

**Brief Submission to the Inquiry into Homelessness
Legislation**

By

The Homeless Outreach Psychiatric Service (HOPS)

Barwon South West Region – Geelong, Vic.

**A partnership between Barwon Health (Mental Health),
and Pathways Rehabilitation and Support Services Ltd.**

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The Secretary of the Committee

Standing Committee on Family, Community, Housing and Youth
PO Box 6021
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Secretary,

Inquiry into homelessness legislation

The Homeless Outreach Psychiatric Service (HOPS) commends the Australian Government for initiating the Inquiry into homelessness legislation (***the Inquiry***), currently being conducted by the House Standing Committee on Family, Community, Housing and Youth (***the Committee***). This Inquiry is an important first step towards tackling the homelessness crisis in Australia. We hope it is also a first step towards affording some of the most disadvantaged and marginalised members of Australian society improved human rights protections.

Barwon Health is the Primary Health Services Provider for mental health in the region, Pathways provides Psychiatric Disability Rehabilitation and Support Services. (HOPS) is a partnership between these services that addresses the needs of clients of the mental health system who are also facing homelessness or at risk of homelessness.

HOPS manage two, three bedroom, crisis accommodation properties. One property is for males, the other for females, and across an age range of 16 to 65 years of age. It also has access to seven transitional houses through the Salvation Army in which people are housed while more stable accommodation is sourced mainly either through rooming houses, private rental, or public housing. HOPS also have access to two longer term properties which are managed by Housing Choices Australia in which tenants can remain long term.

While we believe we offer a high quality level of service to our client group, there are limitations in offering suitable housing options due to the significant shortage of suitable and affordable housing both in the private and public housing sectors.

Given our expertise in the area of housing and homelessness we set out below our response to the current Inquiry.

It is our principal submission that the Government must acknowledge and respond to homelessness as a human rights issue. We therefore submit that new legislation must address homelessness within a human rights framework by incorporating legislative mechanisms based on the well established principles and norms of international human rights law. In our view, the implementation of such a framework is necessary not only in discharging Australia's human rights obligations at international law, but as the foundation for any integrated approach to ending the homelessness crisis. We submit that approaching the issue of homelessness within a human rights framework will create positive outcomes by:

- Enhancing social policy;
- Improving social services; and
- Providing an effective tool for advocacy

Further detail about the immediate importance of situating the problem of homelessness within a human rights framework, and how to implement such a framework in new legislation, is set out in the comprehensive submission of the PILCH Homeless Persons' Legal Clinic (*the HPLC*) submission. Pathways unreservedly endorse the HPLC's submission to this Inquiry.

Further to the HPLC's submission, we recommend that the new homelessness legislation:

1. **Enshrine an enforceable right to adequate housing.** The meaning and definition of the right to adequate housing contained in international human rights law, in particular the *International Covenant on Social, Economic and Cultural Rights*, should be incorporated within the new legislation. For example, the seven indicia referred to in international human rights law when considering whether housing is adequate must be integrated within the new legislation.

2. The seven aspects of the adequacy of housing include: (1) *Legal security of tenure*;¹ (2) *Availability of services, materials, facilities and infrastructure*;² (3) *Affordability*;³ (4) *Habitability*;⁴ (5) *Accessibility*;⁵ (6) *Location*;⁶ and (7) *Cultural adequacy*.⁷
3. **Clearly set out the Government’s responsibility for ensuring progressive realisation of the right to adequate housing.** In considering how to incorporate this responsibility within legislation we refer the Committee to the section 26 of *the Constitution of the Republic of South Africa*.
4. **Provide a model of best practice, based on human rights principles, by which Government, its agencies and service providers must abide.** This may include the provision of a Charter of Rights and Responsibilities for Service Users.
5. **Ensure Government accountability and the accountability of service providers by establishing a regulatory system that includes penalties for breach of duty, an independent complaints body and an independent overseeing body that can investigate systemic issues within the homelessness sector.**
6. **Set out minimum standards, based on human rights principles of service delivery, which must be met by service providers in order to access Government funding.**

While we support this Inquiry process and acknowledge that there is a great need to improve homelessness legislation, we also submit that the Government must go much further than this Inquiry process. There is an urgent need to review the impact of all laws and policies on people experiencing or at risk of homelessness in Australia. Accordingly, we submit that it should be a recommendation of the Committee that the Australian Government review all legislation and policies that impact disproportionately and discriminatorily on people experiencing or at risk of homelessness, with a view to repealing and/or amending legislation and policies that perpetuate the cycle of poverty and disadvantage and which operate as a barrier for people attempting to transition out of homelessness.

¹ All persons, regardless of their form of tenure and including people in emergency, crisis or public housing, should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.

² An adequate house must contain certain facilities essential for health, security, comfort, nutrition and sustainable tenancies. People must have access to natural and common resources including, among others, safe drinking water, heating, lighting, sanitation, washing facilities and refuse disposal.

³ The cost of housing should not be at such a level that the attainment and satisfaction of other basic needs are threatened or compromised.

⁴ Housing must provide sufficient space and protect people from cold, damp, heat, rain, wind and threats to health. The physical safety of occupants must also be guaranteed.

⁵ Disadvantaged groups (such as the elderly, the mentally and physically ill, the disabled and the homeless) should be given priority in relation to accessing housing.

⁶ Housing must be in a location that allows access to employment, health care, schools and other essential social services.

⁷ The way that housing is constructed, the building materials used and the policies supporting these, must appropriately enable the expression of cultural identity and diversity of housing. Refer to - Committee on Economic, Social and Cultural Rights, *General Comment 4: The Right to Adequate Housing* (1991) ¶ 8.

We would be happy to discuss this submission with you in greater detail. Please contact Neville Braybrook, Raquel Wright, or Karen Spinks if you have any questions regarding this submission.

Yours sincerely,

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&

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