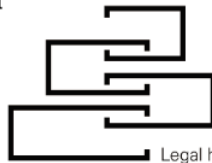


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**Homeless Persons'
Legal Service**

Legal help for the homeless and those at risk of homelessness

Comments on the City of Sydney Homelessness Strategy 2007 - 2012

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Introduction

Homeless Persons' Legal Service

In 2003, following an extensive consultation process, the Homeless Persons' Legal Service (HPLS) was established by the Public Interest Advocacy Centre and the Public Interest Law Clearing House. HPLS is funded by the NSW Public Purpose Fund through the support of the NSW Attorney General, the Hon Bob Debus MP.

HPLS provides free legal advice and ongoing representation to people who are homeless or at risk of homelessness. It operates seven clinics on a roster basis at welfare agencies in the inner city of Sydney and Parramatta. These are agencies that provide direct services, such as food and accommodation to people in housing crisis. The clinics are co-ordinated by HPLS and staffed by lawyers from law firms that are members of the Public Interest Law Clearing House.¹ Since the launch of HPLS in May 2004 it has provided advice to over 1,100 clients.

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal and policy centre located in Sydney. Its charter is:

To undertake strategic legal and policy interventions in public interest matters in order to foster a fair, just and democratic society and empower citizens, consumers and communities.

PIAC's work extends beyond the rights and interests of individuals; it specialises in working on issues that have systemic impact. PIAC's clients and constituencies are primarily those with least access to economic, social and legal resources and opportunities. PIAC provides its services for free or at minimal cost.

The Public Interest Law Clearing House

The Public Interest Law Clearing House (PILCH) was established in 1992 by the Law Society of New South Wales, the Public Interest Advocacy Centre and the private legal profession to respond to the growing incidence of unmet legal needs within the community. Underlying the establishment of PILCH is the commitment from lawyers that the provision of

¹ The following firms provide lawyers on a *pro bono* basis to HPLS to provide legal services through the clinics: Allens Arthur Robinson, Baker & McKenzie, Clayton Utz, DLA Phillips Fox, Ebsworth and Ebsworth, Gilbert + Tobin, Henry Davis York and Minter Ellison. The clinics are hosted by the following welfare agencies: the St Vincent de Paul Society's Matthew Talbot Hostel, The Station, the Uniting Church's Parramatta Mission, Wesley Mission's Edward Eagar Lodge, Women's and Girls' Emergency Centre, Newtown Mission in Partnership with Newtown Neighbourhood Centre, and the Salvation Army's Streetlevel Mission.

legal services on a *pro bono publico* ('for the public good') basis is intrinsic to legal professional responsibility.

The aims of PILCH are:

1. to identify matters of public interest that warrant legal assistance *pro bono publico*;
2. to identify the legal needs of non-profit organisations;
3. to match disadvantaged and under-represented individuals, groups and non-profit organisations with a need for otherwise unavailable legal assistance with PILCH member firms and barristers;
4. to utilise the diverse skills and resources of lawyers in a broad range of public interest matters;
5. to expand the participation of private practitioners in the law reform process;
6. to seek the integration of *pro bono* work with legal practice; and
7. to encourage co-operation between private practitioners and public interest lawyers.

PILCH provides services to community organisations and individuals for free. It is a membership-based organisation with members including small, medium and large private law firms, individual barristers, barristers' chambers, accounting firms, University law schools, the Law Society of NSW, the NSW Bar Association and PIAC.

City of Sydney Draft Homelessness Strategy 2007 - 2012

HPLS welcomes the opportunity to comment on the City of Sydney Draft Homelessness Strategy 2007 – 2012 (**the Draft Strategy**). The significant number of homeless people in the City and the lack of an effective response by other levels of government to homelessness mean that a City strategy is vital.

This submission provides comment on the Key Priorities and the Key Actions that form the focus of the Draft Strategy. As discussed in more detail below, HPLS commends the priority given to rough sleepers and compassionate management of public space. While HPLS supports the consideration of new models of service provision and establishing targets, these aspects are perhaps better conceived as strategies for achieving outcomes in relation to the key priorities, rather than priorities themselves.

Key Priorities

Vulnerable and complex chronically homeless rough sleepers

As noted in the Draft Strategy, homelessness is generally divided into three categories: primary, secondary and tertiary homelessness. However, these are not categories in which

people remain fixed for the duration of their time in homelessness. In NSW, around 304 people (including 111 children) are turned away from SAAP services each day.² The result of this is that people may move quickly from secondary homelessness to primary homelessness. Similarly, as boarding houses close, or evictions occur, residents find themselves on the street when they lack the financial, social and other resources to obtain alternative accommodation.

In prioritising rough sleepers, the City must also explicitly acknowledge the massive impact on the numbers and lives of these people due to the critical incidence of mental illness among them.

HPLS appreciates that it is the responsibility of the Federal and NSW Governments to fund SAAP services and public housing, and the responsibility of the NSW Government to provide mental health services. However, as stated the Draft Strategy, the City of Sydney LGA does attract a large number of homeless people from elsewhere and so the City requires more services and accommodation to assist homeless people than perhaps many other LGAs. Given this, HPLS commends the City for its commitment to provide strategic interventions into the chronically homeless and a co-ordinated approach to dealing with their more complex needs.

Compassionate and balanced public space management

Policies and laws that regulate public spaces profoundly affect people who are homeless. For instance, those who take illegal drugs in public are more likely to be apprehended by police than those who do so in their own homes. Even legal activities at home are not necessarily so in public:

...in all Australian jurisdictions, many basic human functions, such as sleeping, being naked, having sex and going to the toilet are unlawful or regulated when conducted in public space. This regulation is achieved by a range of mechanisms, including state and territory legislation, local council by-laws and civic patrolling interventions. This means that many people are criminalised by reason only of meeting basic human needs whilst living in a public space.³

Research by HPLS indicates homeless people are especially vulnerable to receiving an on-the-spot fine; this is often directly related to their occupation of public space.⁴ Many homeless people have accumulated thousands of dollars worth of fines, which it is virtually impossible for them to pay off. This debt then limits their capacity to obtain accommodation. HPLS understands that the City of Sydney and the NSW Police Service have endorsed the NSW State Government Protocol for Homeless People in Public Spaces. It is therefore of concern that HPLS clients are still being fined for offences where a warning may be sufficient.

HPLS supports the inclusion of training for police and transit officers and for City of Sydney staff as proposed in the Draft Strategy. HPLS would welcome the opportunity to have input into the content and presentation of such training.

² AIHW, *Demand for SAAP Assistance by Homeless People 2004-05* (14 December 2006).

³ Cassandra Goldie, 'Living in a Public Space: a Human Rights Wasteland' (December 2002) 27 (6) *Alternative Law Journal* 279.

⁴ Ellena Galtos and Emma Golledge, *Not Such a Fine Thing! Options for Reform of the Management of Fines Matters in NSW* (2006).

Supporting innovative, evidence-based new models of service provision

HPLS commends the City for its work in establishing new models of service for homeless people and strongly supports the continuation of the current work.

We note that the Draft Strategy discourages ‘outmoded models of charitable service provision’ that ‘perpetuate disadvantage and social exclusion’. While HPLS is in favour of proactive interventions and the empowerment of people who have been marginalised, we note that, until systemic changes result in equality of access to services, organisations undertaking service provision are ensuring that people can have their basic needs met on a day-to-day basis.

Further, State and Federal Government funding arrangements and Federal Tax laws at times prevent such organisations from undertaking anything but service provision. In the long-term, HPLS hopes that such services will not need to exist but, in the current environment, they can serve homeless people in conjunction with services that seek more explicitly to empower them.

Key Actions

Homelessness services

As stated in the Draft Plan, the City of Sydney LGA operates the Homeless Persons Information Centre (**HPIC**), the Homelessness Brokerage Program and the Inner City Homelessness Outreach and Support Service (**ICHOSS**). Although HPLS recognises that there needs to be accountability in the work of these services, we urge the City of Sydney to allow for flexibility of service delivery and collaboration with other services in the operation of its three major programs. That is, it is more important for the focus to be on reducing homelessness than on meeting qualitative targets and onerous reporting obligations.

Project and policy development

Vulnerable and Complex Specific Projects

HPLS notes the intention for the ‘Vulnerable and Complex Advisory Group’ to consider a ‘Privacy Up-skilling Project’. HPLS would welcome the opportunity to provide input into the formulation of policies around the privacy of homeless people and the way information about them is dealt with by and between welfare agencies. It is of concern that the usual procedures surrounding the sharing of confidential information, including the giving of informed consent, are sometimes treated less stringently in relation to homeless people, even if done with the interests of homeless people in mind. This is an area in which the legal expertise of HPLS, and of PIAC and PILCH members more generally, may be useful.

Public Space Liaison Officer

HPLS supports the trial of the new position of Public Space Liaison Officer. It is essential that innovative and sensitive approaches to dealing with homeless people be tried. Included in the role of the Public Space Liaison Officer should be responsibility, if necessary, to refer people to legal services as well as ICHOSS (or any other service depending on the client’s particular needs). It would also be valuable to include information on legal services for homeless people in City of Sydney staff training if this is not already covered. HPLS would

welcome the opportunity to work with the City of Sydney to develop appropriate information and training.

Affordable Housing Policy

HPLS welcomes the development of an affordable housing policy by the City of Sydney. Regardless of all other services to homeless people, the provision of suitable housing is imperative and can reduce many social and legal problems. Although HPLS has concerns that the City of Sydney may not be able exercise sufficient control over its Affordable Housing Policy in the case of conflict with the NSW Government, we urge it to prepare its policy and seek to influence State and Federal Governments to work with it in implementing effective affordable housing strategies.

HPLS notes the intention of the City to review boarding house accommodation. In doing so, HPLS urges the City to be mindful of the significant limitations of this form of accommodation, given the absence of protective legislation for residents, and therefore not attribute long-term significance to its role in reducing homelessness.

Given the limitations on this form of accommodation, it is crucial that the City of Sydney do what it can with its resources and through working with the NSW Government to secure sufficient and appropriate alternative accommodation.

Homelessness sector development and co-ordination

HPLS would like to see the City's commitment to rough sleepers result in a more effective, co-ordinated response to this complex problem, rather than simply more data about issues that are already clear. Many of the barriers to reducing chronic homelessness stem from an inability to access services and lack of co-ordination and integration among those that are accessed. Health and welfare professionals dealing with homeless people continually plead for a way to address people's mental illnesses and drug and alcohol addictions together. Lack of co-ordination in these areas limits the effectiveness of programs that operate in isolation.

Similarly, HPLS seeks to remove the legal barriers to reducing homelessness that affect homeless people in Sydney. For example, HPLS lawyers assist homeless people in having large fines waived or reduced. This can, for example, enable the individual client to retain his or her driver's licence and seek to move out of homelessness without first overcoming an insurmountable financial burden.

However, research by the Law and Justice Foundation indicates that homeless people often seek legal help from non-legal agencies.⁵ This is further evidence of the importance of co-ordination among services; co-ordination that the City can provide.

HPLS operates its free legal clinics from within welfare agencies. This model enables some collaboration with case workers at those particular agencies. However, it appreciates the role that the City has been playing in facilitating regular meetings of all those who engage with homeless people, including (but not limited to) those operated by the City of Sydney, and would urge the City to continue this, even if in a different format.

⁵ Suzie Forell, Emily McCarron and Louis Schetzer, *No Home, No Justice?: The Legal Needs of Homeless People in NSW* (2005) 181-227.

Research, advocacy, evaluation and accountability

HPLS notes that the City of Sydney plans to count the number of rough sleepers currently within its area. This evidence is likely to assist the City and others who work with and on behalf of homeless people to seek a united response from all levels of government to the needs of this especially vulnerable group of homeless people.

HPLS notes the intention of the City to contribute to research on homelessness. HPLS would welcome the opportunity to contribute to the identification of areas of research particularly in relation to the legal needs of homeless people and the difficulty they face in accessing justice.

Further, HPLS endorses the City of Sydney's proposal to perform a role in advocating for:

- public tenants at risk of eviction;
- an increase in mental health, drug and alcohol services;
- new services for people with personality disorders;
- people exiting prison into homelessness; and
- getting homeless people into housing.

Summary

HPLS supports the City of Sydney's commitment to homeless people and its active steps to work towards ending homelessness. HPLS submits that the City's role should primarily be twofold:

- (a) firstly, to encourage and enable innovative and flexible models of service delivery through its own operations and in the agencies operating within the City of Sydney LGA; and
- (b) second, to call on the NSW and Federal Governments to work with it to end homelessness, urgently adopt a united strategy for this work, and commit sufficient resources in the long term to ensure that affordable housing becomes a reality, not only a rhetoric.