



**Queensland Public Interest Law Clearing House  
Incorporated**

**HOMELESS PERSONS'  
LEGAL CLINIC**

**Submission in response to the  
Queensland Strategy for Reducing  
Homelessness 2010-2020 Discussion  
Paper**

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**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 **QLS Pro Bono Scheme** and **Bar Pro Bono Scheme** facilitate 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 experiencing homelessness or at risk of homelessness.
- The **Refugee Civil Law Clinic** provides free legal advice and assistance on matters other than immigration law to refugees and asylum seekers experiencing financial hardship.
- The **Administrative Law Clinic** provides legal advice and extended minor assistance in administrative law matters.
- The **Self Representation Service (Courts)** (SRSCourts) provides free, confidential and impartial legal advice to eligible applicants without legal representation in the civil trial jurisdictions of the Brisbane Supreme and District Courts.
- The **Self Representation Service (QCAT)** (SRSQCAT) provides free, confidential and impartial legal advice to eligible applicants without legal representation in QCAT.
- The **Court of Appeal Self Representation Service** (SRSCA) provides free, confidential and impartial legal advice to eligible applicants without legal representation in the civil jurisdiction of the Queensland Court of Appeal.
- Intellectual Property and Technology Law Clinic** provides free legal advice, referral and assistance to people with IP and technology law questions who cannot otherwise afford legal representation.

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](http://www.qpilch.org.au) under Services.

## **Introduction**

The Queensland Public Interest Law Clearing House (**QPILCH**) Homeless Persons' Legal Clinic (**HPLC**) welcomes the opportunity to respond to the Queensland Strategy for Reducing Homelessness 2010-2020 Discussion Paper.

The HPLC is funded by the Department of Communities, to coordinate the provision of pro bono legal resources to deliver direct, targeted and accessible legal services to people experiencing or at risk of homelessness. It began as a project of QPILCH in December 2002 and since inception has assisted over 1700 people experiencing or at risk of homelessness. The HPLC currently operates 13 outreach legal clinics in Brisbane, Toowoomba and Townsville which are attended by lawyers from private firms and community legal centres.

For more details, including locations of the clinics and the law firms that collaborate in the HPLC, see [our website](#).

## **PRIORITY ONE: COMMON VISION AND PRINCIPLES**

The HPLC agrees broadly with these principles, but makes the following comments.

### **1. Language and clarity**

1.1 We query the use of the term 'independent' used in the proposed vision statement. The notion of total self-reliance in the term 'independent' may be unrealistic, or at best, ambiguous, when held against the fact that many who experience homelessness will struggle all their lives with disability, chronic health issues and embedded trauma. Aiming for 'resilience', 'minimal reliance on the service system' or 'increased community participation' may be a more appropriate vision.

SUGGESTION: Replace the words "achieve stable and independent lives" with "increase their resilience and participation in the community".

1.2 The phrase 'positive benefits and outcomes' is referred to in five of the underpinning principles on page 8 (person focus/continuum of support/collaboration/place-based/efficiency and effectiveness). This is repetitive, but also unclear, as 'positive outcomes' are not defined. Presumably 'positive outcomes' refers to the outcomes articulated in the vision statement which we have addressed in 1.1, and the paper already states that "the guiding principles underpin the proposed vision", so it is not necessary to articulate it each time.

SUGGESTION: Delete the references to "positive benefits/outcomes" where they appear in the guiding principles.

1.3 It is difficult to understand the need for the sixth principle (building on success) when the fifth principle (continuous improvement) includes the intention to trial and implement new approaches. The notion of "in a contemporary manner" is undefined and its meaning not readily apparent.

SUGGESTION: Delete principle six: Building on success

## 2. Human Rights

The HPLC advocates the use of human rights based frameworks to ensure that both services and their method of delivery are appropriate for people experiencing disadvantage. The most recent expression of this approach at a government level can be found in *Housing the Homeless: The Report on the Inquiry into Homeless Legislation* issued in November 2009 by the House of Representatives Standing Committee on Family, Community, Housing and Youth. This report agreed that a rights-based approach was necessary, and in Recommendations 7 to 11<sup>1</sup> sought to enshrine the right of all Australians to adequate housing, to audit laws impacting those experiencing homelessness for human rights infringements, and to set service standards for homelessness providers based on human rights principles.

Human rights frameworks, when applied to the development of social policy, can achieve the necessary balance between the responsibilities of governments and individuals. When citizens are faced with situations where their human rights (such as the right to housing) are not respected, and they find themselves living in public space, self-medicating in a destructive way, or developing “anti-social” behaviours, they should not be further discriminated against. The “housing first” model has demonstrated the value to the individual, the community and the public purse of prioritising the right of housing.

SUGGESTION: The Common Vision and Principles should explicitly adopt human rights priorities and principles, by echoing the recommendations of the Federal House of Representatives, as referred to above.

### **PRIORITY TWO: PERSON – FOCUSED RESPONSES**

The discussion paper has rightly suggested an approach that is person-centred, respectful and effective. This is in keeping with a human rights paradigm that keeps the individual central. In line with the social inclusion agenda which permeates many of the priorities of the strategy, this priority refers to a “strengths-based approach”.

The HPLC expresses two qualifications to this approach.

#### 1. Service model flexibility

As a supplier of specialist, expert, time-limited services, the HPLC is frequently in a power-imbalance with its clients. Most of the time, our volunteer lawyers know more than our clients do about their options and how to achieve useful outcomes. Research<sup>ii</sup> demonstrates that most people experiencing disadvantage are unaware that they have legal issues, that there are solutions to those issues and that a lawyer can be well placed to deliver those solutions. The HPLC acknowledges this knowledge-gap, and designs and adjusts our services accordingly: we have made our services as accessible as possible – through location choice as well as our style of communication; we have made every attempt to work with caseworkers, who can maintain a care-relationship with clients, and we have developed clear “menus” of what we offer, so that clients are informed. We try to ensure information and advice for clients is in a form that is understandable and clear, so as not to exacerbate

disadvantage by using overly technical or bureaucratic language. Finally, we have made some attempts to encourage consumer input and feedback about our services. These provisions are in accordance with human rights principles.

SUGGESTION: A person-centred approach must balance “strengths-based” principles with maximum accessibility, transparency and flexibility in the service model.

## 2. Trauma-informed care

A strengths-based approach must also be balanced with what is referred to as “trauma-informed care”. The attempt of the HPLC to work with caseworkers is an example of this, but there is more that can be done.

There is a growing literature of trauma-informed care that confirms that many homeless clients require therapeutic responses that acknowledge the existence and the impact of trauma in their lives, before they can learn how to recognise and access their resources. Survivors of trauma are resource-depleted and need time, and the sustained involvement of trained and trusted individuals, before they can develop community connections.<sup>iii</sup> Childhood experiences of abuse or family violence, which are present in the overwhelming majority of those who experience homelessness, frequently generate long-term impacts that need to be addressed in order for a person to develop an appropriate framework of a healthy “home” for themselves. If we give clients access to the accoutrements of home – a building, a mailing address, furniture etc, without restoring or assisting them to create a sense of “home” in their hearts and minds, we are doomed to a cycle of rejection and wasted resources. Until embedded traumas are addressed, connections to community will be fragile and unsustainable. The strengths-based approach must be balanced with “trauma-informed care”.

An essential element of trauma-informed care is to ensure that homeless clients are connected as early as possible to a “lead agency”, (not necessarily the first-to-know agency) and preferably, an individual within that agency, who will navigate with them through the other organisations and pathways. This approach is human-resource intensive, requires flexibility and collaboration across organisations, and comes with challenges of client-dependency, but ensures the client and their needs are properly understood and communicated to all relevant service providers. The alternative, inferior and trauma-compounding approach is colloquially known as “tag and release”.

SUGGESTION: That trauma-informed care be adopted as an essential element of “person-centred care”, and that, as a minimum, homeless clients are supported by a “lead advocate” in a “lead agency”.

## **PRIORITY THREE: PREVENTION AND EARLY INTERVENTION**

The Strategy has identified that effective prevention and early intervention can only occur when mainstream and allied agencies identify and support those at risk. This priority is further referred to in Priority 6: Effective Coordination and Integration of Services.

The HPLC considers this to be a priority for government. A large amount of the legal work we perform on behalf of our clients is to advocate and engage with government agencies

which have made adverse decisions which have compounded our clients' circumstances. These decisions also represent a lost opportunity for timely intervention.

Public nuisance offences, which adversely impact those who, as a result of their homelessness, live, sleep, urinate, and swear in public,<sup>iv</sup> decisions by police to issue inappropriate move-on directions, followed by a charge of contravene direction when the order is challenged<sup>v</sup> are examples of inappropriate responses to homelessness that the HPLC has frequently highlighted.

The HPLC is soon to release a report on the adverse impact of the SPER system on our homeless clients. Our current survey results show the average fine burden of homeless people to be more than \$6000.00. Homeless offenders in Queensland are deemed to have a "capacity to pay" by SPER, and are unable to have their fines waived or to access alternative provisions for fines. The HPLC will be recommending reforms similar to those in Victoria, which allow a fine-debtor's homelessness to be taken into account at the infringements and enforcement stage, or those in NSW where Work and Development orders are tailored to the capacities of homeless debtors, provide connection to the community and skills development, and acknowledge the realities of homelessness.

The HPLC supports the concerns raised in reports such as *Mothers and the Child Protection System*<sup>vi</sup> and *The right to belong - Family Homelessness and Citizenship*<sup>vii</sup> about the impact of inappropriate responses on families and their enduring or subsequent homelessness. The need for more effective identification and support of at-risk families by school administrations should be a well-funded priority. Pastoral care responses that connect families into the school community, and mobilise the support of other families are as important as responses that target learning and behaviour.

For the whole of government to genuinely identify and support homeless citizens, it is imperative that the Queensland government adopt a definition of homelessness that is adopted by all service delivery agencies and that any citizen that meets the criteria of that definition be assisted in a manner that addresses rather than exacerbates their homelessness.

SUGGESTION: That the strategy adopts the wording of Recommendation 10 of *Housing the Homeless*,<sup>viii</sup> as follows:

"That the Queensland Government, conduct an audit of laws and policies that impact disproportionately on people experiencing homelessness. Laws and policies that do not conform to anti-discrimination and human rights obligations should be amended accordingly."

#### **PRIORITY FOUR: ACCESS TO HOUSING WITH SUPPORT**

The HPLC reiterates the comments made in response to Priorities One and Two. We call for access to housing and support to be accepted and prioritised as a human right, and for trauma-informed care to be an essential element of the support delivery model.

Support needs to be understood as providing to homeless people more than just a pathway. People who have experienced chronic disadvantage are resource-depleted and cannot be

expected to navigate their own pathways without a “map” and a “menu” that is consistently and sensitively interpreted to them by someone they trust, in a flexible timeframe.

Connecting to the community must be modelled in the method of our response, not just as an outcome. This recognises the fact that most of us connect to the community through the conduit of existing and trusted relationships.

## **PRIORITY FIVE: INCREASED PARTICIPATION IN EDUCATION, TRAINING AND EMPLOYMENT**

The HPLC refers to its comments about fine alternatives under Priority Three.

It is vital that the government is serious about taking every opportunity to create and reward work and skills development opportunities.

Enabling fine debtors who are homeless to obtain fine “credit” for work programs is an important opportunity to reconnect homeless people to work skills and environments. In New South Wales, Work and Development Orders allow eligible people who have a mental illness, intellectual disability or cognitive impairment; are homeless; or who are experiencing acute economic hardship to satisfy their fine debt by non-monetary means through unpaid work with an approved organisation or by undertaking certain courses or treatment.

A Work and Development Order may only be considered if an application is supported by an approved organisation or, in the case of medical/mental health treatment, an enrolled health practitioner qualified to provide that treatment.<sup>ix</sup>

**SUGGESTION:** Government should investigate other options for fine alternatives.

## **PRIORITY 6: EFFECTIVE COORDINATION AND INTEGRATION**

The HPLC refers to comments under Priority Three, but also agrees with the need to support networks and collaboration between agencies, including within the NGO sector and across government and non-government sectors.

The HPLC already has a collaborative model of service delivery, locating our services where clients are accessing other services. This model facilitates access to the lawyers, as well as enabling the HPLC to draw on the expertise and trust relationships that already exist in the host agency. The HPLC creates opportunities to strengthen and learn from the capacities of the host agencies as well as other community and government agencies.

An example of this is the free day of caseworker training in legal issues we will offer in March 2011, which will be hosted at the offices of the Commonwealth and State Ombudsman. The HPLC will bring together trainers from Legal Aid, other community legal centres and private law firms to offer caseworkers much needed knowledge and skills in this area.

Our prior comments under Priority Four as to the need for a centralised or lead agency and advocate to be appointed, and recognised by all stakeholders, particularly in cases of clients

who have experienced chronic homelessness, would do much to promote effective coordination.

The HPLC also participates where possible in collaborative endeavours, in both policy and service delivery, such as Under One Roof, Rights in Public Space, Homelessness Taskforce and the Community Action Plan process.

## **PRIORITY 7: MORE COMMUNITY INVOLVEMENT**

The HPLC has had significant experience in harnessing the community, as the HPLC is based on the pro bono contribution of private law firms.

Rather than relying on each law firm to establish and maintain a response to community legal need, the firms have collaborated. The HPLC trains and supervises the lawyers, liaises with the host agencies and supplies all necessary insurance and professional indemnities for work delivered by volunteer lawyers from these firms. The HPLC is a response of corporate firms, rather than individuals, with the firms “covering “ their volunteer lawyers for the time out of the office, and recognising and rewarding their contribution. Each firm appoints a dedicated HPLC Team Leader who organises the HPLC within the firm. The HPLC is able to access the firms’ resources to undertake research, or to host events such as a biannual Art Show.

The HPLC also collaborates with a number of Law Schools, and the TC Beirne School of Law at the University of Queensland in particular. Law students assist with research as well as the delivery of services.

In both the collaboration with the private firms and with the Law Schools, the HPLC is able to expose tomorrow’s decision – makers to the realities of the complex social issue of homelessness. This undoubtedly leads to broader understanding in the community of more appropriate, less clichéd and less stigmatising responses to both individuals experiencing homelessness and the structural issues involved.

It is the responsibility of society as a whole to adopt a human rights framework, which should be broadly taught in schools and other institutions. Our community needs to treat traumatised and damaged people with respect. We don’t expect cancer sufferers to maintain their full range of duties; rather we recognise their need for consideration and support as falling on all of us. In the same way, the community needs to be exposed regularly to the reality that individuals are not to blame for their homelessness, and in fact exhibit extraordinary amounts of creativity and resilience to survive their experiences of chronic trauma, discrimination and exclusion.

## **GENERAL RESPONSES TO OTHER PRIORITIES**

The HPLC supports the creation of a Taskforce composed of government and non-government providers in the sector to monitor and advance the Homelessness Strategy of the Government. Such a body needs to be readily accessible by all organisations in the sector, and responsive to their input and feedback. The Taskforce should be diligent in

driving community education strategies, and be funded to do so. It needs to drive the scrutiny of adverse laws and policies, with specific sub-committees as required. It would be valuable if this body also communicated regularly with equivalent collaborations in the corporate sector.

The Homelessness Inter-sectoral Forum may become the basis for this Taskforce, but the HPLC envisages a higher level of communication and transparency would be required to adequately perform this role.

The HPLC also calls for a well-funded consumer consultants group to be created and facilitated to offer genuine responses to government policy from a perspective which includes lived experiences of homelessness.

Government funding to assist with the facilitation of smaller consumer groups to be attached to localised response to homelessness should also be available, with such groups facilitated perhaps by the coordinator of each Community Action Plan.

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<sup>i</sup> At page xiv

<sup>ii</sup> See, for example: Forell, S, McCarron, E & Schetzer, L (2005) *No home, no justice? The legal needs of homeless people in NSW*, Law and Justice Foundation of NSW; Coumarelos, C, Wei, Z & Zhou, AH (2006) *Justice made to measure: NSW legal needs survey in disadvantaged areas*, Law and Justice Foundation of NSW; Clarke, S & Forell, S (2007) *Pathways to justice: the role of non-legal services, Justice Issues Paper 1*, Law and Justice Foundation of NSW

<sup>iii</sup> See for example: Robinson, C (2005) "Persistent Homelessness/Persistent trauma", *Parity*, August; Collins, S (2010) *Sofas, Shelters and Strangers: A report on youth homelessness in Niagara*, Niagara Community Services; Goodman, L, Saxe, L, Harvey, M, (1991) "Homelessness as psychological trauma", *American Psychologist*, Vol 46(11); Hulse K and Kolar, V (2009) *The right to belong - Family Homelessness and Citizenship*, Swinburne University of Technology and Hanover Welfare Services

<sup>iv</sup> See the following reports by Walsh, T and published by the TC Beirne School of Law, UQ: *No Vagrancy: an examination of the impact of the criminal justice system on people living in poverty in Queensland* (2007); *No offence: The enforcement of offensive language and offensive behaviour offences in Queensland* (2006); *Nowhere to Go: the impact of Police move-on powers on homeless people in Queensland*.

<sup>v</sup> See *Rowe v Kemper* [2008] QCA 175 (27 June 2008)

<sup>vi</sup> Douglas H, & Walsh, T (2009) *Mothers and the child protection system*, University of Queensland

<sup>vii</sup> Hulse, K & Kolar, V (2009) *The right to belong - Family Homelessness and Citizenship*, Swinburne University of Technology and Hanover Welfare Services

<sup>viii</sup> At page xv

<sup>ix</sup> Information obtained at [www.sdro.nsw.gov.au](http://www.sdro.nsw.gov.au)