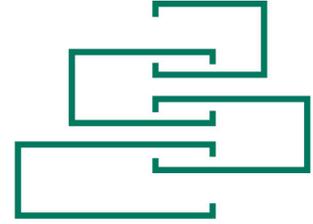


Homeless Persons' Legal Service

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



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QUALITY – ENSURING RIGHTS, RESPECT AND DIGNITY FOR HOMELESS PEOPLE

COMMENTS ON THE OPTIONS PAPER FOR A NATIONAL QUALITY FRAMEWORK TO SUPPORT QUALITY SERVICES FOR PEOPLE EXPERIENCING HOMELESSNESS

27 May 2011

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Introduction

Homeless Persons' Legal Service

In 2004, 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**) NSW.¹ HPLS is largely funded by the NSW Public Purpose Fund with 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 ten clinics on a roster basis at welfare agencies in the greater Sydney area.² These agencies provide direct services, such as food and accommodation, to people in housing crisis. The clinics are co-ordinated by HPLS and staffed by lawyers acting pro bono from PILCH members.³ Since its launch in May 2004, HPLS has provided advice to over 5,000 clients.

PIAC is solely responsible for the content of this submission.

Involvement of homeless people

The Homeless Persons' Legal Service believes that this consultation provides an important opportunity to listen to the views and opinions of people who have experienced homelessness or are at risk of homelessness, regarding the canvassed options for the Homelessness National Quality Framework.

HPLS believes that the active involvement of those who are or have been homeless will lead to the development of more effective public policy in response to issues facing homeless people, as well as assisting in the empowerment of participants. HPLS recognises the fundamental right of people

1 Further information about PIAC and PILCH NSW 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, Norman Andrews House (Uniting Care), Parramatta Mission (Uniting Church), Streetlevel Mission (Salvation Army), The Station, Vincentian House (St Vincent de Paul Society), Wayside Chapel (Uniting Church) and Women's and Girls' Emergency Centre.

3 The following PILCH NSW members provide lawyers on a *pro bono* basis to HPLS to provide legal services through the clinics: Allens Arthur Robinson, Baker & McKenzie, Corrs Chambers Westgarth, Dibbs Barker, HWL Ebsworth, Gilbert + Tobin, Henry Davis York, Legal Aid NSW, Minter Ellison, Norton Rose and Thomsons Lawyers.

to 'take part in the conduct of public affairs', as enshrined in Article 25 of the *International Covenant on Civil and Political Rights* (ICCPR).⁴

To facilitate the involvement of homeless people in service and government decision-making processes, HPLS established HCAC in 2009. HCAC is the first advisory group in New South Wales that is made up entirely of people who are currently or have been homeless.

HPLS has previously held consultations with over 200 homeless and formerly homeless people to inform its submission to the Federal Government's Green Paper on homelessness, *Which Way Home? A new approach to homelessness* (the Homelessness Green Paper).⁵ HPLS also consulted with over 130 people currently experiencing homelessness in order to develop its response to the National Human Rights Consultation.⁶ A copy of the HPLS submission to the National Human Rights Consultation is appended to this submission (Appendix B). Information from those consultations has informed this submission.

In addition, the HPLS established the Homelessness Consumer Advisory Council with the support of existing consumer advisory mechanisms, HCAC Sydney and HCAC Hunter to assist in the development and conduct of the Consumers' Forums on Homelessness (the Consumers' Forums). This involved PIAC organising three Consumers' Forums that provided homeless people with an opportunity to contribute to the organisational planning and decision-making processes of the NSW Government regarding homelessness. These forums were conducted in 2010 in the Coastal Sydney, Greater Western Sydney and Hunter regions. The Consumers' Forums consisted of a diverse range of participants considered appropriate and necessary to ensure the consultations are effective and responsive to the issues identified for input. Information from those forums has also informed this submission.

To ensure the voices of people experiencing homelessness contributed to this consultation, HPLS facilitated a consultation with members of the Homelessness Consumer Advisory Council (HCAC) to consider the material presented in the Options Paper (the HCAC Consultation).

4 *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) ratified by Australia on 13 August 1980 (entered into force for Australia on 13 November 1980, except article 41, which entered into force for Australia on 28 January 1993). The full text of the ICCPR is available at <<http://www2.ohchr.org/english/law/ccpr.htm>>.

5 Commonwealth of Australia, *Which Way Home, A new approach to homelessness* (2008).

6 Chris Hartley, *Our Rights Matter! The Voices of those who are or have been homeless in Sydney* (2009) Public Interest Advocacy Centre <<http://www.piac.asn.au/publication/2009/06/090615-hpls-submission-national-consultation-human-rights-small>> at 23 May 2010.

Executive summary and recommendations

This submission is made by the Homeless Persons' Legal Service in response to the Options Paper prepared by the Homelessness Working Group of the Housing Ministers' Conference released in February 2011 (the Options Paper).

In this submission, HPLS comments primarily on the following issues raised in the Options Paper:

- The essential rights for homeless people which should be included in the National Homelessness Charter;
- The most effective strategies for ensuring that mainstream and allied services adopt the National Homelessness Charter;
- How to ensure complaint mechanisms for clients of homelessness services are effective, accessible and independent from services;
- The essential elements to be included within the National Quality Standards, with recommendations for draft standards for the following areas:
 - Upholding and promoting rights of clients;
 - Client participation;
 - Access and equity;
 - Building partnerships and integrated networks.
- The need for a mandatory, external assessment process for all mainstream and allied services, against the National Quality Standards, to ensure external accountability for the quality of homelessness services (i.e. Option Four);
- The need for an appropriate transitional period which allows services to work towards achieving accreditation, together with the need for training, support and additional resources to enable them to meet assessment requirements.

The HPLS submits that enforceable, rights-based National Quality Standards are necessary to drive continuous improvement in the quality of services delivered to homeless people.

The HPLS makes the following recommendations:

Recommendation 1: *A National Homeless Charter should be developed as part of the National Quality Framework for Homelessness Services, and the following should rights be included in the Homelessness Charter:*

Dignity, respect, non-discrimination

- *The right to respect, dignity and privacy.*
- *The right to make informed choices and determine one's future.*
- *The right to participate in the decision-making process of organisations providing services to homeless people, including the planning, evaluation and development of programs that affect homeless people.*
- *The right to be free from discrimination.*
- *The right to respect for culture.*
- *The right to adequate levels of nutrition and food safety.*
- *The right to fairly based decisions and advocacy services.*
- *The right to give informed consent to share personal information and to withdraw that consent.*
- *The right to a response to homelessness that is neither punitive nor exploitative.*
- *The right to enter into agreements free from any form of undue pressure.*
- *The right to use public spaces for shelter without discrimination.*
- *The right to have all rights upheld by public authorities.*
- *The right to feel safe and secure, and to live free from exploitation, violence and abuse.*

Inclusion

- The right to receive help finding and staying in suitable housing on a long-term basis.
- The right to be considered for secure, stable, short and long-term accommodation based on fair policies.
- The right to receive help in applying for income support and social security, employment and health services, educational opportunities and other support services.
- The right to access facilities and services that meet basic human needs.
- The right to be consulted in the provision, development and use of community spaces.
- The right to receive clear and accurate information as well as help in completing and understanding any application procedures.
- The right to make a complaint or appeal a decision you do not agree with and to receive an answer that makes sense to you.

Recommendation 2: The National Homeless Charter should be expressly included in legislation, with a requirement that all mainstream and allied organisations involved in service delivery to homeless people uphold the rights conferred by the Charter. The legislation should require the Minister to promote compliance with the Charter by all mainstream and allied organisations.

Recommendation 3: The National Homeless Charter should form a key component of the National Quality Standards, which will form part of the National Quality Framework.

Recommendation 4: Compliance with the National Homeless Charter should be included as a core condition in any funding service agreements between FAHCSIA and mainstream/allied organisations contracted to deliver services to people experiencing homelessness or at risk of homelessness.

Recommendation 5: The National Quality Framework should ensure that there is a nationally consistent approach to complaint handling which:

- Provides for a process to make complaints to a body which is external and independent from services; and
- Is accessible to all people experiencing or at risk of homelessness, particularly those in rural, regional and remote areas. Strategies that will facilitate accessibility include:
 - Ensuring that complaint forms are available at all homelessness services across NSW, legal aid offices, community legal centres, other advocacy and support services;
 - Ensuring that the complaints handling organisation can be contacted via email and a 'free call' telephone number, and that complaints can be made through these avenues;
 - Providing facilities to access the complaints body via existing regional offices for other government bodies, including the Department of Fair Trading and Community Justice Centres;
 - Ensuring that clients of homelessness services have appropriate access to advocacy and support services which can assist them in drafting complaints against services and copying necessary supporting documentation.

Recommendation 6: The following standards should be included in the National Quality Standards:

1.1 Upholding and promoting rights

- Clients of homelessness services are treated in accordance with the National Homelessness Charter, and all Commonwealth and State/Territory based human rights and anti-discrimination legislation.
- Privacy and confidentiality are maintained for every client of homelessness services.

1.2 Client Participation

- Clients of homelessness services are able to participate in decisions directly related to their case.
- Clients of homelessness services are able to participate in the operation of the service.

- *Complaints and appeals from clients of homelessness services are addressed promptly, respectfully and fairly without compromising services to the person complaining/appealing.*

1.4 Access and Equity

- *Homelessness services provide fair and equitable access to services and programs, actively identifying and removing barriers for eligible clients from disadvantaged backgrounds.*

2.1 Building Partnerships and integrated networks

- *Homelessness services work to build strong partnerships and integrated networks to better support people experiencing or at risk of homelessness.*

Recommendation 7: *The National Quality Standards should include for each standard details of the assessment criteria to be employed in determining whether the standard has been met.*

Recommendation 8: *The National Quality Framework should include an external assessment process in which all services would be required to participate as a condition of ongoing funding, with assessment being undertaken by an external agency. In addition, all services need to be accredited against the National Quality Standards by 2020 in order to continue to receive funding (Option Four).*

Recommendation 9: *The assessment and accreditation system to be developed as part of the National Quality Framework should include a recognition process which allows agencies that already meet a set of accepted standards in one quality system to claim recognition of those standards, where those standards replicate the standards included within the National Quality Standards.*

Recommendation 10: *Federal, state and territory governments should ensure that mainstream and allied services for people experiencing or at risk of homelessness, have adequate funding, resources, training and support to enable the services to meet the assessment requirements under the National Quality Standards.*

Response to questions in the Options Paper

National Homelessness Charter

What should be in the National Homelessness Charter?

In 2009, HPLS consulted with over 130 people currently experiencing homelessness in order to develop its response to the National Human Rights Consultation. Essential human rights, which were identified by the participants in these consultations, were:

- The right to adequate housing
- The right to social security
- The right to personal safety
- The right to freedom of movement
- The right to equality and non-discrimination.

These and other essential human rights were identified in other consultations undertaken by the HPLS as outlined below.

The right to adequate housing

Participants in the 2008 HPLS Homelessness Green Paper Consultations similarly identified the importance of the right to adequate housing:

'Housing is an opportunity for disadvantaged people to arrange their lives in a better way' (homeless person, Matthew Talbot Consultation for Homelessness Green Paper).

The current lack of affordable and secure housing options available to those experiencing homelessness clearly violates the rights protected under international human rights law.

The right to adequate housing is formulated in Article 25 of the *Universal Declaration of Human Rights* and the binding right is set out in Article 11 of the *International Covenant on Economic, Social and Cultural Rights*. Article 11(1) of the ICESCR to which Australia is a party. It recognises:

the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

The nature of the right to adequate housing has been extensively defined by the UN Committee on Economic, Social and Cultural Rights. The Committee established that the right to adequate housing involves more than just having shelter but that it is the 'right to live somewhere in security, peace and dignity'.⁷ The Committee also established seven indicia of adequacy including security of tenure and affordability.⁸

As a party to the ICESCR, the Australian Government is required to take appropriate steps to ensure the realisation of the right to adequate housing.⁹ These appropriate steps are required by the ICESCR to be 'concrete', 'targeted', 'expeditious' and 'effective' and should include making

7 Office of the High Commissioner for Human Rights, ICESCR General comment 4, The right to Adequate Housing, [7].

8 Ibid, [8].

9 Article 11(1) of the ICESCR requires that 'State Parties will take appropriate steps to ensure the realisation of this right.'

adequate housing a budgetary priority.¹⁰ One of the homeless people consulted by HPLS at Matthew Talbot provided his own indicia of whether housing is adequate, claiming it must allow you to;

- have stability;
- allow you belong to the community;
- have sense of belonging;
- give somewhere to call home;
- give you a chance;
- security of items, security of person.

Australia's failure to take 'expeditious', 'effective' or 'targeted steps' to ensure the realisation of the right to affordable and secure housing has been recognised by the UN Special Rapporteur on Adequate Housing. In 2006, the Special Rapporteur reported that Australia has 'failed to implement its legal obligation to progressively realise the human right to adequate housing ... particularly in view of its responsibilities as a rich and prosperous country'.¹¹

Several participants in the 2010 Consumer Forums identified the difficulties in securing stable, long-term accommodation, and the barriers faced by people experiencing homelessness in accessing private rentals:

I got temporary accommodation for a couple of days then nothing else. There was no follow-up from Housing at all (homeless person, Consumers' Forum, Hunter Region, November 2010).

Two weeks in temporary accommodation is not enough time to sort your shit out and find work (homeless person, Consumers' Forum, Hunter Region, November 2010).

Longer stays in refuges please! (homeless person, Consumers' Forum, Hunter Region, November 2010)

While you are waiting for accommodation to come through, you have to look for private rental places. I ended up being knocked back by 126 private rentals. All of this is just a joke as you know you are not going to get them and takes up time that you could be using to actually help yourself in other ways (homeless person, Consumers' Forum, Hunter Region, November 2010).

I need permanent housing. I am a single mother with a daughter so going for temporary accommodation is not really going to help me. I have recently lost my other daughter because I don't have secure housing, I need permanent housing to gain access to her (homeless person, Consumers' Forum, Hunter Region, November 2010).

It is so hard for someone under the age of 18 to get any private rental. I had no references because I had never lived out of home before (homeless person, Consumers' Forum, Hunter Region, November 2010).

In order to recognise the right to adequate housing in a National Homelessness Charter that fulfills the key purposes as outlined in the Options Paper, the following rights should be included:

- The right to receive help finding and staying in suitable housing on a long-term basis.

10 ICESCR, General Comment 3: The Nature of States Parties' Obligations, [2], [9].

11 United Nations, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kathari, A/HRC/4/18/Add.2, 11 May 2007, at [126], available at <http://daccessdds.un.org/doc/UNDOC/GEN/G07/125/>.

- The right to be considered for secure, stable, short and long-term accommodation based on fair policies.

The right to social security

Participants in the 2008 HPLS Homelessness Green Paper Consultations identified the importance of the right to social security and adequate income support. The difficulty they have surviving on their payments was a central theme in the consultations:

Needs to be more money; people on streets need more money to live off (homeless person, Norman Andrews House Consultation for Homelessness Green Paper).

Most HPLS clients receive a Centrelink payment. However, many cannot find places to live that are affordable on that payment and located near their support networks in Sydney. Many people at the consultations said that they were not necessarily asking for more cash but that vouchers or direct payments for food, transport, accommodation and medical/pharmaceutical bills would be really beneficial.

Even when people are eligible for payments, their right to social security can be thwarted by their inability to negotiate the system required to access it. Some homeless people do not receive the social security to which they are entitled because they are unable to provide the necessary identification documents. Homeless people have many difficulties retaining identification documents and are unable to afford the fees for obtaining new documentation. While appropriate proof of identification standards are necessary to protect against identity fraud, the lack of financial and logistical assistance Centrelink provides to homeless people without any identity documentation results in a breach of Australia's commitment to the right to social security.

The right to social security has been recognised in several international instruments including Article 22 of the *Universal Declaration of Human Rights*, the International Labor Organisation's *Declaration of Philadelphia* and most relevantly in Article 9 of the *International Covenant on Economic, Social and Cultural Rights*, which states, 'the States Parties to the present Covenant recognize the right of everyone to social security, including social insurance'.

Article 9 of the *International Covenant on Economic, Social and Cultural Rights* is the shortest article in the entire covenant and provides little detail on the right to social security. However, some instruction on the nature of the right to social security was provided by the UN Committee on Economic, Social and Cultural Rights. It specified that the right to social security means that social security provided to individuals must be sufficient to 'cover all the risks involved in the loss of means of subsistence beyond a person's control'.¹²

In order to recognise the right to social security in a National Homelessness Charter that fulfills the key purposes as outlined in the Options Paper, the following right should be included: the right to receive help in applying for income support.

12 Committee on Economic, Social and Cultural Rights, General Comment 6: Economic, Social and Cultural Rights, General Comment 6: Economic, Social and Cultural Rights of Older Persons, UN DOC. HRI/GEN/1/REV.5, 43 (2001).

The right to personal safety

Experiences of violence and lack of personal safety are all too common experiences for people who are homeless or at risk of homelessness. A recent study undertaken in Sydney found 48% of the 106 homeless respondents had experienced at least one episode of violent victimisation in the last year,¹³ in comparison with 5% of the housed NSW population, recorded in 2007 by the NSW Crime and Safety Survey.¹⁴

In late 2009, PIAC commissioned Dr Catherine Robinson to conduct a qualitative research project on the experiences of violence among people who are currently rough sleeping. The resulting report was *Rough Living: Surviving violence and homelessness*.¹⁵ The project adopted a 'life-history approach' that interviewed 12 individuals currently sleeping rough in the Sydney region about their experiences of violence both prior to and during their periods of homelessness.

All participants in this research had experienced extensive violence during homelessness. Some, through their engagement in extremely risky activities during homelessness, such as crime (armed robbery, burglary, theft, drug dealing), sex work, gang involvement and extensive drug and alcohol use, had been exposed to multiple kinds of extremely violent physical and sexual victimisation. In being without the privacy and security of safe shelter, others were also greatly exposed to random community violence, which often took the form of harassment and bashings by drunken young adults, and also to symbolic violence, which involved hurtful stigmatisation of participants, by passersby. Women participants described enduring violent intimate relationships in the context of homelessness as well.¹⁶

The study found that rough sleeping brought exposure to the often daily violent and drunken quarrelling of other homeless people but also to the violence and harassment perpetrated by the housed community.

First time it happened to me. I'm sleeping on the bench up at Observatory Hill. Freezing bloody cold night, just got in me sleeping bag, got nice and comfortable, going off to sleep. Next thing it was like my head exploded and I was just getting bashed and kicked, pulled off the bench on the ground and I could not get up because I was in my sleeping bag. I had me nose broken, fractured, teeth kicked out. I couldn't move the next day, I was covered in blood and I couldn't move and I sat there all day (Participant, Rough Living Study).¹⁷

Participants also discussed the volatile nature of some homeless services at which drug and alcohol affected people often congregated. These were sites of risk for participants, and three participants discussed their refusal to use certain services because of the physical bashings they had experienced there.¹⁸ A sentiment was also expressed by one of the participants in the 2011 HCAC Consultation.

13 Larney, S., Conroy, E., Mills, K., Burns, L., and Teesson, M., 2009. 'Factors Associated with Violent Victimization Among Homeless Adults in Sydney, Australia', *Australian and New Zealand Journal of Public Health* 33, 4: 347-351.

14 Australian Bureau of Statistics, 2007. *Crime and Safety: New South Wales*, Cat. No. 4509.1, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4509.1Apr%202008?OpenDocument> (accessed 29 April, 2011).

15 Robinson, Catherine (2010), *Rough Living, Surviving Violence and Homelessness*, UTS Press, Sydney, 2010.

16 Ibid, 15-16.

17 Ibid, 19-20.

18 Ibid, 19.

I've complained about other clients using drugs and being intoxicated on the premises and intimidating others. I was just told that people are not allowed to use drugs or be drunk on the premises (Participant, HCAC Consultation, 2011).

HPLS submits that the right to feel safe and secure in a homeless service and the right to feel safe in public spaces are essential rights that should be included in the National Homelessness Charter, and should be expressed as follows: the right to feel safe and secure, and to live free from exploitation, violence and abuse.

The right to employment and health services, educational opportunities and other support services

Several participants in the 2010 Consumer Forums identified the difficulties in accessing support services, including employment and health services, and educational opportunities:

For the first few years I was homeless I did not access any services because I did not know any (homeless person, Consumers' Forum, Hunter Region, November 2010).

The government needs to make sure there is more information about how to access services when you first become homeless. Maybe I would not have had to struggle much (homeless person, Consumers' Forum, Hunter Region, November 2010).

There was no information out there for me. So I didn't get any assistance (homeless person, Consumers' Forum, Hunter Region, November 2010).

The services that I needed were not offered and because I did not know how the system worked, I did not know what I could ask for or what to expect from the services. I feel that the system has failed me (homeless person, Consumers' Forum, Hunter Region, November 2010).

It was very hard to find out where to go as a young person who was homeless for the first time. I had to stay with friends for a few months before finding out about youth accommodation services (homeless person, Consumers' Forum, Hunter Region, November 2010).

Participants in these forums also expressed the need to be able to access support services in times of particular crisis or stress, or to address particular issues:

On-going counselling is so hard to get if you are homeless. You might get the odd session here and there but nothing that lets you actually address the things you need to (homeless person, Consumers' Forum, Hunter Region, November 2010).

A bit of support with my mental health; they just chuck keys at people with no help (homeless person, Consumers' Forum, Hunter Region, November 2010).

They tried to help me and they even gave me housing. But that all didn't help me because of my personal issues. I really just needed some counselling (homeless person, Consumers' Forum, Hunter Region, November 2010).

There are few services that just actually listen, that know how to respond to things that happened to you when you were a kid (homeless person, Consumers' Forum, Hunter Region, November 2010).

In order to recognise the right to access appropriate support services in a National Homelessness Charter that fulfills the key purposes as outlined in the Options Paper, the following rights should

be included: the right to receive help in applying for employment and health services, educational opportunities and other support services.

The right to complain

Several participants in the 2011 Homelessness Consumer Advisory Council (HCAC) Consultation expressed strong opinions about the need to have an effective system of making complaints about services. Participants also expressed a lack of confidence and distrust about complaint systems within services that they had previously accessed:

It's always a threat to the complainant (Participant, HCAC Consultation, 2011).

You're always fearful because of the possibility of roll on effects. Often workers will phone ahead and warn people that you have complained (Participant, HCAC, 2011).

I complained once and it went nowhere (Participant, HCAC, 2011).

I've never complained. I thought nothing would be done – that it would go nowhere (Participant, HCAC, 2011).

Everyone warned me 'don't complain, you'll get hassled out of the place and barred' (Participant, HCAC Consultation, 2011).

Several participants in the 2010 Consumer Forums also expressed frustration about making complaints against services:

You can't make complaints against services for fear you will be removed (homeless person, Consumers' Forum, Sydney, November 2010).

With some services you need to think about whether you want to stay before you complain about anything. You need to keep quiet and just accept what you get (homeless person, Consumers' Forum, Sydney, November 2010).

HPLS submits that the following right should be included in the National Homelessness Charter: the right to make a complaint or appeal a decision you do not agree with and to receive an answer that makes sense to you.

The right to respect, dignity and privacy

Participants in the HCAC consultation and also in the 2010 Consumer Forums spoke about being treated disrespectfully by services, being humiliated and having their privacy and personal belongings interfered with. For example:

I had things stolen. It was an antique book, very important to me. I had other stolen personal things. They had strong sentimental value. A staff member was packing up my personal things. He had previously commented on my book and said it was hard to get. I specifically told them to be careful with the book when they were packing it, because it meant a lot to me (Participant, HCAC Consultation, 2011).

HPLS submits that the following rights should be included in the National Homelessness Charter:

- The right to respect, dignity and privacy.
- The right to give informed consent to share personal information and to withdraw that consent.

- The right to make informed choices and determine one's future.
- The right to enter into agreements free from any form of undue pressure.
- The right to be free from discrimination.
- The right to respect for culture.
- The right to adequate levels of nutrition and food safety.
- The right to a response to homelessness that is neither punitive nor exploitative.
- The right to use public spaces for shelter without discrimination.
- The right to be consulted in the provision, development and use of community spaces.

The right to participate in the operations of the service

Participants in the HCAC Consultation referred to the importance of being able to participate in the in the operation of the service:

Not all services have a client representative on the board. They should. It means that service users have a say. The representative needs to talk to people at the service. It should be voted on by people who use the service (Participant, HCAC Consultation, 2011).

A client who uses the service should be on the board. This should be a minimum requirement. It should be in their constitution and in their funding agreement (Participant, HCAC Consultation, 2011).

The representative should be chosen by the clients on a day when there's a lot of people there – not on pension day when services know that people are out (Participant, HCAC Consultation, 2011).

By having a client representative it's still a step forward (Participant, HCAC Consultation, 2011).

Accordingly, HPLS submits that the following right should be included in the National Homelessness Charter: the right to participate in the decision-making process of organisations providing services to homeless people, including the planning, evaluation and development of programs that affect homeless people.

The right to be informed of processes, procedures and available support and advocacy services

Several participants in the 2010 Consumer Forums expressed frustration about not being able to access processes, procedures and services due to lack of available information and an ignorance of how the system works:

For the first few years I was homeless I did not access any services because I did not know any (homeless person, Consumers' Forum, Hunter Region, November 2010).

The government needs to make sure there is more information about how to access services when you first become homeless. Maybe I would not have had to struggle much (homeless person, Consumers' Forum, Hunter Region, November 2010).

There was no information out there for me. So I didn't get any assistance (homeless person, Consumers' Forum, Hunter Region, November 2010).

The services that I needed were not offered and because I did not know how the system worked, I did not know what I could ask for or what to expect from the services. I feel that the system has failed me (homeless person, Consumers' Forum, Hunter Region, November 2010).

It was very hard to find out where to go as a young person who was homeless for the first time. I had to stay with friends for a few months before finding out about youth accommodation services (homeless person, Consumers' Forum, Hunter Region, November 2010).

Why don't somewhere like Housing or Centrelink make a guide that tells you all the services that are out there? (homeless person, Consumers' Forum, Western Sydney, October 2010).

We need more information about the kinds of services that are out there (homeless person, Consumers' Forum, Western Sydney, October 2010).

When you first end up on the street you have no ideas what services are out there. It took me over 6 months before I realised that I could get temporary accommodation! If I did not have someone who took me under their wing, I would have been stuffed! (homeless person, Consumers' Forum, Western Sydney, October 2010).

HPLS submits that the following rights should also be included in the National Homelessness Charter:

- The right to access facilities and services that meet basic human needs.
- The right to receive clear and accurate information as well as help in completing and understanding any application procedures.
- The right to fairly based decisions and advocacy services.
- The right to have all rights upheld by public authorities.

1. Recommendation

A National Homeless Charter should be developed as part of the National Quality Framework for Homelessness Services, and the following should rights be included in the Homelessness Charter:

Dignity, respect, non-discrimination:

- *The right to respect, dignity and privacy.*
- *The right to make informed choices and determine one's future.*
- *The right to participate in the decision-making process of organisations providing services to homeless people, including the planning, evaluation and development of programs that affect homeless people.*
- *The right to be free from discrimination.*
- *The right to respect for culture.*
- *The right to adequate levels of nutrition and food safety.*
- *The right to fairly based decisions and advocacy services.*
- *The right to give informed consent to share personal information and to withdraw that consent.*
- *The right to a response to homelessness that is neither punitive nor exploitative.*
- *The right to enter into agreements free from any form of undue pressure.*
- *The right to use public spaces for shelter without discrimination.*
- *The right to have all rights upheld by public authorities.*
- *The right to feel safe and secure, and to live free from exploitation, violence and abuse.*

Inclusion

- *The right to receive help finding and staying in suitable housing on a long-term basis.*
- *The right to be considered for secure, stable, short and long-term accommodation based on fair policies.*

- *The right to receive help in applying for income support and social security, employment and health services, educational opportunities and other support services.*
- *The right to access facilities and services that meet basic human needs.*
- *The right to be consulted in the provision, development and use of community spaces.*
- *The right to receive clear and accurate information as well as help in completing and understanding any application procedures.*
- *The right to make a complaint or appeal a decision you do not agree with and to receive an answer that makes sense to you.*

How can mainstream and allied organisations be encouraged to adopt the Charter?

The options Paper states that mainstream and allied services will be encouraged to adopt the Homelessness Charter, but the Charter itself will not be legally enforceable. HPLS is concerned that without some form of legal enforceability, the rights contained in the Charter will be of very limited value and have minimal impact on the services and operations of mainstream and allied organisations involved in service delivery to people experiencing or at risk of homelessness.

HPLS submits that the National Homelessness Charter should be enshrined in legislation, and form an essential ingredient in the National Quality Standards that will form part of the National Quality Framework. An example of how this may work is the NSW Standards for Statutory Out-of-Home-Care services for children and young people. Under the *Children and Young Persons (Care and Protection) Act 1998* (NSW), the NSW Charter of Rights for Children and Young People in Out-of-Home Care receives express legislative recognition. In addition, the legislation requires:

- The Minister to promote compliance with the Charter of Rights by all designated agencies and authorised carers; and
- Each designated agency and each authorised carer to uphold the rights conferred by the Charter of Rights.¹⁹

In addition, compliance with the Charter of Rights for Children and Young People in Out-of-Home Care forms a core ingredient in the NSW Standards for Statutory Out-of-Home Care, which underpins the Out-of-Home Care Accreditation and Quality Improvement Program.

HPLS submits that a similar regime would be the most efficient and effective way of encouraging mainstream and allied organisations to adopt the National Homelessness Charter. Accordingly, HPLS submits that the National Homelessness Charter should form a key component of the National Quality Standards that will form part of the National Quality Framework. This will ensure that organisations will be required to report on their compliance with the Charter, and will be accountable for ensuring that:

- The organisation's written documents demonstrate a clear commitment to the rights included in the Charter;
- All staff have access to copies of the Charter and receive information and training regarding their obligations under the Charter;
- Clients are consistently informed of their rights under the Charter; and
- The organisation monitors its compliance with the Charter.

In addition, HPLS submits that compliance with the National Homelessness Charter should be included as an essential condition in all funding and service agreements between FAHCSIA and mainstream/allied organisations.

¹⁹ *Children and Young Persons (Care and Protection) Act 1998* (NSW) s 162.

2. Recommendation

The National Homeless Charter should be expressly included in legislation, with a requirement that all mainstream and allied organisations involved in service delivery to homeless people uphold the rights conferred by the Charter. The legislation should require the Minister to promote compliance with the Charter by all mainstream and allied organisations.

3. Recommendation

The National Homeless Charter should form a key component of the National Quality Standards, which will form part of the National Quality Framework.

4. Recommendation

Compliance with the National Homeless Charter should be included as a core condition in any funding service agreements between FAHCSIA and mainstream/allied organisations contracted to deliver services to people experiencing homelessness or at risk of homelessness.

A nationally consistent approach to client complaint handling

How do we ensure complaints mechanisms are accessible to clients regardless of their location and circumstances?

Participants in the 2011 HPLS HCAC Consultation expressed strong views about the need for an independent, accessible complaints handling body that can investigate concerns raised by clients of homelessness services about the services they have accessed:

We need an independent body. It should be set up from scratch, but is involved with other groups out there like YAPA and SAAP (Participant, HCAC Consultation, 2011).

We need a group that only deals with complaints (Participant, HCAC Consultation, 2011).

What about a peak body that deals with complaints (Participant, HCAC Consultation, 2011).

Should have an independent person who receives the complaint and then goes and talks to the client representative. This would be part of the client rep's role – to be a contact person to hear about the complaint (Participant, HCAC Consultation, 2011).

Several participants were also quite critical of the effectiveness of the current complaint system operating in NSW, where the NSW Ombudsman can receive complaints about most community service providers in NSW:

*Don't complain to the f**kin' ombudsman. He's as much use as an ashtray on a motorbike (Participant, HCAC Consultation, 2011).*

The Ombudsman is often not willing to take on legitimate complaints (Participant, HCAC Consultation, 2011).

The Ombudsman often do not take complaints seriously (Participant, HCAC Consultation, 2011).

The Ombudsman is not answerable to anybody (Participant, HCAC Consultation, 2011).

Participants indicated that a key ingredient in accessibility of a complaints system is awareness and confidence in the effectiveness of the complaints system itself:

People need to have faith that their complaints will be followed through (Participant, HCAC Consultation, 2011).

There needs to be promotion of the whole complaints system ... and promotion that it will make a difference.... Promotion about the process – how the complaint will be addressed, how long it will take, etc ... (Participant, HCAC Consultation, 2011).

You need to build the trust in the homeless community to get the complaint system working. You can put all the mechanics in place but if people don't have trust, they won't complain (Participant, HCAC Consultation, 2011).

Fear is what stops people from making complaints (Participant, HCAC Consultation, 2011).

Participants also made several useful suggestions as to how an independent complaints handling body could be accessible across NSW:

A complaint body has to deal with issues across the state. It needs a 1800 number for verbal complaints. Written complaint forms should be provided by mail, or be able to be downloaded. They should also be available from local service providers (Participant, HCAC Consultation, 2011).

Each region should have a homeless ombudsman office. These offices could be housed in Department of Fair Trading or Community Justice Centres (Participant, HCAC Consultation, 2011).

Services like legal aid, legal centres youth workers, LawAccess can take the complaints and help with filling out the complaints. The complaints can then be sent to the NSW homeless ombudsman, who will then make a decision on how to approach the service (Participant, HCAC Consultation, 2011).

Participants also indicated that often they faced difficulties in obtaining the right form to fill complete in order to lodge a complaint, and needed help in making a written complaint. Providing photocopies of supporting documents was also identified as a barrier:

Someone helped me write the complaint. If I didn't get that help I wouldn't have complained. Having to put a complaint in writing can be a barrier (Participant, HCAC Consultation, 2011).

Every place should have a complaint form. It should be in every service provider (Participant, HCAC Consultation, 2011).

How do you photocopy heaps of documents (i.e. supporting docs)? You have to rely on personal networks (Participant, HCAC Consultation, 2011).

Participants also indicated the need for the complaints handling body to handle complaints expeditiously, and to keep the complainant informed of the process:

The homeless ombudsman should approach the service within one week of receiving the complaint. Complaints should be resolved within one month. There is a risk of it takes too long as people will disengage. There must be regular feedback to the person who makes the complaint about how it is going (Participant, HCAC Consultation, 2011).

Most serious complaints should be dealt with most urgently (Participant, HCAC Consultation, 2011).

The ombudsman must liaise with the client regularly to let them know what's happening. They need to find out the best way to contact person. This could be included on the complaint form (Participant, HCAC Consultation, 2011).

Participants were also clear that, where complaints have been investigated and confirmed, serious consequences should flow to the service concerned:

The Homeless ombudsman should report problem services to the funding body in an annual report (Participant, HCAC Consultation, 2011).

Where the ombudsman identifies concerns that arise from funding issues, these should be reported to the funders (Participant, HCAC Consultation, 2011).

If a bad service closes, that's a good thing. It sets a precedent for other services not to follow suit. There's a lot of bad service out there (Participant, HCAC Consultation, 2011).

Based on the consultations with Homelessness Consumer Advisory Council, the HPLS submits that the development of the NQF provides an opportunity to review the processes available within NSW in relation to making complaints about homelessness services. In particular, HPLS submits that the nationally consistent approach to client complaint handling should ensure that external independent complaint mechanisms are established in every state and territory, with comprehensive promotion to ensure extensive awareness amongst people experiencing or at risk of homelessness. In addition, HPLS submits that the approach should ensure that state/territory complaint handling bodies are adequately accessible in all areas, including rural and regional areas, and have accessible processes which enable people making complaints to lodge their concerns either verbally (whether in person or by telephone) or in writing (including email). HPLS submits that to assist them in making complaints, people experiencing or at risk of homelessness need to have access to support and advocacy services which can assist in drafting and lodging complaints, and ensuring that there are copies of any necessary supporting documentation.

5. Recommendation

The National Quality Framework should ensure that there is a nationally consistent approach to complaint handling which:

- *Provides for a process to make complaints to a body which is external and independent from services; and*
- *Is accessible to all people experiencing or at risk of homelessness, particularly those in rural, regional and remote areas. Strategies that will facilitate accessibility include:*
 - *Ensuring that complaint forms are available at all homelessness services across NSW, legal aid offices, community legal centres, other advocacy and support services;*
 - *Ensuring that the complaints handling organisation can be contacted via email and a 'free call' telephone number, and that complaints can be made through these avenues;*
 - *Providing facilities to access the complaints body via existing regional offices for other government bodies, including the Department of Fair Trading and Community Justice Centres;*
 - *Ensuring that clients of homelessness services have appropriate access to advocacy and support services which can assist them in drafting complaints against services and copying necessary supporting documentation.*

National Quality Standards

Do the proposed categories for standards cover all the areas they need to? If not what else needs to be included?

The HPLS submits that that proposed categories for National Quality Standards (NQS) cover all the essential areas regarding the operations, policies and procedures of mainstream and allied services involved in service delivery to people experiencing or at risk of homelessness. However, the effectiveness of the Standards in promoting best practice and a human rights-focused practice among mainstream and allied services will be determined by the actual content of the standards and the assessment criteria to be employed in determining whether the standards have been met.

The HPLS submits that the proposed NQS must emphasise the requirement for services to ensure that human rights of clients are protected, respected and promoted. The standards should require services to adhere to the requirements of the National Homelessness Charter, and all State/Territory and national anti-discrimination and human rights legislation. The HPLS submits that the NQS should indicate the required standards for upholding and promoting rights, and specify the assessment criteria appropriate for each standard.

The HPLS submits that the Victorian Homelessness Assistance Service Standards (HASS) provide a strong model on which to base the development of the NQS. The HASS were developed through extensive consultations with service providers, consumers and sector experts in 2005, and provide a detailed framework as to the rights of service users and obligations of service providers. The HASS provide details of the essential assessment criteria by which compliance with the standards are to be assessed. The HPLS submits that when compared with the quality systems in operation in other states and territories, as outlined in Appendix B of the Options Paper, the Victorian HASS provides the most comprehensive human rights-based framework, with a strong emphasis on client participation, access and equity, and integrated service delivery.

Using the National Homelessness Standards Key Organisational Areas identified in the Options Paper²⁰, and the Victorian HASS framework²¹, the HPLS has prepared a proposed draft of the appropriate standards and assessment criteria for the categories that participants in various HPLS consultations have indicated are of most concern. These are:

1. Your Clients
 - 1.1 Upholding and promoting rights
 - 1.2 Client participation
 - 1.4 Access and equity
2. Your Relationships
 - 2.1 Building partnerships and integrated networks

1. Your clients

1.1 Upholding and promoting rights

20 Department of Families, Housing, Community Services and Indigenous Affairs (FAHCSIA) (2010), *A National Quality Framework to support quality services for people experiencing homelessness – Options Paper*, 12.

21 Victorian Housing Assistance Service Standards - see <<http://www.housing.vic.gov.au/homelessness-and-family-violence/homelessness-for-service-providers/accreditation>> (last accessed 5 May, 2011).

Standard: Clients of homelessness services are treated in accordance with the National Homelessness Charter, and all Commonwealth and State/Territory based human rights and anti-discrimination legislation.

Assessment Criteria:

- The organisation's written documents demonstrate a clear commitment to the rights included in the National Homelessness Charter.
- All staff have access to copies of the National Homelessness Charter.
- All staff receives information and training regarding their obligations under all Commonwealth and State/Territory based human rights and anti-discrimination legislation.
- All staff upholds the rights of service users.
- Clients of homelessness services are consistently informed of their rights under the National Homelessness Charter and the information is presented in an appropriate and accessible way.
- There is information available to clients of homelessness services about organisations or individuals able to advocate on their behalf.
- The organisation monitors its compliance with the National Homelessness Charter, and includes clients in regular reviews.

Standard: Privacy and confidentiality are maintained for every client of homelessness services.

Assessment Criteria:

- The organisation has written documents that outline how it will uphold people's privacy and confidentiality.
- The organisation has a privacy policy and relevant Acts available for people accessing services.
- The organisation provides people with written information advising them on how they can access their files or other information the organisation holds about them.
- Personal information about clients is maintained and used in a secure and confidential manner.
- When disclosing information about a person that could identify them, the organisation does it with the consent of that person.
- Where people cannot give consent to information being shared, the organisation considers how it can best protect privacy and confidentiality.
- The organisation respects the privacy of the personal living space and belongings of people to whom it provides accommodation.
- Identifying information about clients is protected from release.
- Staff upholds clients' right to confidentiality and privacy.
- The organisation regularly reviews staff and organisational practices to ensure consumer privacy is maintained.

1.2 Client participation

Standard: Clients of homelessness services are able to participate in decisions directly related to their case.

Assessment Criteria:

- Clients are given information about how and when decisions relating to them are made.
- The views and opinions of clients are sought prior to decisions being made and are recorded on file.

- Clients are given the choice as to their level of participation in decision-making.
- To the extent possible, clients' preferences are reflected in the decisions made.

Standard: Clients of homelessness services are able to participate in the operation of the service.

Assessment Criteria:

- The organisation's written documents reflect a strong commitment to enabling consumer participation.
- The organisation regularly seeks ongoing feedback from consumers and consults with them whenever it is considering major changes to service delivery.
- People are informed about how they can contribute to and participate in the organisation's decision making.
- The organisation conducts periodic reviews to identify and address barriers that may limit consumer participation in the organisation.
- The organisation monitors the level of consumer participation and evaluates how consumer feedback is used in decision making and planning activities.

Comments from homeless people:

Several participants in the 2011 HCAC Consultation strongly expressed opinions as to the importance of clients of homeless services being able to participate in the operation of the service:

Not all services have a client representative on the board. They should. It means that service users have a say. The representative needs to talk to people at the service. It should be voted on by people who use the service (Participant, HCAC Consultation, 2011).

A client who uses the service should be on the board. This should be a minimum requirement. It should be in their constitution and in their funding agreement (Participant, HCAC Consultation, 2011).

The representative should be chosen by the clients on a day when there's a lot of people there – not on pension day when services know that people are out (Participant, HCAC Consultation, 2011).

By having a client representative it's still a step forward (Participant, HCAC Consultation, 2011).

Standard: Complaints and appeals from clients of homelessness services are addressed promptly, respectfully and fairly without compromising services to the person complaining or appealing.

Assessment Criteria:

- The organisation has a documented process that makes it easy for clients to make complaints and raise concerns, and ensures people are dealt with promptly, respectfully and fairly.
- The organisation provides clients with clearly written information about how to raise issues, make a complaint or appeal against a decision.
- The organisation provides clients with adequate information about advocacy and support services that can assist them if they want to raise issues or make a complaint.
- Clients are kept informed of the process and outcomes of concerns raised and complaints made.

- Staff members understand the complaints policies and procedures, respond to complaints openly and respectfully, and know how to address complaints to the right person.
- The organisation maintains records of complaints made, concerns raised, responses to complaints, and time frames within which responses occur.
- The organisation regularly reviews complaints made and concerns raised, with a view to improving service delivery.
- The organisation regularly monitors and improves the effectiveness of the complaints and appeals system.

Comments from homeless people

As indicated above, several participants in the 2011 HCAC Consultation and the 2010 Consumer Forums expressed strong opinions about the need to have an effective system of making complaints about services, and a lack of confidence and distrust about complaint systems within services that they had previously accessed (see comments in p. 13 above). Participants in the 2011 HCAC Consultation also gave suggestions regarding the characteristics of an effective internal complaints system for a homeless service:

If the complaint is not followed up within a particular time, it should be referred to an external complaint body (Participant, HCAC Consultation, 2011).

Need to collect stats on internal complaints, and these should be reported to the funding bodies (Participant, HCAC Consultation, 2011).

People don't use the suggestion box. People need to have faith that their complaints will be followed through (Participant, HCAC Consultation, 2011).

There needs to be promotion of the whole complaints system ... and promotion that it will make a difference.... Promotion about the process – how the complaint will be addressed, how long it will take, etc ... (Participant, HCAC Consultation, 2011).

You need to build the trust in the homeless community to get the complaint system working. You can put all the mechanics in place but if people don't have trust, they won't complain. (Participant, HCAC Consultation, 2011).

The board only meets every 3 months. You need complaints to be dealt with more quickly than that. Complaints should be dealt with at residents meetings. Concerns should be raised there and you should get responses and feedback at the next meeting. Clients are often frustrated that they don't get feedback. They don't get told what's going on (Participant, HCAC Consultation, 2011).

1.4 Access and equity

Standard: Homelessness services provide fair and equitable access to services and programs, actively identifying and removing barriers for eligible clients from disadvantaged backgrounds.

Assessment Criteria:

- Clients are informed of their rights to make complaints and raise complaints in relation to access to services and programs.
- The service has a comprehensive equal opportunity and equitable access policy that is consistent with Commonwealth and State Anti-discrimination and human rights legislation.

- The service has a process of periodically reviewing its practices, procedures and programs to ensure that they are compliant with the organisations equitable access policy and with Commonwealth and State Anti-discrimination and human rights legislation.
- All staff receive information and training regarding equal opportunity and equitable access policies and procedures, as well as training and information regarding their obligations under all Commonwealth and State/Territory based human rights and anti-discrimination legislation.

2. Your Relationships

2.1 Building partnerships and integrated networks

Standard: Homelessness services work to build strong partnerships and integrated networks to better support people experiencing or at risk of homelessness.

Assessment Criteria:

- The organisation's written documentation reflects a commitment to building strong links and partnerships with other relevant organisations.
- The organisation collaborates with other agencies to build partnerships that allow for improved services.
- The organisation works to build a more integrated service system through partnerships with other agencies and through strategic networks.
- The organisation monitors and reviews the scope and effectiveness of organisational collaboration with other providers, groups or networks.

Comments from homeless people

Several participants in the 2010 HPLS Consumer Forums have expressed the need for improved services, services to be better integrated, and for more continuity in support services.

There needs to be continuity between services. You should also be placed in one, long-term accommodation centre until stable housing is secured (homeless person, Consumers' Forum, Sydney, November 2010).

You should not be moved from service to service every three months. You start to build up a relationship with a worker and then that gets taken away (homeless person, Consumers' Forum, Sydney, November 2010).

They keep you for 3 months then they dump you! (homeless person, Consumers' Forum, Sydney, November 2010).

I would need continuing counselling and budget assistance from my caseworker (homeless person, Consumers' Forum, Sydney, November 2010).

[I need] on-going support, learning how to cook, pay bills and to look after my house (homeless person, Consumers' Forum, Sydney, November 2010).

6. Recommendation

The following standards should be included in the National Quality Standards:

1.1 Upholding and promoting rights

- *Clients of homelessness services are treated in accordance with the National Homelessness Charter, and all Commonwealth and State/Territory based human rights and anti-discrimination legislation.*
- *Privacy and confidentiality are maintained for every client of homelessness services.*

1.2 Client Participation

- *Clients of homelessness services are able to participate in decisions directly related to their case.*
- *Clients of homelessness services are able to participate in the operation of the service.*
- *Complaints and appeals from clients of homelessness services are addressed promptly, respectfully and fairly without compromising services to the person complaining/appealing.*

1.4 Access and Equity

- *Homelessness services provide fair and equitable access to services and programs, actively identifying and removing barriers for eligible clients from disadvantaged backgrounds.*

2.1 Building Partnerships and integrated networks

- *Homelessness services work to build strong partnerships and integrated networks to better support people experiencing or at risk of homelessness.*

7. Recommendation

The National Quality Standards should include for each standard details of the assessment criteria to be employed in determining whether the standard has been met.

Options for the National Quality Framework

Which of the four options best achieves the vision and objectives of the NQF?

The HPLS submits that in order to achieve the vision and objectives of the NQF, there is a need for a mandatory external assessment process for all mainstream and allied services against the National Quality Standards. The HPLS submits that a scheme involving a requirement for services to undertake self-assessment (Option 2) will not provide adequate accountability for service providers. The HPLS submits that Option One (States/territories having the option to choose whether and how to implement assessment processes against the NQS) will not achieve the vision of the NQF, as it cannot guarantee national consistency in ensuring service quality.

In its submission to the first stage consultations, HPLS expressed the view that an accreditation process based on a recognised national quality framework is essential to ensure the accountability of service providers. Aspirational standards without enforceability have already been shown to be an unsuccessful approach in the homelessness sector through the operation of the *Supported Accommodation Assistance Act 1994* (Cth) (SAA Act). While the preamble of the SAA Act recognises the need for services to homeless people to be delivered in ways that are compatible with international human rights, it provides no effective accountability mechanism for when these rights were undermined by the manner of service delivery.²² HPLS fears that without the accountability that linking the national quality framework to service accreditation provides, the failure of the SAA Act in terms of providing adequate service standards will be replicated.

On this basis, HPLS submits that Option Four best achieves the vision and objectives of the NQF.

²² *Supported Accommodation Assistance Act 1994* (Cth) s 5.

Participants in the 2011 HPLS HCAC Consultation indicated a clear preference for some external accountability mechanisms overseeing the operations of homelessness services, particularly in relation to how services deal with complaints from clients:

Services should collect stats on internal complaints, and these should be reported to the funding bodies (Participant, HCAC Consultation, 2011).

Accountability for complaints should be part of the funding (Participant, HCAC Consultation, 2011).

There needs to be accountability of board management, for things like whether there is a problem, and how long it takes to address the problem (Participant, HCAC Consultation, 2011).

HPLS has previously submitted that, if the national quality framework is to be linked to accreditation, specialist homelessness services must receive appropriate funding to enable them to meet these standards. It is also essential that immediately after the implementation of the NQF, services not meeting these standards be provided with resources, assistance and opportunity to reform their practices.

HPLS repeats its earlier submission to the Stage One consultations that it is aware that many specialist homelessness services are required to undergo more than one, and sometimes as many as four, different accreditation reviews in one year to meet the individual requirements of different funding bodies. If accreditation were linked to a NQF, then it would make sense that a recognition process be developed whereby agencies that already meet a set of accepted standards in one quality system, be allowed to claim recognition under the National Quality Standards, where the standards are replicated under the NQS. This will mean that agencies will not be required to duplicate assessments for identical standards under different accreditation systems. This would allow specialist homelessness services to focus resources on the clients and not be distracted by the administrative burden of complying with numerous and different funding body requirements.

8. Recommendation

The National Quality Framework should include an external assessment process in which all services would be required to participate as a condition of ongoing funding, with assessment being undertaken by an external agency. In addition, all services need to be accredited against the National Quality Standards by 2020 in order to continue to receive funding (Option Four).

9. Recommendation

The assessment and accreditation system to be developed as part of the National Quality Framework should include a recognition process which allows agencies that already meet a set of accepted standards in one quality system to claim recognition of those standards, where those standards replicate the standards included within the National Quality Standards.

Are the transition timelines for each option realistic and achievable?

The HPLS recognises that not all allied and mainstream services would be able to achieve accreditation immediately. Many agencies would need resourcing, training and support in order to achieve satisfactory assessment of the National Quality Standards.

To enable this to occur, HPLS recommends the adoption of a staged implementation process for the National Quality Standards. This would involve the development and promotion of service

standards and best practice models. Only after a reasonable period of adjustment would these standards become linked to accreditation. Such an approach is consistent with the model proposed by the Standing Committee Inquiry into homeless legislation.²³

In addition, it is essential that services are adequately resourced and provided with appropriate training and support to enable them to be placed in a position of being able to achieve accreditation by the final implementation date, which under Option Four, will be 2020. Without such resourcing, training and support there is a risk that some services will not be able to achieve accreditation, resulting in a loss of available services to people experiencing or at risk of homelessness. Particular attention will need to be paid to smaller services in rural and regional areas, as a loss of those services may result in no services being available in those regions.

10. Recommendation

Federal, state and territory governments should ensure that mainstream and allied services for people experiencing or at risk of homelessness, have adequate funding, resources, training and support to enable the services to meet the assessment requirements under the National Quality Standards.

Conclusion

The HPLS welcomes the opportunity to provide specific input into the development of the core building blocks and the fundamental elements of the National Quality Framework, namely:

1. The National Homelessness Charter;
2. A nationally consistent approach to dealing with client complaints, including external complaints mechanisms; and
3. The National Quality Standards.

The HPLS submits that the NQF provides an opportunity to promote and protect the rights of those experiencing homelessness and establish models for best practice for service delivery. In particular, the NQF can facilitate the development of strategies to ensure that service adopt a human rights focus in their operations and service delivery, including a commitment to ensure effective and meaningful participation of consumers in the operation of the service.

The HPLS submits that the success of the NQF will ultimately be based on its relevance to the needs of homeless people, with a recognition that clear, unambiguous and enforceable National Quality Standards are necessary to drive continuous improvement in the quality of services delivered to homeless people.

23 Commonwealth of Australia, House of Representatives Standing Committee on Family, Community Housing and Youth, *Housing the Homeless*, Report on the inquiry into homelessness legislation (2009), 95.

Appendix A

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only, broadly-based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC receives funding from Industry & Investment NSW for its work on energy and water, and from Allens Arthur Robinson for the Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

The Public Interest Law Clearing House

The Public Interest Law Clearing House (PILCH) NSW 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:

- to identify matters of public interest that warrant legal assistance *pro bono publico*;
- to identify the legal needs of non-profit organisations;
- 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;
- to utilise the diverse skills and resources of lawyers in a broad range of public interest matters;
- to expand the participation of private practitioners in the law reform process;
- to seek the integration of *pro bono* work with legal practice;

- to encourage co-operation between private practitioners and public interest lawyers: and
- to establish/coordinate public interest projects which seek systemic reform.

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, corporate law departments, individual barristers, barristers' chambers, law schools, accounting firms, Legal Aid NSW, the Law Society of NSW, the NSW Bar Association, and PIAC.