

- **To contact HPLS**

Visit one of the HPLS Clinics.

Phone: (02) 8898 6545

E-mail: [homelessproject@piac.asn.au](mailto:homelessproject@piac.asn.au)

For an electronic copy of this newsletter send us an e-mail to the above address.

### Acknowledgements

Special thanks to the PILCH members that provide lawyers for the clinics: Allens Arthur Robinson, Baker & McKenzie, Corrs Chambers Westgarth, Dibbs Barker, Gilbert + Tobin, Henry Davis York, HWL Ebsworth, Legal Aid NSW, Minter Ellison, Norton Rose and Thomsons Lawyers.

And to the host welfare agencies: Edward Eagar Lodge, Matthew Talbot Hostel, Newtown Mission and Newtown Neighbourhood Centre, Norman Andrews House, Parramatta Mission, The Station Ltd, Salvation Army Street Level, Vincentian House, Wayside Chapel, Women's and Girls' Emergency Centre.

PIAC acknowledges the funding support that makes this service possible, which is received from the NSW Attorney General, through the Public Purpose Fund. *STREETRIGHTS NSW* is produced by the Public Interest Advocacy Centre Ltd.

### Contributors to this edition of *STREETRIGHTS NSW*

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ISSN 1834-4496 (Print) ISSN 1834-450X (Online)

### THE HPLS CLINICS

Day (weekly)	Time	Location
Monday	10:00 am - 12:00 noon	The Station Ltd 82 Erskine Street, Sydney
Monday	10:00 am - 12:00 noon	Wayside Chapel 29 Hughes Street, Potts Point
Tuesday	11:00 am - 1:00 pm	Matthew Talbot Hostel 22 Talbot Lane, Woolloomooloo
Tuesday	12:30 pm - 1:30 pm	Norman Andrews House 77 Roscoe Street, Bondi
Wednesday	11:30 am - 1:00 pm	Parramatta Mission 119 Macquarie Street, Parramatta
Wednesday	12:30 pm - 2:00 pm	Salvation Army Streetlevel Derby Lane (off Albion St), Surry Hills
Thursday	12:00 pm - 2:00 pm	Vincentian House 361 Crown Street, Surry Hills
Thursday	1:00 pm - 3:00 pm	Edward Eagar Lodge 348a Bourke Street, Darlinghurst
Friday	12:30 pm - 2:30 pm	Women's & Girls' Emergency Centre 361 Riley Street, Surry Hills
Friday	1:30 pm - 2:30 pm	Newtown Mission 280a King Street, Newtown

## HPLS wins a Justice Award

In October 2010, HPLS won the Law and Justice Foundation's Community Legal Centre NSW Award for our work setting up and running Street Care. As you know, Street Care is an advisory group made up entirely of people who are currently or formerly homeless. One of the aims of Street Care is to uphold the rights of homeless people and make sure they can participate in the development of more effective government policies on issues that directly affect homeless people.

HPLS thanks the City of Sydney for providing funding to set up Street Care in 2009 and for its ongoing support of our work with consumer representatives.

HPLS is very proud to win this award and will continue to make sure that the voices of the real experts on homeless issues, homeless people themselves, will have the opportunity to be heard by the decision makers in government agencies and non-government organisations.

HPLS was also nominated for the Community Organisation Award at the Australian Human Rights Commission's Human Rights Medals & Awards 2010. Unfortunately, we did not win but we are very proud to be short-listed.



### Street Rights NSW

Hi everyone,

In this edition of Street Rights, we have an article about your rights if you are squatting.

In our Legal Beagle, you will find some information about how you might be able to access some of your superannuation money even if you are not 55 years old.

As always, you can check out updates on our website, <http://www.piac.asn.au/campaigns/homeless-persons-legal-service>. It has some great information about our work and where you can go to see a HPLS lawyer. If you have any ideas, we would love to hear from you by email or by phone.

We hope you enjoy this edition!

The HPLS team,  
Julie, Chris, Jeremy and Katherine

## Legal Beagle: Know your rights!

In 1992, the Federal Government introduced a law called the Superannuation Guarantee. If you have worked since then, chances are that your employer had to pay money into a superannuation fund on your behalf. Generally, you cannot access your superannuation until you are at least 55 years old.

However, it may be possible to access your superannuation early in some limited circumstances like if you are suffering from severe financial hardship or on compassionate grounds, such as for medical treatment not covered by Medicare.

### Severe financial hardship

To qualify under severe financial hardship you must be able to prove:

1. you have received a Centrelink benefit for 26 weeks in a row. You must have a letter from Centrelink that states the type of payment you get;
2. you are still currently receiving Centrelink payments; and
3. you do not have enough money to pay for reasonable and immediate living expenses, like food, rent and medical bills.

If you qualify, you may be able to get between \$1,000 and \$10,000 in any one year. If you have less than \$1,000 in your superannuation account, then you may take it all.

### Compassionate grounds

To qualify on compassionate grounds, you must be able to prove that you cannot meet your expenses in any other way. Compassionate grounds for early access to your superannuation can include:

1. certain medical expenses; or
2. if you need to make mortgage repayments to prevent your house from being sold.

### Finding your superannuation

There are lots of superannuation funds and they all have their own rules about early access to your money. The Tax Office will be able to tell you which superannuation fund is holding your money. You can call them on 13 28 65.

If you are successful in getting some of your superannuation paid to you, you may have to pay tax, so you should get financial advice as well as legal advice.

Accessing your superannuation is only one way of dealing with ongoing expenses or a large debt. If you would like some help to find what might work best for you, please ask an HPLS lawyer at one of our free clinics.

## Conflict of interest

If you go to an HPLS clinic to talk to a lawyer, before we can give you legal advice we will do a conflict of interest check. The first thing we need to do is to ask you your name, the name of any other person or organisation involved in the matter, and the type of legal problem that you have. Our lawyers have to call the office to make sure that we do not have a conflict of interest.

Conflict checking is about protecting all our current and former clients. All lawyers in New South Wales, no matter where they work, must do the same thing. You should not be worried if your HPLS lawyer says they need to ring the office. If you have any questions about what they are doing and why, you should talk to them about it at the clinic.

## HPLS Policy Corner - Squatting

### What is squatting?

Squatting generally means living in an unoccupied or abandoned building, such as a house, when you don't pay rent or have permission to live there.

### Is squatting illegal?

Yes. If you enter a house, flat, office building, etc without the permission of the owner, occupier or other person apparently in charge, you could be fined.

It will be up to you to prove you had a lawful excuse to enter or remain on the land, e.g. an emergency. Just because you are homeless may not be a good enough reason.

### What are my rights if I'm told to leave?

It depends on who's telling you to leave. The only people who can tell you to leave are:

- the owner or an agent of the owner – an agent could be a real estate agent or an employee of the owner; or
- the occupier – this might be someone who is already living at the premises, such as a tenant; or
- a person apparently in charge of the place where you're squatting – this could be a building manager or security guards.

The owner can also ask for your name and address. If you refuse to give it, they can detain you and take you to the nearest police station, although in reality the owner will probably just ring the police and ask them to attend.

You should always ask for proof that the person telling you to leave is who they say they are. People, such as neighbours, may have no right to make you leave, although they can contact the owner and tell them there are squatters on the property.

### What if I refuse to leave?

If you refuse to leave, the owner can complain to the police who may decide to charge you with trespass. If you are arrested, the police may only use reasonable force to remove you from the property. If you behave in an offensive manner, you could also be fined.

- The owner may also have the right to go to court and ask you to pay compensation for civil trespass.

If you are physically removed from the place where you are squatting it's important that you seek legal advice immediately.

### What if I've been living in a squat for years and years?

The owner has 12 years from the date you first start squatting to apply to the court to "recover the land". The police can act on this order to physically remove you from the premises.

After 12 years, the owner no longer has a legally enforceable right to remove you. For Crown land, it is 30 years. After this time, if you have been in continuous "adverse possession" of the property, or you are the last in an unbroken series of squatters, you may gain full title to the land. It is very rare for this to happen!

### If I'm chucked out can the owner keep my stuff?

There are two ways that an owner might end up with your personal belongings in their possession.

First, while you are out, the owner could lock or barricade you out of the premises so that you can't get access to your stuff. Second, while you are out, the owner might enter the premises and move your stuff to another location.

In both cases, the owner has no right to keep your belongings, or ask for money, if you ask for them back. However, they don't not have to store your personal belongings indefinitely, so you should try to contact the owner as soon as possible. You should ask the owner for permission to enter the premises and collect your things. If the owner says no, they should make some other arrangement with you so that you can collect all your things.

If the owner has taken your stuff and is storing it elsewhere, they will be responsible to take reasonable care of your property. If the owner keeps your stuff and uses it for his or her own purpose this may be a form of theft and you should seek legal advice.