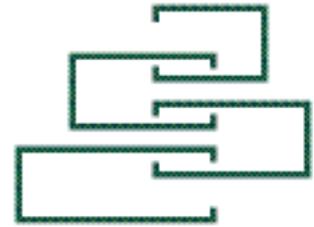


Homeless Persons' Legal Service

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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Housing the homeless a priority?

HPLS Submission to the Joint Guarantee of Service Inquiry

14 July 2008

Chris Hartley and Elisabeth Baraka
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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 (**PIAC**) and the Public Interest Law Clearing House (**PILCH**).¹ 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 nine clinics on a roster basis at welfare agencies in the greater Sydney area.² 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 PILCH members.³ Since the launch of HPLS in May 2004 it has provided advice to over 2000 clients.

JGOS Inquiry

Priority Housing

HPLS has become aware of numerous cases in which long-term homeless people with severe mental health problems have had their priority housing applications rejected on the basis that they can, according to the assessment by the NSW Department of Housing, resolve their housing needs in the private rental market. All of these clients have significant mental illnesses and Centrelink payments are their only form of income.

¹ Further information about the Public Interest Advocacy Centre and the Public Interest Law Clearing House is provided as Appendix A to this document.

² The clinics are hosted by the following welfare agencies: Edward Eagar Lodge (Wesley Mission), Matthew Talbot Hostel (St Vincent de Paul Society), Newtown Mission in Partnership with Newtown Neighbourhood Centre, Normal Andrews House (Uniting Care), Parramatta Mission (Uniting Church), Streetlevel Mission (Salvation Army), The Station, Wayside Chapel (Uniting Church) and Women's and Girls' Emergency Centre.

³ The following firms provide lawyers on a *pro bono* basis to HPLS to provide legal services through the clinics: Allens Arthur Robinson, Baker & McKenzie, Corrs Chambers Westgarth, Deacons, DLA Phillips Fox, Ebsworth and Ebsworth, Gilbert + Tobin, Henry Davis York, Legal Aid NSW and Minter Ellison.

In determining that such individuals can afford private rental, the Department of Housing calculates that an individual receiving Newstart Allowance (around \$260/week including Rent Assistance) could choose to spend (and afford to spend) up to 60% of their total payment (around \$160 per week) on rent. They are then provided with printouts from online rental agencies showing the properties in this price range that the individual should, based on this calculation be able to afford.

Not only is it unrealistic to expect long-term homeless people to resolve their urgent housing need in the private rental, but it is demeaning to provide long-term homeless clients with printouts from online rental agencies of properties that they, according to the Department, should be able to afford. Even if a person who was long-term unemployed was able to spend over 60% of their income on rent, it is highly unlikely, given the current housing affordability crisis and the consequent competition for lower-priced rental properties, that they would be accepted as tenants under private rental.

HPLS believes that someone who is homeless and mentally unwell is not going to be able to obtain or maintain a tenancy through private rental. Even if the person does not have a mental illness, the challenges of living with homelessness means they are less likely to get a favourable decision by a private landlord or real estate agent.

In addition if the Department of Housing's criteria for determining whether someone can afford private rental is applied, it leaves the person with \$100 a week to spend on food, electricity, water, medicine and clothing. With both significant electricity and water price increases approved by the NSW Independent Pricing and Regulatory Tribunal for the coming years, this \$100 will not be enough to provide the person with sufficient funds to purchase food, clothing and medicines necessary for even a basic standard of living. This is an appalling outcome in a country with the wealth of Australia.

Case Studies

One

Client has been homeless long-term from early adulthood and had been imprisoned both in Australia and the United States. Client's priority housing application letter included a support letter from a homeless hostel and a treating doctor report detailing the client's schizophrenia and associated symptoms. The client's only form of income is Centrelink income support payments.

The client had their application for priority housing rejected on the basis that they can resolve their housing need in the private market. The client was provided a printout from Domain of the housing options they should be able to afford.

Two

Client was long-term homeless and had been a ward of the state as a child. The client also suffers from Post Traumatic Stress Disorder, Depression, Anxiety and Chronic Lower Back Pain. These conditions were detailed in the client's priority housing application by a treating doctor's report.

The client had their application for priority housing rejected on the basis that they can resolve their housing need in the private market. The client was provided a printout from Domain of the housing options they should be able to afford including in rooming housing and bed-sits.

Procedure for offering properties

Another example of the NSW Department of Housing's procedures that operate to the detriment of homeless people is the requirement that an applicant for public housing must respond to an offer of accommodation within *two days* of the letter's date of issue. Those experiencing homelessness have obvious difficulties receiving mail. If a letter is received at all, it is highly unlikely that a homeless person will obtain it within two days of the letter's date of issue. While the Department has indicated in discussions with HPLS that a person may still be able to be placed in accommodation if they contact the Department after the two days have elapsed, this is not communicated by the Department to the recipient of the letter and the likelihood of a homeless person feeling confident enough to pursue the offer after the time limit has elapsed is extremely slim.

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 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, law schools, accounting firms, Legal Aid NSW, the Law Society of NSW, the NSW Bar Association and PIAC.

