

Homeless Persons' Legal Service

Legal help for the homeless and those at risk of homelessness
A joint initiative of the Public Interest Law Clearing House Inc and the
Public Interest Advocacy Centre Ltd



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Comments on the City of Sydney Drug and Alcohol Strategy 2007 - 2010

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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.

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 PILCH.¹ Since the launch of HPLS in May 2004 it has provided advice to over 1,200 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.

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, Ebsworth and Ebsworth, Gilbert + Tobin, Henry Davis York, DLA Phillips Fox 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.

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 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, the Law Society of NSW, the NSW Bar Association and PIAC.

Summary of Recommendations

Recommendation One

That the City work towards balancing the safety of homeless people from drug and alcohol-related violence with their right to privacy

Recommendation Two

That the City adhere to the Protocol for Homeless People in regard to minimising the negative impacts of drug and alcohol use in the public domain

Recommendation Three

That the City include the safety of homeless people as a key issue in Objective Three

Recommendation Four

That the City includes homeless people as a priority group in Objective Four.

Recommendation Five

That the City and HPLS collaborate on information-sharing initiatives on behalf of homeless people

Recommendation Six

That the City work with NGOs that share the City's aims and objectives in regard to strategies on drugs and alcohol

Recommendation Seven

That the City ensures that homeless people are taken into account regarding reduced drug and alcohol-related accidents and injuries

City of Sydney Draft Drug and Alcohol Strategy 2007 - 2010

HPLS welcomes the opportunity to make comments on the City of Sydney Draft Drug and Alcohol Strategy 2007 – 2010 (**the Draft Strategy**). This submission addresses the objectives of the Draft Strategy as are relevant. The City of Sydney LGA is ‘home’ to an estimated 4,681 homeless people.² Homeless people tend to gravitate to the centre of Sydney for various reasons such as its relative anonymity compared with suburbia, and access to social services. In response to this concentration, HPLS has established most of its free legal clinics in the City.

Homelessness and drug and alcohol issues

There is an intersection between drug and alcohol problems and legal problems. Homeless people have a high incidence of drug, alcohol and mental health issues. According to one study using a sample of 201 homeless people in Inner Sydney:

- 49 percent of the men had an alcohol-use disorder;
- 42 percent of the men were alcohol dependent;
- 34 percent of participants were dependent on drugs.³

In contrast, in Australia overall, 8.5 percent of the population aged 14 years or over drank alcohol daily the same year the study was published. In 2001, 16.9 percent of the Australian population aged 14 years and above had taken some type of illegal substances.⁴

Hodder, Teesson and Buhrich also found that:

75% [of homeless people] have a mental illness, 23% of males and 46% of females have schizophrenia, 33% have depression, 93% have experienced trauma, and 36% have a drug or alcohol use disorder.⁵

² Chris Chamberlain and David Mackenzie, *Counting the Homeless* (2006).

³ Tracey Hodder, Maree Teesson and Neil Buhrich, *Down and Out in Sydney: Prevalence of Mental Disorders, Disability and Health Service Use Among Homeless People in Inner Sydney* (1998).

⁴ AIHW, *Statistics on Drug Use in Australia* (2002).

⁵ MHCC, *Fact Sheet 4: Mental Health Issues and Homelessness* <<http://www.mhcc.org.au/factsheets/factsheet4.htm>> at 27 March 2007.

This combination of drugs, alcohol and mental illness contributes not only to poor health outcomes for homeless people but also gets them into trouble with a range of public authorities, including Council Rangers, Police and the legal system more broadly. Moreover, they are often reluctant to seek help from health professionals. This combination of factors needs to be kept in mind by the City when finalising its Drug and Alcohol Strategy.

Objectives

Objective 1: Reduce drug and alcohol related crime and anti-social behaviour

Drugs and alcohol are well-known disinhibiting factors that fuel crime and anti-social behaviour. From HPLS's viewpoint there are several major problems in this regard. First of all, some HPLS clients suffer cognitive impairment. This means they may not necessarily know they are doing the wrong thing.

Case study: a client with cognitive impairment is unaware s/he is drinking in an alcohol-free zone. S/he receives a reprimand from a Council Ranger. The client responds angrily. The client is then fined for the original offence and also for swearing.

Relatively trivial offences such as these may be avoided with better training of all fine-issuing authorities. HPLS understands the City plans to ensure Council Rangers undertake training in order to improve relations with homeless people. HPLS supports this, as set out in its submission to the City of Sydney Draft Homelessness Strategy 2007 – 2012.

More seriously, the problem of drug and/or alcohol-fuelled crime affects the safety of homeless people. Homeless people live on the streets, in refuges and boarding houses. In other words, they are not living in safe or secure environments. As pointed out in research undertaken by Buhrich, Hodder and Teesson on a sample of 157 study participants:

Among the homeless people in Sydney all women [in the study] and over 90% of men had experienced a trauma event in their lifetime. They frequently reported more than one trauma. Half the women and 10% of men reported they had been raped. For men the experience of rape usually occurred in an institutional setting.⁶

Unfortunately, when intoxicated homeless people gather together, there is always the potential for violent crime and so some of the violence is inflicted by other homeless people. However, a British study found that:

Anti-social behaviour in the lives of homeless people is unique in that members of the public are often the perpetrators. The nature of anti-social behaviour for

⁶ Neil Buhrich, Tracey Hodder and Maree Teesson, 'Lifetime prevalence of trauma among homeless people in Sydney', (2000) 34, *Australian and New Zealand Journal of Psychiatry* 964, 963-966.

homeless people ranges from insults and harassment to incidents of physical assault and extreme degradation.⁷

Without excusing the perpetrators, disinhibitors such as alcohol and illegal drugs endanger the general public, hospitality staff and in particular homeless people who have few options to escape the risk. HPLS endorses the City's planned initiatives to reduce this problem. However, HPLS would also like greater recognition on the part of the City (and other authorities that interact with homeless people) that violence against homeless people in the City of Sydney LGA is a serious problem and is made worse when perpetrators (whether they are members of the general public or other homeless people) are intoxicated. As such, action has to be taken to protect some of the most vulnerable people in our society.

Objective One lists some unarguably positive steps, such as focusing on the problem of alcohol-related assaults, which would benefit HPLS clients. HPLS do, however, have some concerns about the use of a Safety Camera CCTV. On the one hand, it can be quite useful in reducing the incidence of crime and therefore giving our clientele a degree of protection. On the other, as Newburn and Rock found out:

... crime prevention efforts can have a contradictory impact and significance for those who are at once frequent victims, frequent offenders and frequently 'moved on'. Ian, for instance, viewed CCTV as '*a double-edged sword. On the one hand, if you get beaten, they can try and [sic] trace them, but on the other hand, a lot of people say that CCTV is used ... to inform the police where people are and then get them moved on...*'⁸

HPLS urges the ethical use of Safety Camera CCTV in order to protect homeless and other vulnerable people and to maintain trust and good relations between homeless people and authorities such as Council Rangers and the NSW Police. HPLS encourages the City to work with NGOs towards this end.

Recommendation One

That the City works towards balancing the safety of homeless people from drug and alcohol-related violence with their right to privacy

Objective 2: Minimising the negative impacts of drug and alcohol use in the public domain

The public domain is virtually the only area where homeless people can go: it is often their living space. Boarding houses and certainly hostels and refuges only offer temporary accommodation. Homeless people have a transient existence moving from the streets to refugees and back again. Not surprisingly, such an unenviable existence leads many homeless people to drink heavily and take illegal substances. Also, homeless people, like everybody else, seek to socialise and the public domain is the only space they have to do this. They are not even allowed to have a drink with a meal when they stay in refuges. These factors mean that homeless people attract unwanted attention from authorities.

⁷ Tim Newburn and Paul Rock, *Living in Fear: Violence and Victimation in the Lives of Single Homeless People*, (2005) 14 <http://www.crisis.org.uk/downloads.php/253/LivingInFear_full.pdf> at 27 March 2007.

⁸ Ibid, 18.

HPLS obviously cannot condone the taking of illegal substances but it is worth noting that homeless people drink in public as they have no alternative and are more likely to be caught taking illegal drugs than other people because they are more closely scrutinised compared with those who have homes or other private spaces where they can go. Therefore, any action taken around drug and alcohol usage in public spaces will generally affect homeless people more than anyone else.

The NSW Government initiative, the Partnership Against Homelessness, has introduced a document entitled the Protocol for Homeless People (**the Protocol**). The Protocol is an agreement between ten NSW Government agencies. Its underlying principles include the following statement:

People will not be harassed or moved on from public places unless there is a threat to general security, their personal safety or if they are causing a disturbance which constitutes a breach of the peace.⁹

The City is not a signatory but follows the tenets of the Protocol.¹⁰ HPLS is pleased that the City wants to train its staff in dealing sensitively with homeless people and using discretion. Although the City has no power over, for instance, employees of the NSW Police Service, HPLS is concerned that the Protocol is not being followed consistently by other government bodies. HPLS therefore recommends that the City does what it can in order to make sure homeless people are being treated by its staff and those who work with them according to the terms of the Protocol.

Recommendation Two

That the City adheres to the Protocol for Homeless People in regard to minimising the negative impacts of drug and alcohol use in the public domain

Objective 3: Reducing impacts from licensed premises

As mentioned in relation to Objective One, homeless people have heightened vulnerability to drug and alcohol-fuelled violence. In some cases, the perpetrators are other homeless people. In other instances they are not. The research by Newburn and Rock indicated that:

One very striking finding in the study is the prominent position of the general public as perpetrators of crimes against homeless people... Violence, threats, intimidation and abuse from the public, *particularly where the latter are intoxicated*, appear to be an everyday reality for the homeless population.
[Emphasis added]¹¹

Although Newburn and Rock are describing the situation in Britain, there is no reason to believe the situation is much different in Sydney. The violent death of Mitchell Moseley near Town Hall in December 2006 illustrates the dangers homeless people face here.¹² Although it is unknown at this stage whether Moseley's attackers were

⁹ NSW Department of Housing, *Fact Sheet: Protocol for Homeless People* (2003).

¹⁰ Email from Elizabeth Giles, City of Sydney Homelessness Project Co-ordinator to David Skidmore, HPLS Policy Officer, 29 March 2007.

¹¹ Newburn and Rock, above n7 27-28.

¹² Michelle Cazzulino, *Why did Mitch Die Alone?* (2006) The Daily Telegraph
<http://www.news.com.au/dailytelegraph/story/0.22049.20928385-5006009.00.html> at 2 April 2007.

taking drugs or not, as previously mentioned, drugs lower inhibitions, which in turn makes violence more likely.

Violence against homeless people can have further legal ramifications. Several clients of HPLS have been charged with possession of a knife. They keep knives with them because of the threat of violence on the street. HPLS understands that the City can only do so much in terms of protecting homeless people from intoxicated patrons leaving bars and nightclubs. The problem of the City's limited powers is compounded by the fact that lobby groups for the hospitality industry want to expand the number of licensed venues on behalf of their membership. They have considerable influence over the NSW Government. HPLS wants the City to explicitly include the safety of homeless people as a key issue in Objective Three. This has not been stipulated in the Draft Strategy.

Recommendation Three

That the City include the safety of homeless people as a key issue in Objective Three

Objective 4: Reducing drug and alcohol related harm amongst vulnerable populations

Objective Four lists three priority groups in regard to drug and alcohol-related harm:

- Young people and juvenile offenders;
- Aboriginal and Torres Strait Islander communities;
- GLBT communities.

It does not include homeless people although some people among these priority groups are homeless. However, the City is finalising its Homelessness Strategy 2007-2012, which includes a strategy to address problems associated with drinking in the street. HPLS's submission on the Draft Homelessness Strategy indicated support for the City on this issue. However, we would like the City to include homeless people as a priority group.

Recommendation Four

That the City includes homeless people as a priority group in Objective Four.

Objective 5: Improving access of the City community to information on drug and alcohol related harms

Objective Five should include legal information. 'Soft' drugs, such as marijuana, and 'hard' drugs, like crystal methamphetamine, are not only detrimental to one's health, they carry legal penalties for personal use, possession and dealing. The unfortunate reality is that many homeless people have drug and alcohol problems. As mentioned above, research by Hodder, Teesson and Buhrich indicates high levels of alcohol and drug usage amongst people who are homeless.¹³ An ABC Television *Four Corners* program in March 2006 revealed a subculture of homeless people in Sydney addicted to crystal methamphetamine with little hope of getting out of the cycle of chronic addiction and homelessness.¹⁴ People who are HPLS clients don't always

¹³ Hodder, Teesson and Buhrich, above n3.

¹⁴ ABC, 'The Ice Age', *Four Corners*, 20 March 2006, <<http://www.abc.net.au/4corners/content/2006/s1596788.htm>> at 2 April 2007.

understand the full ramifications of being caught with illicit substances. The ramifications depend on what drug is in one's possession and how much of the drug one is caught with, ie, the difference between possession and supply (the latter, of course, carrying heavier penalties).

Objective Five will be of limited usefulness to homeless people themselves. People with chronic addictions don't easily understand drug and alcohol-related information because of resulting cognitive impairment. In addition, many of HPLS's clients can't read and have poorly developed comprehension skills. Nonetheless, HPLS lawyers would find drug and alcohol information, via the City's website, useful when dealing with clients and HPLS would like to work with the City in regard to information-sharing initiatives to support and reach homeless people.

Recommendation Five

That the City and HPLS collaborate on information-sharing initiatives on behalf of homeless people

Objective 6: Advocating to other levels of government

The City, like all local government, has a limited ability to implement significant change on its own. Advocacy work with other levels of government is important in order to achieve its aims and objectives. HPLS endorses the list of actions under Objective Six. HPLS recommends that any improved police resources being directed to protecting homeless people. The Draft Homelessness Strategy 2007-2012 does acknowledge the importance of having of police (and Council Rangers) trained in the issues affecting homeless people. HPLS that this approach be reflected in other strategies initiated by the City.

The City should also ensure that relevant non-government organisations (NGOs) are included when it comes to developing initiatives aimed at reducing drug and alcohol-related impacts. HPLS and other NGOs share the City's aims and objectives in achieving positive outcomes on behalf of vulnerable client groups.

Recommendation Six

That the City work with NGOs that share the City's aims and objectives in regard to strategies on drugs and alcohol

Objective 7: Reducing drug and alcohol-related accidents and injuries

The reduction of drug and alcohol-related accidents and injuries would obviously be a positive outcome. HPLS supports this measure and would like the City to ensure homeless people receive the benefits of Objective Seven.

Recommendation Seven

That the City ensures that homeless people are taken into account regarding strategies to reduce drug and alcohol-related accidents and injuries

Conclusion

HPLS congratulates the City of Sydney on its proactive approach to the issues of homelessness and drug and alcohol issues in its local government area. HPLS hopes to have further opportunities to work with the City of Sydney on the implementation of these strategies to ensure the rights and needs of homeless people are recognised and protected.