



**Queensland Public Interest Law Clearing House
Incorporated**

**HOMELESS PERSONS'
LEGAL CLINIC**

**Submission to the National Human Rights
Consultation**

15 June 2009

Prepared by the Queensland Public Interest Law Clearing House Incorporated's Homeless Persons' Legal Clinic.

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About QPILCH

QPILCH is an independent, not-for-profit incorporated association bringing together private law firms, barristers, community legal centres, law schools, legal professional associations, corporate legal units and government legal units to provide free and low cost legal services to people who cannot afford private legal assistance or obtain legal aid.

QPILCH was established in June 2001 as an initiative of the legal profession and commenced services in January 2002.

QPILCH coordinates the following services:

- The **public interest referral service** facilitates legal referrals to member law firms and barristers for free legal assistance in public interest civil law cases.
- The **pro-bono referral service** facilitates legal referrals to participating law firms and barristers for legal assistance in eligible civil law cases.
- The **Homeless Persons' Legal Clinic (HPLC)** provides free legal advice and assistance to people who are experiencing homelessness or are at risk of homelessness.
- The **Refugee Civil Law Clinic (RCLC)** provides free legal advice and assistance to refugees and asylum seekers experiencing financial hardship in civil law matters other than immigration law.
- The **Administrative Law Clinic** provides legal advice and extended minor assistance in administrative law matters.
- The **Self-Representation Civil Law Service (SRCLS)** provides legal advice and assistance to eligible applicants without legal representation in the civil trial jurisdictions of the Brisbane Supreme and District Courts.
- The **Court of Appeal Self-Representation Civil Law Service (CASRCLS)** provides legal advice and assistance to eligible applicants without legal representation in the civil jurisdiction of the Queensland Court of Appeal.

QPILCH is a member of the Queensland Association of Independent Legal Services, affiliated with the National Association of Community Legal Centres, and is a member of the PILCH network. For more information about QPILCH services, please see the QPILCH website at www.qpilch.org.au under Services.

Submission endorsements

QPILCH facilitated the completion and collection of twenty four client questionnaires, which can each be considered submissions in their own right. QPILCH acknowledges and endorses these submissions, which are annexed to this document.

Introduction

The Queensland Public Interest Law Clearing House (**QPILCH**) Homeless Persons' Legal Clinic (**HPLC**) welcomes the opportunity to contribute to the Commonwealth Government's National Human Rights Consultation.

The HPLC began as a project of QPILCH¹ in December 2002 and since inception has assisted over 1700 people experiencing or at risk of homelessness through the provision of pro bono legal and advocacy services. The HPLC currently operates 12 outreach legal clinics in Brisbane, Toowoomba and Townsville which are attended by lawyers from private firms and community legal centres.

Response to National Human Rights Consultation

The protection of rights of the vulnerable and marginalised is a commonly cited purpose for a charter of rights. People experiencing homelessness are among the most marginalised members of our society, so it is important for them to have a voice in the debate about human rights in Australia. With this in mind, the HPLC facilitated the engagement of people experiencing homelessness in the National Human Rights Consultation.

The HPLC provided clients of our clinics and other people experiencing homelessness with questionnaires, seeking details of their human rights related experiences. Participants either answered questionnaires on their own or with the help of volunteer lawyers and completed questionnaires were returned to the HPLC. Twenty-four client submissions are attached and form the principle part of this submission.

The HPLC has also contributed to the QPILCH submission to the Consultation,² which comments on a broad range of human rights issues seen by QPILCH's various services. This separate HPLC submission is of a different nature, simply enabling people experiencing homelessness to contribute details of their thoughts and experiences, unedited.

Participants were asked questions relating to specific rights issues such as health, shelter, privacy and social security, as well as general questions about the protection of human rights in Australia. We hope that their attached submissions help to answer the question posed by the National Human Rights Consultation - *are human rights sufficiently protected and promoted in Australia?*

Comments on submissions

We commend the attached submissions to you and ask that you read each one individually; however, we draw your attention to the following matters which were raised in regards to particular rights.

1. Right to health care

Some participants wrote of difficulties in obtaining health care due to an inability to provide appropriate documentation or identification. One participant described being unable to receive medical treatment because, as newly arrived Australian residents, they did not have

¹ See www.qpilch.org.au.

² See QPILCH Submission to the National Human Rights Consultation, June 2009.

Medicare card. Incidents like this inform QPILCH's opinion that a charter of rights ought to protect not just Australian citizens, but all people living in Australia.³

2. Right to freedom from discrimination

Many participants comment on being generally discriminated against and treated badly due to their homelessness status. A high number of submissions include descriptions of being discriminated against particularly by police. One participant commented, "*Police don't understand...they need to stop thinking that homeless people are bad and thinking that all we do is steal and do drugs.*"

It seems it is in the interaction with police that people experiencing homelessness are most likely to feel like that their rights are violated. We acknowledge that the operations of the Queensland police would not be affected by a national human rights charter; however we submit that this pattern of alleged rights violation by police officers is a strong argument in favour of the creation of human rights charters in each state, along with a national charter.

3. Right to privacy

A number of instances of invasions of privacy are described in submissions. Participants comment that police officers are often the perpetrators of this. One participant describes an incident of a police officer going through their personal items while they were asleep. Another participant relates a story of being woken up in the middle of the night by security guards and being asked to leave where they were sleeping.

4. Right to vote

It seems that many participants have not attempted to vote, believing that they will not be able to. However, some participants explain that they have not been able to vote when they have attempted to, one due to having no fixed address, another due to their name being cancelled from the roll, and another due to being in jail.

5. Right to work

The submissions reflect a general difficulty experienced by participants being able to find work while homeless. Three submissions relate experiences where employers were simply unwilling to employ a person who did not have a fixed address. One participant described being let go from a job due to their race.

6. Right to social security

While most participants stated that they have never been denied Centrelink payments due to their homelessness, there were some participants who described occasions of denied payments. Two participants described being unable to receive payments due to them not having a fixed address, or not having appropriate identification. A participant who had been experiencing primary homelessness for 2 months was unable to receive Centrelink payments because of their parents' earnings.

³ See QPILCH Submission to the National Human Rights Consultation, June 2009, pg 21.

7. Right to housing

Many participants describe profound difficulties in accessing adequate and secure housing. Participants quote a number of complaints, from high rental prices to police move-on directions being issued when there is nowhere to 'move on' to. Participants commented on feeling discriminated against by the Department of Housing, community housing rooms being too small - 'like a jail cell', and their need to sleep in public toilets, choosing disabled toilets 'because you can lock them and fit six people'.

General Comments

Many participants wrote about a desire to be treated better by authorities. They described problems caused by not having shelter, and by what they saw as police presumptions of their criminality. When asked whether the current protection for human rights in Australia was adequate or not, there was a variety of responses, however more than half of the submissions described the protection as either 'not adequate' or 'very inadequate'.

Finally, when asked whether Australia should have a Human Rights Act or not, twenty out of the twenty-four respondents answered 'yes'.