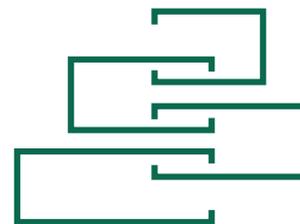


# Homeless Persons' Legal Service

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



Public Interest Advocacy Centre  
Level 7, 173-175 Phillip Street  
Sydney NSW 2000  
DX 643 Sydney  
Tel: +61 2 8898 6545  
Fax: +61 2 8898 6555  
E-mail: [homelessproject@piac.asn.au](mailto:homelessproject@piac.asn.au)  
ABN: 77 002 773 524

## **LISTENING TO HOMELESS PEOPLE – THEY’VE BEEN SAYING IT FOR A WHILE**

**SUBMISSION IN RESPONSE TO FAMILY AND COMMUNITY SERVICES  
CONSULTATION PAPER –  
FUTURE DIRECTIONS FOR SPECIALIST HOMELESSNESS SERVICES**

**30 August 2012**

Louis Schetzer  
Acting Senior Policy Officer  
Public Interest Advocacy Centre

## 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 from PILCH members acting pro bono.

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.<sup>1</sup>

### Homelessness and the right to adequate housing

HPLS strongly adheres to the principle that addressing homelessness must take place within a human rights framework. The comments provided in this submission reflect this principle.

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).<sup>2</sup> Article 11(1) of ICESCR 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 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'.<sup>3</sup> The Committee also established seven indicia of adequacy, including security of tenure and that housing is affordable and accessible.<sup>4</sup>

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 HPLS 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;

---

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

<sup>2</sup> *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.

<sup>3</sup> 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).

<sup>4</sup> Ibid [8].

- Is somewhere to call home;
- Provides opportunity to participate in society;
- Ensures security of items and security of the person.<sup>5</sup>

## **Involvement of homeless people**

HPLS believes that the active involvement of those who are or have been homeless leads 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).<sup>6</sup>

HPLS seeks the views of homeless people through 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 also provides a mechanism for HPLS to engage actively with other people who are homeless or at risk of homelessness, to facilitate their input into public policy and law reform initiatives.

In 2010, the New South Wales Government engaged PIAC to organise 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. StreetCare was actively involved in the organisation, conduct and reporting of the results of these forums. A copy of the reports from these Consumer Forums is attached to this submission.

In 2011, the then Minister for Housing proposed that Housing NSW and members of the StreetCare Consumer Advisory Council form a working group to work through issues raised in the Consumers' Forum reports. Housing NSW provided funding for the StreetCare Consumer Advisory Council to establish the Consumers' Forum Homelessness Working Group. The Working Group met three times during 2011 to consider the results of the Consumers' Forum Reports in more detail and identify practical options for addressing the issues identified.

## **Consultation questions to be addressed**

HPLS welcomes the opportunity to comment on the Family and Community Services (FaCS) Consultation Paper, *Future directions for specialist homelessness services* (the Consultation Paper). This submission is informed by the information obtained through the 2010 Consumer Forums and the discussions of the Consumers' Forum Homelessness Working Group in 2011.

This submission will address the following questions from the Consultation Paper:

Question 1: What are the opportunities to build on existing approaches to providing support to stop people becoming homeless?

---

<sup>5</sup> Public Interest Advocacy Centre (2009), *Homeless not Houseless: Submission to NSW Fair Trading on the draft Residential Tenancies Bill 2009* 3-4.

<sup>6</sup> 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>>.

Question 2: What are the opportunities to build on existing effective approaches that give homeless people the best possible chance of finding and staying in safe and affordable housing?

Question 3: What are the opportunities to build on existing effective approaches to building and sustaining partnerships with NGOs?

Question 17: What are the opportunities to build on existing quality improvement initiatives?

Question 18: What are the priorities and actions that should be pursued to promote and support quality improvements?

Prior to addressing these consultation questions, this submission will address the proposed reform governance and consultative structure outlined in the Consultation Paper, as they relate to the involvement of homeless people and consumers.

## Summary of Recommendations

- 1. That the FACS SHS Reform Internal Project Board immediately revisit the issues identified and the recommendations contained in the three Homeless Consumer Forum Reports forwarded to the Department in 2010 by the Public Interest Advocacy Centre and the StreetCare Consumer Advisory Council, as part of the Going Home Staying Home reform.*
- 2. That the Housing NSW Consumers' Forum Homelessness Working Group be immediately reconvened to provide advice and input into the direction of the Going Home Staying Home reform.*
- 3. That the Panel of Experts to be convened under the Going Home Staying Home reform include a person who has had recent experience of homelessness and has attempted to access a specialist homelessness service.*
- 4. That all staff in Customer Service Operations in Housing NSW receive training focused on how to effectively engage with homeless and vulnerable client groups. This training should be developed in consultation with people who have experienced homelessness.*
- 5. That Housing NSW forms should be further simplified to assist people experiencing homelessness. People who have experienced homelessness should have input into the development of the forms.*
- 6. That Housing NSW ensure that there is consideration of a person's background before placing them in public housing, so that they are not placed in areas or accommodation in which they may feel at risk, unsafe, or that the accommodation is otherwise inappropriate given their particular circumstances.*
- 7. That Housing NSW ensures that there is easier access to transfer for people living in public housing if they are fearful for their personal safety or have concerns about becoming/returning to homelessness because of the area they are housed in.*
- 8. That where a social housing tenant has fallen into arrears with their rent payments, Housing NSW adopt an 'eviction as a last resort' policy. In such circumstances, Housing NSW should make multiple efforts to contact the tenant via mail, telephone and personal visits, in order to ascertain if the tenant is facing circumstances of financial hardship or crisis, with a view to referring the tenant to appropriate support services. Only after multiple attempts to contact the tenant have been unsuccessful should Housing NSW consider issuing a written warning that it is considering a Notice of Termination.*
- 9. That Housing NSW develop a 'Homeless Yellow Pages' or other information resource that contains information about government and specialist services available to people who are*

homeless. The guide should also contain regional specific information. Housing NSW should consult with people who have experienced homelessness in the preparation of such a guide.

10. That Housing NSW develop procedures to enable residents of crisis accommodation to stay in the one centre until their housing situation is adequately resolved, or extend the maximum amount of time someone can stay in crisis accommodation to a period that better reflects the time they are likely to wait for permanent accommodation.
11. That the NSW Government should commit to increase funding for additional crisis accommodation services, particularly in rural and regional areas.
12. That the NSW Government should commit to increasing public and community housing stock, particularly in rural and regional areas.
13. That Housing NSW develop procedures to enable identification of social housing tenants in financial crisis or hardship, by virtue of a history of falling into rental arrears, and provide warm referrals for such tenants to appropriate welfare support and financial counselling organisations. In addition, that Housing NSW seek consent from tenants to provide details of rent payment difficulties to financial counselling and welfare support organisations, to facilitate effective case management for a tenant in financial crisis.
14. That the NSW Government should establish an independent non-government complaint-handling service with determinative powers, to provide an effective, efficient and accessible dispute resolution process for consumers of mainstream and specialist homelessness services, who allege that the services have acted in a manner that is not compliant with the established quality standards and human rights principles.
15. That the NSW Government should introduce legislation for a Charter of Rights for Homeless People that should include the following rights:

**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.*
16. *That the Charter of Rights for Homeless People should be expressly included in legislation, with a requirement that all specialist homelessness services uphold the rights conferred by the Charter. The legislation should require the Minister to promote compliance with the Charter by all specialist homelessness services.*
17. *That the Charter of Rights for Homeless People should form a key component Quality Standards for specialist homelessness.*
18. *That Compliance with the Charter of Rights for Homeless People is included as a core condition in any funding service agreements between FACS and specialist homelessness services.*
19. *That the following standards should be included in Quality Standards for specialist homelessness services:*
- 1.1. *Upholding and promoting rights*
- *Clients of specialist homelessness services are treated in accordance with the Charter of Rights for Homeless People, and all Commonwealth and NSW 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.*
- 1.3. *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.*
20. *That the quality standards should include for each standard details of the assessment criteria to be employed in determining whether the standard has been met.*
21. *The quality standards should include an external assessment process in which all specialist homelessness services would be required to participate as a condition of ongoing funding, with assessment being undertaken by an external agency.*

## **Partnering with the sector – engaging homeless people and consumers**

Prior to addressing the specific consultation questions, HPLS believes it is necessary to address some specific comments in the Consultation Paper regarding the proposed Going Home Staying Home reform governance and consultative structures, as outlined on pages 16-19. Specifically, HPLS wishes to address the importance of engaging homeless people and consumers, and also the membership of the Panel of Experts.

HPLS welcomes the stated commitment in the Consultation Paper to engage with homeless people. HPLS notes that the proposed governance and consultative structures makes provision for engaging with homeless people via the following mechanisms:

- Through the two homeless consumer representatives on the NSW Premier's Council on Homelessness. HPLS notes that these two consumers are members of the HPLS consumer advisory committee, StreetCare.
- Through a proposed working group of homeless people and consumers.

In relation to the second mechanism (homeless people and consumers working group) HPLS notes that StreetCare, its consumer advisory group, has previously been contracted by Housing NSW to provide expert advice and input into department policies and procedures which impact on homeless people. StreetCare has recently been engaged to continue this role for Housing NSW. HPLS submits that this is the appropriate vehicle by which the voices and experiences of homeless people can be received as part of the Going Home Staying Home reform.

However, in order to maximise the effectiveness of this strategy to engage homeless people and consumers, it is necessary to understand the recent history of StreetCare engagement with Housing NSW, and the recommendations and suggestions made over the last three years.

### **History of engagement with homeless people by Housing NSW through StreetCare**

In 2010, the Public Interest Advocacy Centre (PIAC) was engaged by the NSW Government to establish membership and to provide management of the NSW 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;
- Co-ordinating and facilitating Consumers' Forums in collaboration with the consumer representatives of the Premier's Council on Homelessness;
- Providing written reports to the Premier's Council on Homelessness following Consumers' Forums;
- Working with existing consultation mechanisms where appropriate; and
- Liaising with the Housing NSW Homelessness Unit.

In 2010, through HPLS, PIAC established the Consumer Advisory Council with the support of the existing consumer advisory group, StreetCare.

The purpose of the StreetCare Consumer Advisory Council (StreetCare CAC) was to ensure that people who have experienced homelessness are directly involved in the preparation and conduct of the Consumers' Forums so that they could provide advice on making them accessible and targeted to individuals who are currently or formerly homeless or at risk of homelessness.

There were three Consumers' Forums held in 2010 in the Coastal Sydney, Greater Western Sydney and Hunter regions on the issues on which input was sought by the Premier's Council on Homelessness (the Premier's Council). The Consumers' Forums had a diverse range of participants, considered appropriate and necessary to ensure the consultations were effective and responsive to the issues identified for input.

Three separate Consumers' Forum reports were produced following the Consumers' Forums and were tabled at the Premier's Council in 2010. The Consumers' Forum reports centred on peoples' experience with the homelessness service system, and how the government could improve its response. The reports provide a broad spectrum of issues to consider. Copies of these forum reports are appended to this submission.

The then Minister for Housing proposed that Housing NSW and members of the StreetCare CAC form a working group in 2011 to work through issues raised in the Consumers' Forum reports. Housing NSW provided funding for StreetCare CAC to establish the Consumers' Forum Homelessness Working Group. Representatives from Housing NSW chair the Working Group and its purpose is to identify and implement key recommendations from the Consumers' Forums reports. At the first meeting of the Working Group in December 2010, a timetable of quarterly meetings for 2011 was proposed.

The Working Group met three times during 2011 to consider the results of the Consumers' Forum Reports in more detail and identify practical options for addressing the issues identified. It was agreed that the Working Group would have the following principal functions in its Terms of Reference:

- Investigate the issues raised in the three consumer consultations during 2010 with a focus on issues that are not being addressed through the Statewide or Regional Homelessness Action Plans;
- Examine the feedback from the Consumers' Forums including, as necessary, gathering more feedback from clients on specific issues;
- Identify priority issues to be addressed;
- Develop an agreed plan of action for addressing the priority issues;
- Provide reports and advice as required to the Premier's Council on Homelessness; and
- Provide information about its activities to the Regional Homelessness Committees.

During 2011, the Working Group focused on the following issues, which were identified at the 2010 Consumers' Forums:

- Explored the feasibility of conducting pilot training/awareness-raising sessions for HNSW staff to facilitate effective and sensitive engagement with consumers who have experienced homelessness and related trauma;
- Exploring models to improve provision of information about available services, for people experiencing homelessness;
- Review of the NSW Homeless Protocol, to improve the interaction between NSW Police and homeless people; and

- Identification of experiences of people released from prison into homelessness.

In addition, during 2011, the Working Group responded directly to specific questions raised by Council members regarding issues that were identified in the 2010 Consumer Forums. These included:

- HNSW processes regarding applications for transfer, and decisions regarding terminations for rent arrears;
- HNSW practices regarding Statements of Satisfactory Tenancy and references for past tenants;
- Concerns about availability of crisis and public housing stock, and possible use of specifically identified current HNSW properties; and
- Concerns about quality and cleanliness of housing stock offered to people who are homeless.

HPLS notes that the Working Group has not met since December 2011, as the continued funding for the StreetCare CAC has been the subject of prolonged negotiation. A 12-month extension of funding for the StreetCare CAC was confirmed in August 2012. HPLS is concerned that this delay has resulted in a considerable loss of momentum in addressing several of the issues that have been identified by StreetCare CAC and the 2010 Consumer Forums. Further consultations with StreetCare members, and through them, with other homeless people, suggest that the issues raised in the 2010 Forums and with the Working Group in 2011 remain pressing concerns of high priority.

HPLS submits that the issues identified in the three Consumer Forum reports from 2010, and the recommendations contained therein, should be revisited as part of the process of engaging with consumers and homeless people under the Going Home Staying Home reform.

In addition, HPLS submits that the Housing NSW Homeless Consumer Working Group be reconvened as a matter of urgency in order to provide advice and input into the direction of the Going Home Staying Home reform and to continue to progress the discussions and responses which were commenced in 2011.

### **The Going Home Staying Home reform governance and consultative structures – the panel of experts**

HPLS notes that the Going Home Staying Home reform governance and consultative structures potentially include two existing mechanisms by which the voices of homeless people and consumers are considered. However, the structure includes a new body that will provide advice to the Minister, FACS and the sector as required, namely the panel of experts. Members of StreetCare have expressed concern that this has the potential to dilute the views and input of homeless people and consumers. Moreover, StreetCare members have noted that those with most expertise in relation to homelessness and use of specialist homelessness services are those who have experienced homelessness and attempted to access those services as consumers. Accordingly, it is appropriate that the panel of experts also include a representative of homeless people or consumers of homelessness services.

**Recommendation One**

---

*That the FACS SHS Reform Internal Project Board immediately revisit the issues identified and the recommendations contained in the three Homeless Consumers' Forum reports forwarded to the Department in 2010 by the Public Interest Advocacy Centre and the StreetCare Consumer Advisory Council, as part of the Going Home Staying Home reform.*

**Recommendation Two**

---

*That the Housing NSW Consumers Forum Homelessness Working Group be immediately reconvened to provide advice and input into the direction of the Going Home Staying Home reform.*

**Recommendation Three**

---

*That the panel of experts to be convened under the Going Home Staying Home reform include a person who has had recent experience of homelessness and attempted to access a specialist homelessness service.*

## Consultation Questions

### Question 1: What are the opportunities to build on existing approaches to providing support to stop people becoming homeless?

#### Homelessness and the Housing NSW processes and procedures in applying for housing and applying for transfers

Based on the input received from the 2010 Consumer Forums, HPLS submits that the Going Home Staying Home reform must devote significant attention to the issue of maintaining public housing tenancies. It is submitted that the most important step in providing support to stop people becoming homeless is to ensure that Housing NSW policies and procedures are focused on preserving and sustaining public housing tenancies.

The most common responses from homeless consumers providing input into the 2010 Consumer Forums related to difficulties dealing with Housing NSW in terms of application processes, provision of accommodation options in unsafe or inappropriate locations, or inappropriate and insensitive responses from Housing NSW staff. It is submitted that the failure to acknowledge these difficulties and their implications for causing or entrenching homelessness is a significant shortcoming of the Going Home Staying Home reform.

When participants in the 2010 Consumer Forums were asked of their experience in accessing assistance from Housing NSW, many advised that they felt intimidated by the difficulties in completing forms. One person described how 'people just walk away because it is just too hard and intimidating'. Some respondents felt that they were not respected by staff at government agencies. They felt as though staff members were unable to fully understand their needs.

Respondents felt that when they were placed in public housing, the locations were often unsafe. Many felt they were being subjected to the same conditions they were seeking to move away from when they were living on the streets. The consequences were people abandoning their homes and sleeping rough in order to avoid unsafe areas. Some respondents who were able to access housing described how at times it was inappropriate to stay in the premise and surrounding areas. They detailed how the locations were often in places where alcoholics, junkies and violence were ongoing problems that reduced their level of safety and wellbeing.

The following case studies from HPLS exemplify how Housing NSW processes have directly affected the ability of a person to sustain their accommodation, or placed them at risk of homelessness.

#### HPLS Case Study 1

A is 75 years old. She came to HPLS to seek legal advice about her housing situation. She is currently living in public housing in Surry Hills and has been residing in the same apartment for twenty years. Two years ago, she sent a request to Housing NSW for a transfer to another location following concerns about harassment and intimidation from a neighbour. A's application for a transfer was unsuccessful.

#### HPLS Case Study 2

K suffers from a rare medical condition and has needed the same surgical procedure numerous times over 20 years. K's medical problems have contributed to her feeling socially isolated. She does not appear to have any support base. K sought assistance in relation to her housing

situation. She is due to be placed in public housing; however, the frequency of her hospital visits requires her to be situated in close proximity to the hospital. K is concerned that the public housing she has been allocated will be too far from the hospital. Housing NSW has said that if she does not accept her allocated housing she will lose her place on the housing register.

### **HPLS Case Study 3**

S is in public housing and suffers from a serious physical disability that restricts her mobility. She needs to be very close to a bus stop that allows her to travel to Bondi for medical appointments. She has applied to Housing NSW for a transfer. She has been offered one place so far, which was reasonably refused because of her extremely specific requirements. She is very emotional and has all but given up hope on ever being transferred.

### **HPLS Case Study 4**

D is 43 years old and lives in a public housing bedsitter unit with her dog in the western suburbs of Sydney. The block is in very poor condition, mouldy and rundown. Most of the residents are male with a lot of drug, alcohol, and violence issues. She states "I should be able to feel safe in my own home". D is physically small. When she went into this unit she was told that it was safe, and she was lucky to get something. A transfer has been applied for, but there has been no action. D's mental and physical wellbeing is greatly affected by her situation.

### **HPLS Case Study 5**

J had been homeless and sleeping on the streets for a number of years. He had been priority listed for social housing in NSW and was eventually offered a 1 bedroom bedsitter in the inner city which he accepted in 2009. He has a history of alcohol abuse, and has a number of serious health problems and chronic illnesses, some of which are related to his alcoholism. In 2011 J had a number of problems with his unit. The hot water service stopped working and there were problems with damp and mould. He made a number of requests to Housing NSW to have the problems rectified but Housing NSW did not take any action to rectify the problems. About the same time, J started having difficulty with one of his neighbours who often shouted and threatened J. J made a number of complaints to Housing NSW about the neighbour, but no action was ever taken.

Eventually, in early 2012, J was tired of not having the hot water service repaired, and no effort made to address the mould and damp problem, which had caused him some illnesses. He also could not put up with his troublesome neighbour anymore, and felt threatened and intimidated by him. He decided that he no longer could live in this unit and returned his keys to Housing NSW saying he would prefer to save his money and live on the streets. Housing NSW told him "It's your decision", to which J replied, "I know, but it's your fault." J has now returned to sleeping rough on the streets.

### **HPLS Case Study 6**

C is 19 years old. She is a single mother with a two-year-old son and has been subject to domestic violence. After several months of being in and out of contact with Housing NSW about applying for priority housing, C finally settled on a location zone for her priority housing application and was offered a place in a suburb in that zone. She emailed her HPLS lawyer as soon as she received the offer saying, "If you have a look, it's not in a good area and because of my past, I really won't live in a place like that". She also raised some concerns about transport options in that suburb.

HPLS received a call from the Housing NSW officer handling C's original application advising that C's application had been suspended by the Housing Office that had made the housing

offer, as C did not call them or turn up to the office to get a key to inspect the property. C again advised that she had lived in that area before and was not comfortable in it, stating that her mother had been raped and attacked with knives and that she hated the area and was adamant that she was not going back to raise her children there.

The HPLS lawyer wrote to Housing NSW explaining C's reasons for refusing the offer, and stating the reasons for the delay in providing the explanation (she was a young single mother who was homeless, and suffered depression; the reasons for her refusal were sensitive and she had obvious reluctance to disclose details of such a traumatic event, and she lacked awareness of what level of detail needed to be provided to satisfy Housing NSW). HPLS submitted that C's refusal of the offer was reasonable, given that her belief that she and her son would be at risk in that area was based on actual previous experience. Housing NSW responded stating that they deemed the offer to be suitable for C's housing needs. Housing NSW stated that C would need to provide documentary evidence in support of her reasons for not wanting to live in the allocated area.

A number of recommendations were made in the reports published from the 2010 Consumer Forums, which have been identified as priorities for the Homeless Consumers Forum Working Group. HPLS submits that these recommendations should be considered as part of the Going Home Staying Home reform.

---

#### **Recommendation Four**

*That all staff in Customer Service Operations in Housing NSW receive training focused on how to effectively engage with homeless and vulnerable clients. This training should be developed in consultation with people who have experienced homelessness.*

---

#### **Recommendation Five**

*That Housing NSW forms should be further simplified to assist people experiencing homelessness. People who have experienced homelessness should have input into the development of the forms.*

---

#### **Recommendation Six**

*That Housing NSW ensure that there is consideration of a person's background before placing them in public housing, so that they are not placed in areas or accommodation in which they may feel at risk, unsafe, or that the accommodation is otherwise inappropriate given their particular circumstances.*

---

#### **Recommendation Seven**

*That Housing NSW ensures that there is easier access to transfer for people living in public housing if they are fearful for their personal safety or have concerns about becoming/returning to homelessness because of the area they are housed in.*

### **Homelessness and Housing NSW processes for evictions for rent arrears**

HPLS is concerned that social housing tenants are placed at risk of homelessness as a result of inflexible and inappropriate decisions by Housing NSW in relation to rent arrears. Moreover, decisions to issue a Notice of Termination may be based on administrative errors, or a breakdown in communication between Housing NSW and Centrelink in respect of automatic deductions (see HPLS Case Study 7 below).

HPLS submits that a key strategy in preventing people becoming homeless is the adoption of an 'eviction as a last resort' policy within Housing NSW in respect of all social and community housing tenants. HPLS submits that Housing NSW should endeavour to make inquiries and provide assistance and referral to support services where a tenant has been identified as facing significant rent arrears, indicating possible financial hardship or crisis. Only after repeated efforts to contact the tenant through mail, telephone and personal visits without success, should Housing NSW consider issuing a warning to the tenant that a failure to respond will result in a Notice of Termination.

### **HPLS Case Study 7**

H, a 57 year old woman, had been a tenant of Housing NSW for a number of years and had been residing at her present home for the past 18 years. H suffers from poor physical and mental health and has been diagnosed with multiple physical and psychological medical conditions. She was the victim of child abuse that included neglect and maltreatment. In 2000, an arrangement was made whereby any payments H owed to Housing NSW would be deducted from her Disability Support Pension and paid directly by Centrelink to Housing NSW. This arrangement occurred without incident until 2009.

In November 2009, Centrelink wrote to H and informed her that Housing NSW had contacted Centrelink and requested an increase of \$31.90 per fortnight in the deduction from her pension. The increase meant that instead of deducting \$144.30 per fortnight from H's pension, Centrelink would now deduct \$176.20 per fortnight. Centrelink, however, failed to increase the deductions from H's pension. In January 2010, H received a phone call from Housing NSW stating she was in arrears. H instructed Centrelink to stop making payments to NSW Housing. The next day, a representative from Housing NSW visited H at her home and provided her with statements for her water account and rent account for the period June 2009 to January 2010. In late February 2010, H attended a Housing NSW Office and offered to pay \$230 per fortnight for her rent, water and arrears until the arrears were paid. Housing NSW refused the offer and issued her with a Notice of Termination. The Notice of Termination required H to give vacant possession of the premises to Housing NSW on 14 March 2010.

H entered a new agreement with Housing NSW. The agreement authorised Housing NSW to deduct \$221.20 per fortnight from H's pension, which included \$35 per fortnight in rent arrears and \$10 per fortnight in water arrears.

Housing NSW forwarded the new payment agreement to Centrelink on 15 March 2010. On that same day, Housing NSW commenced proceedings in the Consumer Trader and Tenancy Tribunal seeking an order to evict H from her residence because of her rent arrears.

### ***Recommendation Eight***

*That where a social housing tenant has fallen into arrears with their rent payments, Housing NSW adopt an 'eviction as a last resort' policy. In such circumstances, Housing NSW should make multiple efforts to contact the tenant via mail, telephone and personal visits, in order to ascertain if the tenant is facing circumstances of financial hardship or crisis, with a view to referring the tenant to appropriate support services. Only after multiple attempts to contact the tenant have been unsuccessful should Housing NSW consider issuing a written warning that it is considering a Notice of Termination.*

## **Question 2: What are the opportunities to build on existing effective approaches that give homeless people the best possible chance of finding and staying in safe and affordable housing?**

### **Need for more information about services for people at risk of homelessness**

Based on the input received from the 2010 Consumer Forums, HPLS submits that the Going Home Staying reform should devote significant attention to comprehensive information about available crisis accommodation and support services for homeless people.

Many participants in the 2010 Consumer Forums reported that once they had become homeless, finding where to go was a struggle as the information needed was either limited or non-existent. They said that a booklet of some description was needed to give some guidance on where best to go. The participants also described the lack of information regarding services. Many were unaware about what services were available. The need for a 'homeless yellow pages' was also mentioned – that is, a place to find all the relevant information to access services useful to people who are homeless.

This issue featured as a high priority in discussions between StreetCare and the Homeless Consumers Forum Working Group throughout 2011.

### ***Recommendation Nine***

---

*That Housing NSW develop a 'Homeless Yellow Pages' or other information resource that contains information about government and specialist services available to people who are homeless. The guide should also contain regional specific information. Housing NSW should consult with people who have experienced homelessness in the preparation of such a guide.*

### **Need for crisis accommodation**

Many participants in the 2010 Consumer Forums also described frustration at not being allowed to stay longer in refuges and crisis accommodation services. The ability to stay longer in such services would allow service users to focus more attention on finding more stable accommodation and employment.

HPLS Case Study 8 exemplifies the difficulties faced by tenants for whom their temporary or transitional accommodation arrangements terminate or become inappropriate for their particular needs.

#### **HPLS Case Study 8**

K is a tall woman in her 40s. She suffered domestic violence as a child, and as a result has a great mistrust of men. She is on a Disability Support Pension, has some learning difficulties, and suffers from anxiety and stress for which she is seeing a counsellor. She has slept in her small car for approximately 6 months. She had temporary accommodation from Housing NSW, which turned into transitional accommodation at the same premises. However, she did not feel safe there, as there is a lot of violence, drug and alcohol problems among other people living in those premises. She sought a transfer four months ago, and is still waiting. In the meantime she has been sleeping in her car.

### **Recommendation Ten**

---

*That Housing NSW develop procedures to enable residents of crisis accommodation to stay in the one centre until their housing situation is adequately resolved, or extend the maximum amount of time someone can stay in crisis accommodation to a period that better reflects the time they are likely to wait for permanent accommodation.*

### **Recommendation Eleven**

---

*That the NSW Government commit to increase funding for additional crisis accommodation services, particularly in rural and regional areas.*

### **Need for additional social and community housing stock**

A major focus of the responses received from participants in the 2010 Consumer Forums was the lack of adequate housing and how this contributed to their homelessness. In terms of considering the opportunities to build on existing effective approaches that give homeless people the best possible chance of finding and staying in safe and affordable housing under the Going Home Staying Home reform, it is essential to address the inadequate level of social housing stock.

Some participants in the 2010 Consumer Forums discussed how the lack of adequate housing and employment were significant factors that led them down a path into homelessness. They described how waiting lists were far too long, with some having to wait five years or more to access public housing. A significant number of respondents indicated that they had become homeless because of housing affordability. The cost of private rental accommodation in conjunction with periods of unemployment meant many soon found themselves forced out of secure residences and into homelessness.

While waiting to be housed, some had resorted to either sleeping rough or were forced to live in boarding houses. Respondents who decided to sleep elsewhere felt the experience had impacted on their mental health. They were at times subjected to harassment with fear of violence being present almost daily.

The participants during the Hunter forum outlined the difficulties in obtaining housing. Many told stories of having to wait long periods; some even described waiting for years to have a place be made available. Young people described the difficulties in finding a place to live because they had not lived out of home before.

### **Recommendation Twelve**

---

*That the NSW Government should commit to increasing public and community housing stock, particularly in rural and regional areas.*

### **Question 3: What are the opportunities to build on existing effective approaches to building and sustaining partnerships with NGOs?**

#### **Sustaining social housing tenancies**

Further to the discussion above regarding the relationship between Homelessness and Housing NSW processes for evictions for rent arrears, HPLS submits that there are significant opportunities for sustaining social housing tenancies for people in financial crisis or hardship, through greater collaboration and sharing information between Housing NSW and non-government organisations involved in crisis service delivery, welfare support or financial counselling. HPLS submits that Housing NSW should develop a process of identifying tenants who regularly fall into rental arrears,

with a view to providing appropriate warm referrals to financial counselling and welfare support organisations.

HPLS submits that Housing NSW should also seek consent from tenants to provide details of rent payment difficulties to financial counselling and welfare support organisations, to facilitate effective case management for a tenant in financial crisis.

HPLS submits that such pro-active identification and facilitation of support for tenants facing financial hardship will have a significant impact in assisting social housing tenants in hardship sustaining their tenancies and avoiding eviction into homelessness or reliance on specialist homelessness services.

### ***Recommendation Thirteen***

*That Housing NSW develops procedures to enable identification of social housing tenants in financial crisis or hardship, by virtue of a history of falling into rental arrears, and provide warm referrals for such tenants to appropriate welfare support and financial counselling organisations. In addition, that Housing NSW seek consent from tenants to provide details of rent payment difficulties to financial counselling and welfare support organisations, to facilitate effective case management for a tenant in financial crisis.*

## **Question 17: What are the opportunities to build on existing quality improvement initiatives?**

### **Effective complaint handling mechanisms for consumers of homelessness services**

In February, 2011 HPLS conducted a specific consultation forum with its StreetCare CAC to provide comments to the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) consultation process regarding the development of a national quality framework to support quality services for people experiencing homelessness (the Homeless Consumer Advisory Council (HCAC) Consultation). As part of that consultation, members of StreetCare indicated that an independent, accessible complaints handling body for consumers of homelessness services is an essential ingredient in promoting quality improvement. This is illustrated in a sample of the comments they provided:

*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\*\* 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 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 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 if 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, HPLS submits that the NSW Government should establish an independent non-government complaint-handling service that is accessible to consumers of mainstream and specialist homelessness services. HPLS submits that such a body can provide an effective and efficient dispute resolution process for consumers of mainstream and specialist homelessness services, who allege that the services have acted in a manner that is not compliant with established quality standards and human rights principles. HPLS submits that such a non-government complaint-handling service must have determinative powers, and have the ability to investigate and give directions in relation to complaints about mainstream and specialist homeless services by homeless consumers.

HPLS advises that it has made a similar recommendation to the Federal Minister for Housing and Homelessness as part of its submission in response to the Exposure Draft of the *Homelessness Bill 2012*.<sup>7</sup> Accordingly, HPLS urges the NSW government to work co-operatively with the Commonwealth to establish an effective, independent non-government complaint handling service for consumers of specialist homelessness services.

---

<sup>7</sup> Homeless Persons' Legal Service, (2012), *Submission in response to the exposure draft of the Homelessness Bill 2012* (2 August 2012), Public Interest Advocacy Centre, pp. 6-7 <[http://www.piac.asn.au/sites/default/files/publications/extras/12.08.02\\_submission\\_in\\_response\\_to\\_the\\_exposure\\_draft\\_of\\_the\\_homelessness\\_bill\\_2012.pdf](http://www.piac.asn.au/sites/default/files/publications/extras/12.08.02_submission_in_response_to_the_exposure_draft_of_the_homelessness_bill_2012.pdf)>.

### **Recommendation Fourteen**

*That the NSW Government establish an independent non-government complaint-handling service with determinative powers, to provide an effective, efficient and accessible dispute resolution process for consumers of mainstream and specialist homelessness services, who allege that the services have acted in a manner that is not compliant with the established quality standards and human rights principles.*

### **Question 18: What are the priorities and actions that should be pursued to promote and support quality improvements?**

#### **A Charter of Rights for homeless people**

HPLS submits that an essential ingredient in promoting and supporting quality improvements for specialist homelessness services is the adoption of a Charter of Rights for Homeless People. In its submission to the FaHCSIA consultation process regarding the development of a national quality framework to support quality services for people experiencing homelessness, HPLS strongly supported the adoption of such a Charter, based on similar Charters in existence in Victoria (Client Charter of Rights and Responsibilities under the Victorian Homelessness Assistance Service Standards) and the ACT Homelessness Service Charter and Service Guarantee under the Good Practice Standards (2002) Raising the Standard). The rights to be included in the Charter are based on human rights issues that were identified in the 2010 Homeless Consumer Forums, and the February 2011 Consultation with StreetCare members to provide comments for the FAHCSIA Consultation regarding the development of a national quality framework.<sup>8</sup>

HPLS submits that the following rights should be included in a NSW Charter of Rights for Homeless People.

#### **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.

---

<sup>8</sup> Homeless Persons' Legal Service (2011), *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) Public Interest Advocacy Centre, 8-16 <<http://www.piac.asn.au/publication/2011/05/quality-ensuring-rights-respect-and-dignity-homeless-people>>.

- 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.

HPLS submits that the Homelessness Charter should be enshrined in legislation, and form an essential ingredient in Quality Standards to be developed for specialist homelessness services. 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.

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 in turn underpins the Out-of-Home Care Accreditation and Quality Improvement Program.<sup>9</sup>

HPLS submits that a similar regime would be the most efficient and effective way of encouraging specialist homelessness services to adopt the Charter of Rights for Homeless People. Accordingly, HPLS submits that the proposed Charter of Rights for Homeless People should form a key component of Quality Standards for specialist homelessness services. 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.

---

<sup>9</sup> *Children and Young Persons (Care and Protection) Act 1998* (NSW) s 162.

### **Recommendation Fifteen**

---

*That the NSW Government introduce legislation for a Charter of Rights for Homeless People that includes the following rights:*

#### **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 Sixteen**

---

*That the Charter of Rights for Homeless People be expressly included in legislation, with a requirement that all specialist homelessness services uphold the rights conferred by the Charter. That the legislation require the Minister to promote compliance with the Charter by all specialist homelessness services.*

### **Recommendation Seventeen**

---

*That the Charter of Rights for Homeless People form a key component Quality Standards for specialist homelessness.*

## **Recommendation Eighteen**

*That Compliance with the Charter of Rights for Homeless People be included as a core condition in any funding service agreements between FACS and specialist homelessness services.*

### **Quality standards for specialist homelessness services**

HPLS submits that the development of appropriate quality service standards for specialist homelessness services is an effective strategy to promote quality improvements in the SHS sector. HPLS submits that any quality standards developed must emphasise the requirement for services to ensure that the human rights of clients are protected, respected and promoted. The standards should require services to adhere to the requirements of the proposed Charter of Rights for Homeless People (see above), and all NSW and national anti-discrimination and human rights legislation. HPLS submits that the quality standards 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 quality standards. 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 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 Victorian HASS framework<sup>10</sup>, 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**

***Standard:* Clients of homelessness services are treated in accordance with the Charter of Rights for Homeless People, and all Commonwealth and NSW based human rights and anti-discrimination legislation.**

*Assessment Criteria:*

- 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.
- All staff receive information and training regarding their obligations under all Commonwealth and NSW based human rights and anti-discrimination legislation.
- All staff uphold the rights of service users.
- Clients of homelessness services are consistently informed of their rights under the Charter of Rights for Homeless People 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.

---

<sup>10</sup> Victorian Housing Assistance Service Standards - see [http://www.dhs.vic.gov.au/\\_\\_data/assets/pdf\\_file/0005/583673/Homelessness-Assistance-Program-Guidelines-06-09-revised.pdf](http://www.dhs.vic.gov.au/__data/assets/pdf_file/0005/583673/Homelessness-Assistance-Program-Guidelines-06-09-revised.pdf).

- The organisation monitors its compliance with the Charter of Rights for Homeless People, 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 copies of relevant legislation 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 uphold clients' rights to confidentiality and privacy.
- The organisation regularly reviews staff and organisational practices to ensure client 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. 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).*

### 1.3 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 NSW 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 organisation's equitable access policy and with Commonwealth and NSW 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 NSW 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).*

#### **Recommendation Nineteen**

---

*That the following standards should be included in Quality Standards for specialist homelessness services:*

##### *1.1 Upholding and promoting rights*

- *Clients of specialist homelessness services are treated in accordance with the Charter of Rights for Homeless People, and all Commonwealth and NSW 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.*

### *1.3 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 Twenty**

---

*That the quality standards should include for each standard details of the assessment criteria to be employed in determining whether the standard has been met.*

## **Recommendation Twenty-One**

---

*The quality standards should include an external assessment process in which all specialist homelessness services would be required to participate as a condition of ongoing funding, with assessment being undertaken by an external agency.*

## **Conclusion**

HPLS welcomes the opportunity to provide comment on the Family and Community Services (FaCS) Consultation Paper, *Future directions for specialist homelessness services*. This reform initiative provides an important opportunity for Housing NSW and FaCS to recommit to the principle of engaging, consulting and involving homeless people in the development of policy and reform proposals for the provision of social and community housing in NSW, and the reform of the specialist homelessness services sector. It is also an opportunity to revisit the comments, suggestions and proposals that have been put forward by homeless consumers through various official consultation mechanisms that have been put in place in collaboration with Housing NSW over the last three years.

While this process is an opportunity to focus attention on improving the standards and quality of service delivery in specialist homelessness services, it is fundamentally important that the issues and concerns that have been identified by homeless people over the last three years are also addressed. These have centred on the processes, procedures and decision-making activity of Housing NSW in considering applications for housing, applications for priority housing, applications for housing transfers, complaints about conditions and disrepair, complaints about threatening or intimidating behaviour from other tenants, and decisions made to terminate tenancies.

In terms of preventing homelessness and maintaining existing tenancies and accommodation options, the reform also needs to address how the processes within Housing NSW place social housing tenants at risk of homelessness and requiring the assistance of specialist homelessness services. A failure to recognise how processes within Housing NSW contribute to individuals and families facing housing crisis and homelessness will be a tragic missed opportunity in exploring strategies to stop people becoming homeless and giving them the best opportunities to staying in affordable and safe housing.

## 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 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.

The following PILCH NSW members provide lawyers on a pro bono basis to HPLS to provide legal services through the clinics:

- Allens;
- Baker & McKenzie;
- Corrs Chambers Westgarth;
- Dibbs Barker;
- HWL Ebsworth;
- Gilbert + Tobin;
- Henry Davis York;
- Legal Aid NSW;
- Minter Ellison;
- Norton Rose; and
- Thomsons Lawyers.