



11 June 2020

Committee Secretary
House of Representatives
Standing Committee on Social Policy and Legal Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

Australian homelessness legal services – collective submission

Thank you for the opportunity to provide a collaborative response to the Committee's Inquiry into homeless in Australia.

Our organisations provide specialist outreach legal assistance, advice and representation to people experiencing or at risk of homelessness across five Australian states and territories. This collective submission makes eight evidence-based recommendations that have been directly informed by our clients, our casework and our policy work.

1. Access to specialist homelessness legal services

Homelessness and housing insecurity bring increased contact with the law, while simultaneously making it harder to navigate the justice system and to access legal assistance. This has never been more significant than in the context of the coronavirus (**COVID-19**) public health pandemic, which has created and exacerbated a significant range of issues for many Australians, creating a new cohort of 'future homeless' and financially insecure, and compounding difficulties experienced by the most vulnerable community members.

Legal issues cause and compound homelessness, often making it impossible for people to move into stable housing or to make other meaningful changes in their lives.¹ Laws, policies and practices disproportionately affect people experiencing or at risk of homelessness, and entrench their disadvantage and inequality before the law.² Research has identified that the legal needs of people experiencing homelessness are almost double those of the rest of the population.³

When Australians with complex needs, such as those experiencing homelessness, attempt to navigate the justice system without legal assistance, they achieve poor results. In this context, legal assistance through specialist services can lead to both positive legal outcomes, and significant improvement in other areas such as housing

¹ For more detailed discussion see Justice Connect (2020), *Finding shelter from the law: fairer responses to homelessness in our community*, available at: <https://justiceconnect.org.au/wp-content/uploads/2020/04/Justice-Connect-Position-Paper-Finding-shelter-from-the-law-March-2020.pdf>.

² Law Council of Australia 2018, *The Justice Project : final report*, Law Council of Australia, [Braddon, A.C.T.]

³ Law & Justice Foundation of New South Wales, *Legal Australia-Wide Survey – Legal Need in Australia* (August 2012) 20 (**Legal Australia-Wide Survey: Legal Need in Australia**), available at: [http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/\\$file/LAW_Survey_Australia.pdf](http://www.lawfoundation.net.au/ljf/site/templates/LAW_AUS/$file/LAW_Survey_Australia.pdf).

security and health.⁴

Generalist legal services are often not best-equipped to effectively meet the legal needs of people experiencing or at risk of homelessness. The traditional structure of legal services can present difficulties, because many people experiencing homelessness face multiple, complex legal issues – including those relating to criminal law, housing and tenancy, debts and fines – which each need targeted legal responses.⁵

Additionally, people experiencing homelessness often present specific challenges to engagement, such as limited literacy and other communication barriers, unstable accommodation, unfamiliarity with legal processes and a distrust of the justice system. Specialist homelessness legal services, which are community-based and client-focussed, can help to overcome these longstanding barriers for homeless or at risk Australians. Specialist legal services offer customised models that aim to intervene before a crisis point, and deliver tailored help to resolve the legal issues directly associated with homelessness, including during the COVID-19 response and recovery.

Recommendation 1: Invest in early-intervention, client-centred and co-located outreach legal services which proactively resolve legal issues to minimise barriers to housing security.

Legal issues rarely exist in a vacuum, and are often intrinsically linked to a person's health, social, familial, financial, or other personal circumstances. In order to effectively address the multiple and interconnected problems faced by people experiencing or at risk of homelessness, specialist legal services have multi-disciplinary practices and collaborate closely with non-legal support organisations. Research indicates that many people experiencing homelessness first turn to non-legal services when they encounter a legal problem.⁶ For this reason, co-located, integrated and collaborative outreach legal assistance is vital in ensuring a timely and effective response to legal problems, which compound and perpetuate housing insecurity.⁷

Legal and non-legal services working collaboratively can provide wrap-around assistance to clients in order to address their legal, social, health and other issues, and to support a transition out of homelessness. In response to COVID-19 and as part of the upcoming recovery period, comprehensive and integrated services will be important to holistically address the legal and non-legal needs of highly vulnerable community members.⁸

Recommendation 2: Support the integration of legal, social work, health and other community-support professionals to help people experiencing or at risk of homelessness to successfully access, navigate and exit the justice system.

⁴ Forell S and Gray A (2009) 10. *Outreach legal services to people with complex needs: what works?*, 7.

⁵ The Justice Project – People who are homeless (n 6) 30.

⁶ Ibid xxiv; Legal Australia-Wide Survey: Legal Need in Australia (n 14) 26; see generally LawRight (2016), *Legal Health Check Pathways: Guidelines and Training for Legal Assistance Services Project Report*; Alison F (2019) , *Evaluation Of The Law Right Wuchopperen Health Justice Partnership And Law Yam*, 8.

⁷ For more information see LawRight (2018) Best Practice Guide in Legal Outreach

⁸ Legal Australia-Wide Survey: Legal Need in Australia (n 14) 26; The Justice Project – Legal Services (n 23) 74.

2. Access to social and affordable housing with supports

A lack of suitable, supported and safe housing remains one of the most significant barriers for people seeking to exit or avoid homelessness. Every state and territory has an acute, insufficient stock of social and affordable housing, which has been placed under further strain due to COVID-19. Compounding this, the private rental market is often inaccessible for low-income Australians.⁹

For people with a history of housing insecurity, the stability provided by social and affordable housing is invaluable. Secure, ongoing, long-term housing gives at risk Australians the opportunity to take meaningful steps to improve their personal and financial circumstances. It also provides the safety and comfort for vulnerable people to engage with community-support services, which help them to maintain their tenancies and access ongoing treatment for their physical and mental health concerns.¹⁰

COVID-19 has created community-wide pressures, with more people facing housing and financial stress, isolation, health problems, unemployment and legal issues. As evidenced by the frontline work of our organisations, increased appropriate housing with supports will be key for Australia's ongoing recovery from the pandemic.

Recommendation 3: Develop a National Housing Strategy, including improved investment in social and affordable housing to meet the housing needs of low-income Australians.

Recommendation 4: Increase resourcing for community-support agencies, particularly those closely connected with specialist homelessness legal services, which are designed to support vulnerable Australians in maintaining their housing.

3. Access to income and consumer protections

Social security is an essential safety net for all Australians, which is designed to ensure that people do not fall into poverty and homelessness when changes in their circumstances result in financial hardship. The experience of our organisations nationwide, however, demonstrates that pre-COVID-19 social security rates are not adequate to meet the basic costs of living for vulnerable Australians.

This inadequacy was recently acknowledged by the Commonwealth inquiry into the adequacy of Newstart,¹¹ which reiterates recommendations found in numerous reports and investigations over the past decade, including Catholic Social Services Australia's 2008 review¹² and the 2010 Henry Tax Review.¹³

⁹ Hulse, K., Reynolds, M., Nygaard, C., Parkinson, S. and Yates, J. (2019) *The supply of affordable private rental housing in Australian cities: short-term and longer-term changes*, AHURI Final Report 323, Australian Housing and Urban Research Institute Limited, Melbourne, <http://www.ahuri.edu.au/research/final-reports/323>, doi: 10.18408/ahuri5120101.

¹⁰ For more detailed discussion see Public Interest Advocacy Centre (2015), *Social Housing in NSW – more than a roof over our heads*

¹¹ Senate Standing Committees on Community Affairs (2020) *Adequacy of Newstart and related payments and alternative mechanisms to determine the level of income support payments in Australia*, Commonwealth of Australia 2020.

¹² Quinlan, F (2008), *An Australian Entitlements Commission*. Canberra, Catholic social Services Australia.

¹³ Department of Treasury (2010), *Australia's future tax system Report to the Treasurer*. Australian Government, Canberra.

Although many of our clients want to work, there are significant barriers which limit their employment opportunities, and the majority rely on social security as their sole form of income. Despite this reliance, the inability for income support payments to provide necessities such as housing, food, clothing, and healthcare is well established.¹⁴ Prior to the COVID-19 response, a single unemployed person on Newstart (now JobSeeker) could receive as little as \$277.85 a week, or just \$39.70 a day. This amount places recipients well below the poverty line,¹⁵ and is simply insufficient to sustain a transition out of homelessness.¹⁶

Recommendation 5: Prevent income support payments from returning to pre-COVID-19 rates.

Recommendation 6: Appropriately review and index all income support payments, so that fundamental costs of living can be met during and after the COVID-19 recovery period.

Recommendation 7: Prioritise implementing the recommendations of the Senate inquiry into the adequacy of Newstart.

People experiencing sustained financial hardship are regularly exposed to inappropriate, expensive and disadvantageous consumer and credit products.¹⁷ The high cost or repayment rates of these products lock many people experiencing or at risk of homelessness into a 'debt trap', further entrenching their financial disadvantage.¹⁸

This financial disadvantage is often both a cause and consequence of homelessness, and if left unresolved can create significant barriers to transitioning into stable and secure housing. Although protections for vulnerable consumers exist under the current framework, there is evidence to suggest that these are not sufficient to adequately protect homeless Australians.¹⁹

We are of the view that the existing protections do not adequately protect vulnerable consumers or promote financial inclusion. Our ongoing work with disadvantaged consumers evidences the continued negative impact these types of consumer and financial products can have. We encourage any amendments to the existing framework that will lead to greater protections and better outcomes for financially disadvantaged Australians.

¹⁴ For example see ACOSS (2019) *Surviving, not living: The (in) adequacy of Newstart and related payments*.

Accessible [here](#)

¹⁵ Davidson, P., Saunders, P., Bradbury, B. and Wong, M. (2020), *Poverty in Australia 2020: Part 1, Overview*. ACOSS/UNSW Poverty and Inequality Partnership Report No. 3, Sydney: ACOSS.

¹⁶ For more detail see Canberra Community Law (2019), *Homeward Bound – Social Security and Homelessness*

¹⁷ For example, small amount credit contracts (payday loans), consumer leases, car loans, rent to own car agreements, inappropriate life insurance targeted at vulnerable communities, photography packages and/or expensive telecommunication (mobile and internet packages). This list is not exhaustive.

¹⁸ See generally, LawRight (2020) Submission to the Senate Economics Legislation Committee's inquiry into the *National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2019 (No. 2)* (no. 25).

Commonwealth of Australia Senate Economics References Committee (2019) *Credit and hardship: report of the Senate inquiry into credit and financial products targeted at Australians at risk of financial hardship*,

¹⁹ For example, ASIC, Exposure Draft of the National Consumer Credit Protection Amendment

(Small Amount Credit Contracts and Consumer Leases Reforms) Bill 2017, 3; *Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited* [2018] FCA 155; ASIC Report 622 (2019) *Consumer credit insurance: Poor value products and harmful sales practices*; ASIC Report 492 (2016) *A market that is failing consumers: The sale of add-on insurance through car dealers*; Office of Fair Trading, *Outcomes Report 2017-2018*, 21.

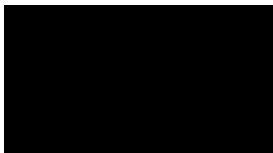
Recommendation 8: Improve protections for vulnerable Australian consumers, particularly those experiencing or at risk of homelessness.

Thank you again for this opportunity to highlight the collaborative recommendations of Australia's specialist homelessness legal services, particularly as part of the national COVID-19 response and recovery.

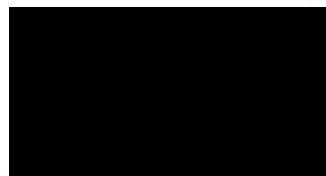
This collective submission should be read alongside our organisations' individual submissions, which contain more detailed examinations of the legal, social and financial factors impacting homeless and at risk Australians.

Yours faithfully

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