

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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FIXING A 'BLEAK HOUSE'

SUBMISSION IN RESPONSE TO THE EXPOSURE DRAFT OF THE *BOARDING HOUSES BILL 2012*

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Introduction

Homeless Persons' Legal Service

The Homeless Persons' Legal Service (HPLS) is a joint initiative of the Public Interest Advocacy Centre (PIAC) and the Public Interest Law Clearing House (PILCH) NSW. 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. 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.

Since 2004, HPLS has provided free legal advice and representation to over 5,000 people who are homeless or at risk of homelessness. During 2010-2011, HPLS helped 738 clients.¹

Involvement of homeless people

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 also recognises the fundamental right of people to 'take part in the conduct of public affairs', as enshrined in Article 25 of the *International Covenant on Civil and Political Rights (ICCPR)*.²

HPLS seeks the views of homeless people via its homeless consumer advisory committee. StreetCare. StreetCare is made up of nine people who have recent experience of homelessness. The members reflect the diversity of homelessness in New South Wales, and include men, women, transgender people, young people, and representatives from inner Sydney, outer suburbs and rural and regional areas. StreetCare actively engage with other people who are homeless or at risk of homelessness, to facilitate their input into public policy and law reform initiatives.

Since 2009, members of StreetCare have provided comments to HPLS regarding the need for boarding house reform, based on their own experiences, and the consultations they have undertaken with other homeless people.

Homelessness, the right to adequate housing and boarding house reform

HPLS welcomes the opportunity to comment on the Exposure Draft of the *Boarding Houses Bill 2012*.

According to the standard definition of homelessness, people who are homeless fall into three separate categories:

- Primary Homeless: people without conventional accommodation, for example, those living on the street, sleeping in parks, squatting in derelict buildings, or using cars or railway carriages for temporary shelter;

¹ Further information about PIAC, PILCH NSW and HPLS is provided at Appendix A.

² *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>>.

- Secondary Homeless: people who move frequently from one form of temporary accommodation to another, for example, people using emergency accommodation shelters;
- Tertiary Homeless: people who live in boarding houses on a medium- to long-term basis.³

Accordingly, people who reside in boarding houses may be categorised as either secondary homeless or tertiary homeless. Licensed and unlicensed boarding houses are an important accommodation option for many HPLS clients and members of StreetCare.

The poor conditions and human rights violations in licensed boarding houses in NSW have previously been identified by the NSW Ombudsman, who has highlighted the need for better regulation and monitoring of licensed and unlicensed boarding houses in NSW.⁴ In May 2012, the NSW State Coroner described conditions in a licensed Marrickville boarding house as 'Dickensian'.⁵ Following years of inactivity and policy failure in respect of boarding house regulation, HPLS welcomes the commitment to reform of this sector, which provides vital accommodation services to some of the most vulnerable people in our community.

HPLS submits that the previous concerns raised in relation to the standards and conditions of licensed and unlicensed boarding houses in NSW, highlights the need to provide legislative protections for the human rights and individual dignity of residents in these boarding houses. These residents are often the most vulnerable people in the community, and include substantial numbers of people who are homeless or are in housing crisis and facing the prospect of sleeping rough, people who have physical and intellectual disability, and people who suffer from mental illness.

HPLS submits that the *Boarding Houses Bill 2012* provides an opportunity to provide legislative recognition of the human rights of these vulnerable members of the community when accessing boarding house accommodation, and to establish a regulatory framework for all boarding houses in New South Wales which is underpinned by human rights principles, and is compatible with Australia's international human rights obligations. In this regard, HPLS submits that the Bill should give specific recognition to the right to adequate housing.

The right to adequate housing is recognised 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* (ICESCR).⁶ Article 11(1) of the ICESCR recognises:

³ Chris Chamberlain and David Mackenzie, *Counting the Homeless 2006: New South Wales* (2009) Australian Institute of Health and Welfare [15] <<http://www.aihw.gov.au/publications/index.cfm/title/10755>> at 23 December 2009.

⁴ NSW Ombudsman (2011), *More than Board and Lodging: the need for boarding house reform*, August 2011, available online at <http://www.ombo.nsw.gov.au/__data/assets/pdf_file/0016/3346/SR-Boarding-Houses.pdf> (last accessed 28 July 2012).

⁵ State Coroner's Court of New South Wales, *Inquest into the deaths of Shaneen Batts, Ilona Takacs, Dorothy Hudson, Ian Birks, Donald MacKellar and Mohammed Ramzan*, 11 May 2012, available at <http://www.coroners.lawlink.nsw.gov.au/agdbasev7wr/_assets/coroners/m40160114/hostel%20findings.pdf>.

⁶ *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) ratified by Australia on 10 December 1975 (entered into force for Australia on 10 March 1976). Australia ratified the *International Covenant on Economic, Social and Cultural Rights* on 10 December 1975. ICESCR came into force for Australia on 10 March 1976.

... 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 UN Committee on Economic, Social and Cultural Rights has extensively defined the nature of the right to adequate housing. 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 that housing is affordable and accessible.⁸

As a State Party to the ICESCR, Australia is required by Article 11(1) to take appropriate steps to ensure the realisation of the right to adequate housing.

One of the homeless people with whom StreetCare has previously consulted has articulated the following indicia as to whether housing is adequate:

- Stability;
- Allows you to belong to the community;
- Provides a sense of belonging;
- Is somewhere to call home;
- Provides opportunity to participate in society;
- Ensures security of items and security of the person.⁹

The concerns expressed by StreetCare to HPLS on the need for boarding house reform, based on their own experiences, and the comments they have received from other homeless people, reflect the issues surrounding the right to adequate housing, as articulated in Article 11(1) of ICESCR. These include:

- Poor hygiene and conditions in unlicensed boarding houses;
- Evictions without notice from unlicensed boarding house proprietors;
- Non-return of bond moneys paid to unlicensed boarding house proprietors;
- Excessive rent increases, and rent increases without notice in respect of unlicensed boarding houses;
- Lack of security of personal belongings in unlicensed boarding houses;
- Lack of right to quiet enjoyment of accommodation in unlicensed boarding houses;
- Lack of personal safety from other tenants and violent boarding house proprietors in unlicensed boarding houses.

In light of these principles, and the comments and input provided by StreetCare, HPLS makes the following comments in relation to the specific provisions contained in the exposure draft of the *Boarding Houses Bill 2012*.

Chapter 1 Preliminary

Clause 3 – Object of this Act

HPLS submits that the objects of the Act should clearly specify that the regulatory framework for registrable boarding houses is consistent with key international human rights law

⁷ General comment No. 4, The right to Adequate Housing (Art. 11(1)), UNCESCR, General Comment No 4, 6th sess, [7], UN Doc E/1992/23 (1991).

⁸ Ibid [8].

⁹ Public Interest Advocacy Centre (2009), *Homeless not Houseless: Submission to NSW Fair Trading on the draft Residential Tenancies Bill 2009*, December 2009, pp. 3-4.

obligations. HPLS notes that clause 32 of the Bill specifies that the objects of Chapter 4 are that provisions are enacted that are consistent with specific Articles of the *United Nations Convention on the Rights of Persons with Disabilities*. HPLS submits that this should also be clearly specified in the general objects of the Act in clause 3, together with reference to Article 11 of the *International Covenant on Economic, Social and Cultural Rights*.

HPLS submits that the opening paragraph of clause 3 should be amended to read as follows:

The object of this Act is to establish an appropriate regulatory framework for the delivery of quality services to residents of registrable boarding houses, which is consistent (to the extent that is reasonably practicable) with the purposes and principles expressed in Articles 5, 9, 12, 14, 15, 16, 19, 21, 22, 25, 26 and 28 of the *United Nations Convention on the Rights of Persons with Disabilities*, and Article 11 of the *International Covenant on Economic, Social and Cultural Rights*, by:

(a)

In addition, HPLS submits that the Explanatory Memorandum and the Minister's Second Reading Speech should make explicit reference to the objects of the Act, indicating that this means that in interpreting the legislation, and in determining any proceedings under the legislation, any court or tribunal is to have regard to the purposes and principles specifically referred to in clause 3, including those expressed in the stated articles of the *United Nations Convention on the Rights of Persons with Disabilities* and the *International Covenant on Economic, Social and Cultural Rights*.

Clause 5 – Meaning of “registrable boarding house”

Sub-clause (2) defines a Tier 1 boarding house as premises providing beds for fee/reward, for use by five or more residents.

HPLS submits that the problem with using such a definition, which is reliant on a threshold requirement (i.e. five residents), is that it becomes possible for operators of small premises to avoid the registration requirements, by maintaining occupancy at just below the threshold. HPLS submits that it would be preferable to adopt a purposeful definition of “registrable boarding house”, which describes the purpose for which the premises exist, rather than a threshold definition. Such a purposeful definition should simply be:

Boarding premises are a Tier 1 boarding house if the premises provide beds for fee or reward.

Such a definition would mean that there would be no incentive for an operator to keep the number of residents to less than five in order to avoid registration.

Alternatively, if a threshold definition is required, HPLS submits that the following options be considered as an alternative to the current definition in clause 5(2):

- Premises providing beds for fee/reward, for use by two or more residents; or
- Premises have potential and capacity to provide beds for fee/reward, for use by two or more residents; or
- A definition, which makes reference to the size of the property.

Sub-clause (3) lists a number of premises that would be excluded from the definition of Tier 1 boarding house. One such exclusion is premises that are the subject of a residential tenancy agreement (clause 5(3)(b)). HPLS is concerned that this could result in boarding houses that are small, family operations, being excluded from the registration process, as a head lease could be easily arranged, or a lease in a family member's name or a company name, thus

exempting the operators from the registration requirements. HPLS submits that this exemption should be removed.

Clause 5(3) also excludes motels (c) and backpackers hostels (d). As these operations are often used by Housing NSW as a form of temporary accommodation for people in housing crisis, it is submitted that they should also be included in the definition of Tier 1 boarding house. HPLS submits that this exemption should be removed.

Clause 5(3) also excludes premises that are used for refuge or crisis accommodation (Clause 5(3)(f)). HPLS submits that such premises provide essential crisis accommodation options for women, families and children/young people. Accordingly, they should not be excluded from the registration scheme, and should be included within the definition of Tier 1 boarding house. . HPLS submits that this exemption should be removed.

Chapter 2 Registration of boarding houses

Clause 9 – Notification of particulars about registrable boarding houses

Under Clause 9, boarding house operators self-assess as to whether they need to register, or whether the boarding house is a Tier 1 or Tier 2 boarding house.

There is a concern that some operators may conclude that they do not need to register on the basis of that self-assessment, and that this may lead to some boarding houses not being registered under this new system.

In addition, if an operator self-assesses that the boarding house is a Tier 1 boarding house, but that the boarding house should be identified as a Tier 2 boarding house, the operator may evade requirements of the licensing and regulatory scheme that the Bill seeks to establish for boarding premises that operate as residential centres for vulnerable persons.

The potential for inaccurate or false self-assessments is heightened by the absence of any offence provisions for failing to register a registrable boarding house, or deliberately miscategorising the premises upon registration.

HPLS submits that the clause include a provision making it an offence to operate a registrable boarding house without registration, and also a provision making it an offence to operate a Tier 1 boarding house that should have been registered as a Tier 2 boarding house. Both offences should be subject to substantial penalties.

HPLS notes that the Bill provides for a process of Manager Approvals as a condition of a residential centre authorisation, to assess whether the manager is a “suitable person” (clauses 57-59). HPLS submits that proprietors of all registrable boarding houses should be required to meet a “suitable person” test”.

HPLS further submits that any person who has been convicted of a serious criminal offence, as defined in clause 33 of the Bill, should be prevented from owning and operating a registrable boarding house.

Clause 10 Annual returns for registrable boarding house

In addition to the notification requirements for proprietors of registrable boarding house under Clause 10 (Annual returns for registrable boarding house), HPLS submits that the Bill should include a requirement that a proprietor of a registrable boarding house must, within three working days, notify the Commissioner of any injury, serious illness, incident of self-harm, physical assault or death, that occurred in the boarding house premises.

Clause 14 Publication of certain information on Register for public access

HPLS submits that in addition to the information contained in the Register about registrable boarding houses, which is listed in sub-clause (1)(a)-(c), the following information should also be published on the Internet for public access:

- (d) Whether any enforcement proceedings have been initiated against a proprietor under this legislation, and, if so, the details of those enforcement proceedings.

Clause 19 Notice of entry

HPLS submits that where notice of intention to enter the premises is given to the proprietor under clause 19(1), the proprietor should be required to provide notice of such entry to all occupants of the premises. HPLS submits that a further sub-clause to this effect should be included in clause 19.

Chapter 3 Occupancy principles for registrable boarding houses

Clause 29 Entitlement to accommodation complying with occupancy principles

Under clause 29(1), a resident of a registrable boarding house is entitled to be provided with accommodation in compliance with the occupancy principles.

HPLS submits that the notion of 'entitlement' is not strong enough to adequately ensure that occupancy agreements incorporate the Occupancy Principles in clause 30. This is reflected in sub-clause (6), which seems to suggest that inclusion of the Occupancy Principles in an occupancy agreement is not mandatory. HPLS submits that all Occupancy Agreements should incorporate the Occupancy Principles, and that a contravention of the Occupancy Principles may be enforced by a resident as a breach of the occupancy agreement.

HPLS submits that sub-clause (2) be amended to state that:

A resident is entitled to be provided with accommodation in compliance with the Occupancy Principles, and that any occupancy or other agreement (whether written or unwritten) is presumed to include the Occupancy Principles as terms of that agreement, and that agreement is presumed to operate subject to the Occupancy Principles. Any such agreement has no effect to the extent of any inconsistency with the Occupational Principles.

In addition, HPLS submits that clause 29 of the Bill should clearly indicate that the occupancy principles in clause 30, will apply to all residents of boarding houses, regardless of who is paying for the accommodation (i.e. Housing NSW, ADHC, etc.).

Clause 30 Occupancy Principles

HPLS welcomes the inclusion of the Occupancy Principles in the legislation. However, HPLS submits that the Occupancy Principles should be strengthened with the following inclusions/amendments:

- The draft Bill makes no provisions in relation to the payment of bonds by residents of boarding houses. HPLS submits that the Occupancy Principles should include a specific provision for any bond paid to a boarding house proprietor to be lodged with Renting Services, as is the case for any other rental bond.
- Sub-clause (4) states that a resident is entitled to the certainty of an occupancy agreement if his/her residency continues for longer than 6 weeks. HPLS submits that

the certainty of an occupancy agreement should be provided to any resident, regardless of the length of their residency. Accordingly, HPLS submits that the sub-clause be amended to state that every resident is entitled to the certainty of a written occupancy agreement.

- Sub-clause (6) states that a proprietor is entitled to enter premises at a reasonable time on reasonable grounds to carry out inspections or repairs and for other reasonable purposes. HPLS submits that this sub-clause should be amended to state that the proprietor must provide the resident of reasonable notice that he/she will be entering the premises for these purposes.
- Sub-clause (7) states that a resident is entitled to 8 weeks notice before the proprietor increases the amount to be paid for the right to occupy the premises. HPLS submits that the sub-clause be amended to also include a provision that states that the proprietor is not entitled to excessively increase the amount to be paid for the right to occupy the premises.
- The Occupancy Principles make no reference to the Proprietor seeking extra charges from residents in relation to utility usage. HPLS submits that the Occupancy Principles include a provision, which states that a proprietor can only charge a resident for utility usage at a rate, that reflects the cost of the utility to the proprietor.

Clause 31 Applications to the Consumer Trader and Tenancy Tribunal for dispute resolution

HPLS welcomes clause 31 in the Bill, which provides for a relevant party to apply to the Consumer, Trader and Tenancy Tribunal (CTTT) for the resolution of an occupancy principles dispute, and that the CTTT may make such orders as appropriate to remedy any breach of the occupancy principles.

However, HPLS notes that there is a significant problem with the definition of “relevant party” in sub-clause (2), which includes “a resident of a registrable boarding house”.

HPLS observes that a person who has been evicted from a boarding house, even where such eviction is in contravention of the Occupancy Principles in clause 30, is no longer entitled to apply to the CTTT for the resolution of an occupancy principles dispute.

Accordingly, a proprietor will be able to evade any scrutiny for not complying with the Occupancy Principles by merely evicting a resident, thus preventing them from having any access to the CTTT for resolution of an occupancy principles dispute (which may also include eviction without reasonable notice). This is clearly an anomaly.

HPLS submits that sub-clause (2)(a) be amended to state:

a resident or former resident of a registrable boarding house (or a relative who is responsible for such a resident or former resident).

HPLS submits that it is also essential that the clause include provision for the CTTT to order the payment of compensation for a breach of the occupancy principles. This is particularly critical for former residents who make an application to the CTTT in relation to a breach of the occupancy principles, as monetary compensation is likely to be the only remedy that will be appropriate to an individual who has been evicted from a registrable boarding house. Such a person will be unwilling and intimidated to return to a boarding house from which they have been evicted without notice, and been in dispute with the proprietor. Moreover, if the CTTT ordered the person to return to the boarding house, it is quite possible that the

proprietor will then evict the person with reasonable notice, in accordance with the Occupancy Principles in any case.

In addition, for many residents in boarding houses, the prospect of remaining in the boarding house following an application to the CTTT and an order for a remedy of the breach, will be intimidating and daunting. Most residents in such a situation will pursue other accommodation options.

Accordingly, if a resident or former resident has suffered loss as a result of a breach of the Occupancy Principles, an order for compensation is the only remedy which will be of benefit to them in making an application to the CTTT for breach of the occupancy principles.

HPLS submits that clause 31(5) should be removed and replaced with the following:

(5) Where a relevant party has incurred a loss as a result of the contravention of the occupancy principles, the tribunal may make an order for compensation to that person in respect of that loss.

Chapter 4 Residential centres for vulnerable persons

Clause 34 Meaning of “vulnerable person”

HPLS supports the comprehensive definition of “vulnerable person” in clause 34. However, HPLS is concerned that the definition may cause some difficulties for proprietors in undertaking self-assessment in determining whether their registrable boarding house comes within the meaning of a “registrable centre for vulnerable persons” under clause 35. In particular, it may be difficult for a proprietor to assess whether the condition is permanent or likely to be permanent (clause 34(1)(b)), and whether the condition results in the need for support (clause 34(1)(c)). HPLS is concerned that given the higher regulatory requirement for Tier 2 boarding houses (residential centres for vulnerable persons), proprietors may be less inclined to assess the condition as likely to be permanent and requiring support.

HPLS submits that this means there may be some problems with the process of self-assessment, and that there needs to be a process that requires some form of independent confirmation or verification of the proprietor’s self-assessment of the category of the boarding house that they operate.

Further discussion in relation to the meaning of “vulnerable person” is below under the comments provided for clause 35.

Clause 35 Meaning of “residential centre for vulnerable persons”

HPLS supports a low threshold for determining whether boarding premises comes within the meaning of “residential centre for vulnerable persons”.

HPLS notes that under clause 35(1)(a), any boarding house that provides beds, for a fee or reward, for use by two or more residents who are vulnerable persons, would be regarded as a centre for vulnerable persons. Under clause 34(2), the fact that a person is in receipt of a disability support pension is prima facie evidence that the person has an age related frailty, a mental illness, or a disability.

The first difficulty with this definition is that it only refers to the disability support pension as prima facie evidence that the person has an age related frailty. Given that once a person is aged 65, they can no longer receive a disability support pension, and can only receive the age pension, HPSL submits that clause 34(2) should state that “a person in receipt of either

a disability support pension or an age pension is prima facie prima facie evidence that the person has an age related frailty, a mental illness, or a disability.”

Further, HPLS notes that amongst the homeless population, including those homeless people who periodically rely on boarding house accommodation, there is a high proportion of people who suffer from mental illness and/or have a disability. In their 1998 study of 210 homeless people in emergency hostels in inner Sydney, Hodder, Tenson and Buhrich reported that 75 per cent of their sample had either mental health problems, drug use disorder or alcohol disorder.¹⁰ A 2003 study involving 403 homeless young people in Melbourne aged 12-20 found that 26 per cent of those surveyed reported a level of psychological distress indicative of a psychiatric disorder.¹¹ Most recently, in their study of 4,291 homeless people in Melbourne, released in 2011, Johnson and Chamberlain found that 31 per cent of their sample had a mental illness (not including any form of alcohol or drug disorder).¹²

The prevalence of mental illness and drug/alcohol disorder among homeless people interacting with the criminal justice system is reflected in the casework of the HPLS Solicitor Advocate. Using a recent sample group, from January 2010 to December 2011, the HPLS Solicitor Advocate provided court representation to 179 individual clients facing criminal charges. Of these, 44.7 per cent disclosed that they had a mental illness.

HPLS submits that given the high proportion of people with a mental illness and/or some form of disability amongst the homeless population, including those who access boarding house accommodation, and also the high proportion of people in receipt of a disability support pension, an overwhelming majority of all boarding houses premises will have 2 or more residents who have a condition as specified in clause 34(1). Accordingly, it will be necessary for an overwhelming majority of proprietors to make an assessment as to whether the condition of these residents is likely to be permanent, and whether they are in need of support. HPLS submits that such an assessment is beyond the skills, capabilities and expertise of most boarding house operators.

HPLS submits that this further underlines the need for a process involving some form of independent confirmation or verification of the proprietor’s self-assessment of the category of the boarding house that they operate, as indicated above in our comments in respect of clause 34.

Clause 84 Removal of young residents from unauthorised residential centres

HPLS is deeply concerned about the assumptions that underpin clause 84.

The first assumption is that even under this legislation, there will be unauthorised residential centres in operation, in spite of the fact that it is an offence to operate or manage an unauthorised residential centre under clause 39.

The second assumption is that it is acceptable for unaccompanied children and young people to be residents in boarding house premises. HPLS submits that this is not acceptable.

¹⁰Hodder, T., Tenson, M. and Buhrich, N., *Down and Out in Sydney: Prevalence of Mental Disorders, Disability and Health Service Use Among Homeless People in Inner Sydney*, Sydney, Sydney City Mission, 1998, 19-25.

¹¹Rossiter, B., Mallett, S., Myers, P. and Rosenthal, D. (2003) *Living Well? Homeless Young People in Melbourne*, Melbourne, Australian Research Centre in Sex, Health and Society, at 17.

¹²Johnson, G. and Chamberlain, C. (2011), ‘Are the Homeless Mentally Ill?’, *Australian Journal of Social Issues*, Autumn 2011, at 35.

HPLS submits that proprietors of boarding house premises that are authorised as residential centres for vulnerable persons are not able to provide adequate supervision and protection for unaccompanied children and young people who are residents, and therefore unable to ensure that these children and young people are safe and not at risk of abuse.

HPLS submits that it should be an offence for any proprietor of a registrable boarding house to provide accommodation for a any person under the age of 18 who is not accompanied by a parent or guardian

Conclusion

HPLS welcomes the Government's commitment to reforming the boarding house sector, and the legislating to ensure more comprehensive protections for boarding house residents in NSW. Boarding house residents are often the most vulnerable people in community, and include substantial numbers of people who are homeless, people who have physical and intellectual disability, and people who suffer from mental illness.

Years of inaction and policy failure in this area has seen these vulnerable members of our community endure poor conditions, and have their tenancy rights, and rights to housing and support services denied. The NSW Ombudsman and the NSW Coroner, both of who have identified significant human rights violations and ongoing problems with conditions and hygiene amongst licensed boarding houses, have highlighted the need for better regulation and monitoring of boarding houses in NSW.

The NSW Minister for Disability Services, Andrew Constance, has stated that new legislation would seek to improve protection for boarding house residents.¹³

The *Boarding Houses Bill 2012* provides a significant opportunity to provide legislative protections for the human rights and individual dignity of the residents. While the exposure draft provides a significant improvement on the current regulatory framework for boarding houses, HPLS submits that a number of changes and additions need to be incorporated into the bill in order to achieve the ultimate object of improving protection for all boarding house residents.

¹³*NSW Government to Deliver Improved Protections for Boarding House Residents*, Media Release from Andrew Constance MP, Minister for Ageing, Minister for Disability Services, Anthony Roberts MP, Minister for Fair Trading, Thursday 10 May 2012, available at <http://www.adhc.nsw.gov.au/about_us/media_releases/ministerial/nsw_government_to_deliver_improved_protections_for_boarding_house_residents>.

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.

Homeless Persons Legal Service

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. 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);
- Vincentian Village (St Vincent de Paul Society);
- Wayside Chapel (Uniting Church); and
- Women's and Girls' Emergency Centre.