of services to homeless people and those at risk of homelessness

The NSW WRM WP Inc again wishes to stress the importance of understanding the impact of a range of legislative and policy frameworks that inhibit the effectiveness of specialist homelessness services in achieving good outcomes for their clients and the importance of providing a legislative and policy framework to address these barriers. For example, the efforts of our member services to improve the safety and wellbeing of women and children who have experienced domestic and family violence are often thwarted by the Family Law processes and the Family Law Act. Many of these women and children are required to enter into Family Law Court proceedings, where in the vast majority of cases the process and outcomes of the Court place their safety at risk through mandating ongoing contact or involvement with the perpetrator. In addition

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to this many other women and children that have experienced domestic violence and other abuse are being placed at risk of homelessness due to lengthy and costly family law proceedings.

The example of family law and its relationship to domestic and family violence and subsequent homelessness highlights why it is of critical importance that the Act not just be restricted to the provision of specialist homelessness services but also provides a framework for improved Government and 'mainstream' responses to homelessness that addresses the drivers to homelessness and barriers within a range of diverse human and justice policy frameworks and service systems.