

Hotham Mission Asylum Seeker Project

Submission to the:

House Standing Committee on Family, Community, Housing and Youth

Inquiry into homelessness legislation

August 2009

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Section 1. Introduction

One of the most critical issues facing asylum seekers in the community is the availability and accessibility of appropriate housing. As an agency providing rent free or subsidised housing to asylum seekers Hotham Mission Asylum Seeker Project (ASP) is well aware of the challenges faced by asylum seekers trying to access safe and secure housing. Hotham Mission ASP acknowledges the broader public and private housing crisis in Australia, however, are deeply concerned that asylum seekers have not been included in the scope of solutions to critical housing shortages into the future.

On 22 May 2008, the Prime Minister, The Hon Kevin Rudd MP and Minister for Housing, Tanya Plibersek MP, released the Green Paper on homelessness. The Green Paper sought to promote public discussion of homelessness, highlight the challenges faced by people who are homeless, and suggest ways forward. The discussions and written contributions received as a result of the Green Paper informed the development of the subsequent White Paper *The Road Home* – a document setting out the Government's national plan of action in this area to 2020. The Green Paper failed to include asylum seekers in the terms of reference for assessing critical housing shortages in the community. As a consequence, the White Paper released in December 2008 excluded asylum seekers from its scope. It is of great concern to asylum seeker agencies that this group has been ignored in discussions about critical housing issues.

Within this context, Hotham Mission ASP views the current inquiry by the Federal Government into homelessness in Australia and the development of a national framework to tackle this long-standing issue as a highly positive step. We also view the current COAG Reform Agenda as providing an ideal opportunity to generate more effective engagement between the Commonwealth and States regarding the provision of housing to those in our community who are most in need.

Hotham Mission ASP welcomes this opportunity to raise issues related to the homelessness of asylum seekers in Australia.

Section 2. Summary of Recommendations

Recommendation 1:

That FAHCSIA work across the whole of government and through the COAG National Reform Agenda to enhance the effectiveness of Commonwealth-State housing agreements and ensure that any initiatives resulting from this address the critical housing needs of asylum seekers.

Recommendation 2:

That asylum seekers be included within the scope of solutions for critical housing shortages as outlined in 'The Road Home' Homelessness White Paper.

Recommendation 3:

That the Australian Government takes immediate steps towards implementing the UNHCR ExCom conclusions, 2002 that state;

"asylum-seekers should have access to the appropriate governmental and non-governmental entities when they require assistance so that their basic support needs, including food, clothing, accommodation, and medical care, can be met"

(UNHCR ExCom Conclusions, 2002, Recommendation ii)

Recommendation 4:

That children seeking asylum and living lawfully in Australia be provided with the means to access basic appropriate accommodation and humanitarian assistance, with their family, as outlined in the Convention on the Rights of the Child and other international human rights instruments to which Australia is a signatory.

Recommendation 5:

That minimum reception standards for accessing safe and secure housing in Australia be established based on a definition of 'vulnerable persons' that includes asylum seekers with no form of income, torture and trauma backgrounds and with particular attention to children.

Recommendation 6:

That models for asylum seeker on-arrival accommodation and medium term housing options be considered as part of a national reception approach to asylum seekers.

Recommendation 7:

That Supported Accommodation Assistance Program funded services ensure that services are accessible to asylum seekers and that clients are not excluded on the basis of capacity to pay.

Recommendation 8:

That bond loan schemes be extended to include asylum seekers seeking to establish themselves in private rental.

Recommendation 9:

That the status of asylum seekers under state-based tenancy legislation be clarified, and amended where necessary, to ensure the rights of asylum seekers in non-rent paying tenancy arrangements are protected.

Section 3. Hotham Mission Asylum Seeker Project

Hotham Mission Asylum Seeker Project (ASP) is the largest specialist asylum seeker housing agency in Australia. The project runs a range of comprehensive services for asylum seekers, including supported accommodation, casework, financial relief, volunteer and support programs. The project operates as a credible alternative to detention in providing support and advice to asylum seekers through a range of immigration outcomes.

Since 1997 Hotham Mission ASP has worked with more than 1000 people who are awaiting a decision on their protection visa application or humanitarian request under Section 417 of the Migration Act. A large percentage, around 40% of clients, are family groupings, including 14% single mother families, with almost 30% of clients being children under the age of 15.

Hotham Mission ASP is currently housing 95 people across 30 properties and operates with community and philanthropic donations supporting utilities, rent, maintenance and housing support. Many of these houses are vacant church properties or houses donated by individuals.

62% of our clients present as homeless, with approximately 73% having experienced homelessness while on a Bridging Visa E. Almost 17% become homeless due to unstable housing or lack of appropriate accommodation on release from detention. In 70% of cases, the loss of any form of income is the primary cause of homelessness.

Hotham Mission ASP has also been recognised nationally and internationally for its high standard of community care programs for asylum seekers.

Section 4. Ineligible asylum seekers a snapshot

In 2007/08 according to the United Nations High Commission for Refugees, 4750 asylum seeker applications were submitted in Australia.¹ With the exception of a minority who arrived by boat, most of this number arrived by plane and sought asylum whilst residing in the community.

Of the number who arrived in 2007/08 and those who applied in earlier years and continue to wait for a determination on their protection application, there are a number of categories of asylum seekers currently residing lawfully in the community. In many cases these asylum seekers do not have access to an income, safe and secure housing or welfare-based support. This can include asylum seekers released from detention for medical reasons, and also includes community-based asylum seekers with unique and exceptional welfare needs. A wide range of serious welfare concerns arise for these groups, including the risk to homelessness, the impact on health and overall wellbeing, particularly for child asylum seekers.

Not all asylum seekers living in the community are at risk of homelessness. Some will have their own income source through employment and others may be eligible for a government funded program such as the Community Assistance and Support Program (CAS) or the Asylum Seeker Assistance Scheme (ASAS). However, for those unable to find work and with no other form of income (asylum seekers are not eligible for Centrelink) combined with exclusion from mainstream housing support programs a significant number of asylum seekers live in the community destitute and without access to safe and secure housing.

Without accurate figures of how many people are living in the community with an income lower than the Centrelink equivalent, it is difficult to determine how many of these asylum seekers would require some form of supported or subsidised accommodation. Whilst the Department of Immigration and Citizenship would be able to assist with clarity in this area, Hotham Mission ASP would estimate on current demand, that up to 2,000 asylum seekers across Australia would benefit from access to low or no income housing each year.

This estimate is based on the number of people currently being support by community agencies in VIC/NSW and those receiving ASAS and CAS services for whom an income stream below Centrelink levels creates a bar to accessing appropriate, safe and secure housing. However, further statistical analysis of this group would be beneficial for the purposes of estimating housing support requirements for this group.

¹ United Nations High Commission on Refugees, *Asylum Trends in Industrialised Countries 2008*, <http://www.unhcr.org/statistics/STATISTICS/49c796572.pdf> Accessed 18/8/09.

Section 5. Principles of provision of services

5.1 Current Australian Context

Homelessness remains a major welfare issue for asylum seekers in the Australian community, particularly those without any form of income.

Housing options are limited for this group as asylum seekers are not eligible for Public Housing or Transitional Housing through the Supported Accommodation Assistance Program (SAAP), which is Commonwealth or joint Commonwealth/State funded. Access to State Government Transitional Housing has been difficult due to a range of issues, including conflicting understanding on the part of providers as to the eligibility criteria for those with no income, and concern about lack of exit options for this group. Further complications regarding access include housing agencies struggling to understand the complexities of legal status, entitlements and needs of this group.

The entitlements of asylum seekers on bridging visas do not remain static. In fact, they change significantly at different periods, affecting housing and support needs, as well as their exit options. Because of these factors and lack of entitlements for bridging visa holders, homelessness remains a major issue for asylum seekers, which directly impacts on mental and physical health and overall wellbeing.

The ability of asylum seekers to access rental assistance through the Housing Establishment Fund (HEF) remains low at 9%, despite consistent advocacy on the issue. In most cases this assistance is one-off and for less than 4 weeks. For those in private rental, Hotham Mission ASP covers the cost of rent or takes over the lease where no other housing options are available. This currently costs the project between \$5,000 and \$10,000 per month.

For most asylum seekers, there is constant movement in and out of homelessness, with impermanence and insecure housing remaining at over 15%. Many are required to move on a regular basis as a result of lack of income as well as lack of access to permanent sources of stable accommodation.

Without state based support for this group and in light of their exclusion from future plans as outlined in 'The Road Home' White Paper the cycle of destitution for this group is likely to continue if not demise. In the current context of generalised pressures on housing markets, the challenges facing asylum seekers have been brought into sharper focus, particularly as the availability of donated properties for our work is rapidly diminishing. In the current financial climate private and community donors are struggling to maintain properties rent free for the use of asylum seekers. Yet, Hotham Mission ASP provides critical support to large numbers of highly vulnerable people who would, without our support, be homeless and living with serious risks to their physical and mental health.

A family with 3 children, a pregnant wife with gestational diabetes and a husband with no income were referred to Hotham Mission ASP after losing their Red Cross (ASAS) income. Hotham Mission ASP tried access to transitional properties in the catchment area and were told that the family had no exit point as they had no income. A referral to the Community Assistance and Support Program run by DIAC was unsuccessful with no places available. With homelessness imminent and with a great concern for the health of the mother Hotham Mission ASP were forced to move other residents to try and house the family.

Recommendation 1:

That FAHCSIA work across the whole of government and through the COAG National Reform Agenda to enhance the effectiveness of Commonwealth-State housing agreements and ensure that any initiatives resulting from this address the critical housing needs of asylum seekers.

Recommendation 2:

That asylum seekers be included within the scope of solutions for critical housing shortages as outlined in 'The Road Home' Homelessness White Paper.

5.2 The Human Rights argument

While the Hotham Mission ASP and other asylum seeker agencies have provided critical support to vulnerable asylum seekers in the community for many years, we firmly believe the delivery of the most basic services must be shared by the Australian Government. The provision of minimum entitlements to work, health care and welfare support for asylum seekers are embedded in Australia's international obligations. The International Covenant on Economic, Social and Cultural Rights highlights appropriate and suitable healthcare, housing, and income support, for all people, including asylum seekers. As signatories to the UN Convention Relating to the Status of Refugees and the Convention on the Rights of the Child, we are bound by the fundamental human rights principles contained in these instruments. Hotham Mission ASP is most concerned about children seeking asylum in Australia who have no access to a basic standard of living.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights, adopted in 1948, is a statement of the basic rights and fundamental freedoms owed to all human beings. Included in the Declaration is the right to a standard of living through access to housing.

"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control." (article 25(1))

1951 UN Refugee Convention, the 1967 Protocol

The Refugee Convention obligates states to ensure non-discrimination against refugees in its territory with respect to a number of basic human rights. Specifically in relation to housing, article 21 provides

refugees staying within a state's territory should not receive treatment less favourable than that provided for other aliens in the same circumstances.

Furthermore, in 2002, the Australian Government endorsed the United Nations High Commissioner for Refugees Executive Committee (UNHCR ExCom) conclusions which stated that:

*"asylum-seekers should have access to the appropriate governmental and non-governmental entities when they require assistance so that their basic support needs, including food, clothing, accommodation, and medical care are met."*²

International Covenant on Economic, Social and Cultural Rights (CESCR)

The International Covenant on Economic, Social and Cultural Rights (article 11.1), determines that

"The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

In 1991, in clarifying the meaning and scope of the right to housing as described in the Covenant, the Committee on Economic, Social, and Cultural Rights (CESCR), issued its General Comment 4. The Committee noted;

"The right to adequate housing applies to everyone. The phrase "himself and his family" does not refer to any limitation in the right to housing to individuals, female-headed households, or other groups. Furthermore, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status, and enjoyment of this right must not be subject to any form of discrimination." (paragraph 6)

Convention on the Rights of the Child (CROC)

One in five clients of Hotham Mission ASP are children with no safe and secure housing or food security. Families with no income receive \$33 per person per week to survive and if eligible will be housed and have their utilities paid. Whilst Hotham Mission ASP values the ability to provide this support we do not believe it is an adequate living standard for the children in our care.

The Convention on the Rights of the Child (CROC)³ is very clear on special provisions being made for asylum seeker children:

"States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international

² UNHCR ExCom conclusion on reception of asylum seekers (No. 93 (LIII) 2002).

³ States Parties shall recognize for every child the right to benefit from social security, including social insurance and shall take the necessary measures to achieve the full realization of this right in accordance with their national law: CROC article 26.

human rights or humanitarian instruments to which the said States are Parties."
CROC article 22(1)

Where the State fails to provide such care for children and parents have no capacity to provide adequate housing, food and healthcare due to a lack of income and access to mainstream supports, the destitution of children living lawfully in Australia is arguably tantamount to State sponsored neglect.

The Australian Institute of Family Studies has compiled a definition of neglectful behaviour and describes it as;

*"... a failure (usually by a parent) to provide for a child's basic needs. Here neglect refers to physical neglect, as distinct from psychological or emotional neglect, which are included under the definition of psychologically neglectful behaviours. Physically neglectful behaviours include a failure to provide adequate food, shelter, clothing, supervision, hygiene or medical attention."*⁴

Parents of children seeking asylum in Australia in many cases do not have the capacity to provide for their child's basic needs. This is fundamentally because the State does not permit access to the means by which a parent may provide such support. Access to an income, to housing support are two primary means by which neglect by the State is arguably imposed on parents and children living lawfully in Australia. The result is devastating for children who have no way to address their ongoing destitution.

A thirteen year-old boy from the Middle East said he was ashamed to tell his teacher or his friends that he was an asylum seeker and that his family had no money. Hotham Mission ASP later found that he was constantly being held after school in detention for being late and for not attending sports. However, the boy did not have any sneakers or any travel ticket to get to school. Instead, he had to walk almost two hours to get there. He said he went without food for many days as he had no money for lunch and nothing to take from home. The family were forced to move three times in the boy's four month stay at the high school due to housing insecurity.

A family with two children with complex health needs and asylum trauma issues were being support by Hotham Mission ASP in the Southern suburbs of Melbourne. Hotham Mission paid market rental rates to keep the family close to doctors and health providers who had agreed to give medical support to the family for free. However, after a fall in donations Hotham Mission ASP were no longer able to pay market rental for the house. With no other housing available for free in the area the only option was to move the children away from their school and their free medical support to the other side of the city where a rent-free house had become available. The family refused to leave the medical support and the school. Hotham Mission ASP found emergency funding for a further month. The future of the family is uncertain.

⁴ Prue Holzer and Leah Bromfield, Australian Institute of Family Studies *Australian legal definitions When is a child in need of protection?* Resource Sheet Number 12 September 2007. <http://www.aifs.gov.au/nch/pubs/sheets/rs12/rs12.html>
Accessed 18/8/09.

Recommendation 3:

That the Australian Government takes immediate steps towards implementing the UNHCR ExCom conclusions, 2002 that state;

“asylum-seekers should have access to the appropriate governmental and non-governmental entities when they require assistance so that their basic support needs, including food, clothing, accommodation, and medical care, can be met”

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Recommendation 4:

That children seeking asylum and living lawfully in Australia be provided with the means to access basic appropriate accommodation and humanitarian assistance, with their family, as outlined in the Convention on the Rights of the Child and other international human rights instruments to which Australia is a signatory.

5.3 Minimum Reception Standards

The absence of minimum asylum reception standards, reflected in legislation in Australia has been of deep concern to Hotham Mission ASP for many years. In the area of housing there is currently no mainstream housing or support services funded to assist asylum seekers with securing housing and there is no designated housing stock. This is a significant issue for asylum seekers living in the community in Australia.

The United Nations High Commission for Refugees (UNHCR) has consistently stated that appropriate reception conditions for asylum-seekers are essential to ensure a fair and effective examination of protection needs. Reception supports, according to UNHCR refer to;

*A set of measures related to the treatment of asylum seekers from the time they make their claims either in country or at the border... until either a transfer is effected to the State deemed responsible for the examination of their claims or a final decision is taken as regards the substance of their claims. These measures range from adequate reception conditions upon arrival at the border, access to legal counselling, freedom of movement, accommodation and adequate means of subsistence to access education.*⁵

UNHCR acknowledges that there is discretion in how member states offer support to asylum seekers, but at the very least “basic dignity and rights of asylum seekers are protected and that their situation is in all the circumstances adequate for the country in which they have sought asylum”.⁶

In July 2000, the United Nations High Commissioner for Refugees (UNHCR) developed *Reception Standards for Asylum Seekers in the European Union*, which includes a focus on provision of housing.

⁵ UNHCR Discussion Paper on Recommended Reception Standards for Asylum-Seekers in the Context of the Harmonisation of Refugee and Asylum Policies of the European Union, June 2000. <http://www.unhcr.org> accessed 18/8/09.

⁶ Ibid.

While it is acknowledged that eligibility for and access to accommodation for asylum seekers varies widely in practice, UNHCR has recommended that:

- *When asylum seekers are in need of accommodation, the primary responsibility lies with states to provide basic accommodation until the end of the procedure.*
- *Conditions in reception centres or in other types of collective accommodation for asylum seekers should fulfil minimum standards, including the existence of basic facilities, as well as access to infrastructures with respect to health care and education.*
- *Reception centres may constitute an acceptable solution for a limited period following arrival or in the case of accelerated procedures for 'manifestly unfounded' applications. However, asylum seekers should have access to specific accommodation arrangements or receive adequate means of support sufficient to cover basic accommodation and other costs or be allowed to find alternative forms of accommodation, if these centres do not provide privacy or affect family unity or health conditions in the longer term or if the procedure is protracted.*
- *With a view to preventing acts of racism and xenophobia against asylum seekers, a reception policy should include appropriate measures to enhance harmonious relationships with the local communities, for instance, by creating awareness of the problems of refugees and designing specifically targeted public information campaigns.*

Internationally, a range of models provide examples of how minimum standards in reception, particularly housing, can be implemented effectively. Whilst the length of time an application for asylum takes varies from country to country, during the waiting periods, asylum seekers in Europe are generally not detained and short term housing options are provided. The UNHCR Directive and the EU legislation on "Reception Conditions Directive" makes it very clear that member states must guarantee access to material reception, namely housing, of a standard adequate for the health of the asylum seeker and of a comparable level to the social assistance provided to nationals.⁷

However, it is also acknowledged that many governments with reception standards depend on the community sector and especially NGOs and volunteers to support asylum seekers. Across many of the EU member states, the funding and support provided by governments is limited and there are expectations that community groups, including charitable organisations, will fill the gap. Whilst Hotham Mission ASP acknowledges that the provision of housing for asylum seekers cannot be solely the responsibility of government, there is a lack of balance between community and Government responsibility and charities and community organisations are both overburdened by the demand and under-prepared for the delivery.

In Australia, there have been small models of reception, that have been implemented with significant success. Recently, the Victorian Government hosted the Homeless World Cup and subsequently devised a support program for those participants who applied for Protection whilst in Australia. The support program involved the engagement of a mainstream housing provider to designate housing stock to the protection applicants and community agencies with expertise in asylum issues to deliver

⁷ Commission of the European Communities, *Proposal for a Directive of the European Parliament and of the Council laying down minimum standards for the reception of asylum seekers*, 2008, Brussels
www.unhcr.org/refworld/docid/493e8ba62.html Accessed 18/8/09.

casework and housing support. Whilst most of the Homeless World Cup participants continue to await a determination on their application, those who have been successful have been referred to settlement support services and have had a seamless support program delivered upon arrival in Australia. Those who remain are receiving housing, casework and program support and have experienced few of the complex difficulties experienced upon arrival to a new country when applying for Protection.

A six month evaluation of the project is soon to be undertaken and the Hotham Mission ASP would be pleased to provide the evidence to the committee if appropriate.

A second community based model was developed in May 2008 with the first community based housing facility for asylum seekers opened through a unique partnership between three organisations. Named 'Sanctuary' the twenty bed facility houses single male asylum seekers and has just completed one year of operation. The facility is designed to be a three year project and is focused on providing a safe and secure alternative to detaining asylum seekers through the provision of supported accommodation in the community.

Sanctuary began as a partnership with Baptcare the Brunswick Baptist Church (BBC), and Hotham Mission Asylum Seeker Project (ASP). Whilst Hotham Mission ASP no longer has involvement in the project we commend the model as a viable community based reception housing facility.

There is no other housing arrangement of this type and size in Australia for asylum seekers.

There are 19 current residents living at Sanctuary. Over the past year 26 residents have lived at Sanctuary with an average stay of 8 months. Countries represented have included; West Papua, Pakistan, China, Vietnam, Israel, Burma, Ethiopia, PNG, Sri Lanka, Egypt, Iran, Sri Lanka, Nigeria, Sri Lanka, PR Congo, Sudan, Morocco, Burma, Angola, India, Ethiopia, Sri Lanka, Sri Lanka, Ethiopia, Cyprus, China.

Sanctuary has been intentionally designed to provide a range of support services such as case management, pastoral care and community development support to residents. Sanctuary is not staffed 24 hours but an oncall phone service provides an emergency contact for after hours crisis.

Residents are encouraged to live independently at Sanctuary with support from the various care workers available to them. Residents are required to engage with a caseworker a minimum of once per month to secure ongoing eligibility for the house. Each resident is provided with their own room, a room key and a building key.

Over the course of a year Sanctuary has been very successful in providing safe and secure housing for asylum seekers with no access to any other form of safe housing. The model could be used to provide further support to asylum seekers in the community with a collaboration between Government and community organisations.

Whilst the current reception models in Australia have been successful they are also limited. As a result Hotham Mission ASP, in collaboration with the Victorian Council to Homeless Persons, HOST consulting and Dr, David Corlett is currently undertaking a national and international research project

with the aim of developing best practice housing reception standards through reference to existing domestic and international housing standards for vulnerable people.

This aim will be achieved by the project partners analysing data obtained from a national and international scoping stage of the project and writing a report documenting the research methodology and findings. Using this documentation, best practice housing reception standards for asylum seeker housing in Australia will be drafted and a selection of government funded housing providers and community housing associations consulted for feedback. The development of a report will include recommendations relating to:

- The development of an Australian reception housing model including type and location of housing, management and partnership options, length of stay options, mainstream transition options.
- The development of a set of housing reception standards based on health and wellbeing indicators aligned with existing community care programs available in Australia.
- Costing of the provision of reception housing and casework support for asylum seekers in Australia.

Recommendation 5:

That minimum reception standards for accessing safe and secure housing in Australia be established based on a definition of 'vulnerable persons' that includes asylum seekers with no form of income, torture and trauma backgrounds and with particular attention to children.

Recommendation 6:

That models for asylum seeker on-arrival accommodation and medium term housing options be considered as part of a national reception approach to asylum seekers.

Section 6. The role of legislation in housing asylum seekers

The current lack of clarity in relation to the legal status of asylum seekers in non-paying tenancy arrangements is deeply concerning. Whilst individual states differ in their legislative protections for tenancy arrangements interviews conducted for the research project mentioned above, confirm that most agencies providing housing directly to asylum seekers are unaware of legislative requirements or lack clarity in how they apply to non-paying tenancy arrangements.

In Victoria it has been the experience of Hotham Mission ASP that there is a lack of clarity in relation to the application of the Victorian Residential Tenancies Act (1997) to asylum seekers in a non-fee paying housing context. Whilst in general, Hotham Mission ASP has come across relatively few issues housing asylum seekers over the past eleven years, when problems do arise, mainstream housing agencies and advice services are unfamiliar with the status of asylum seekers and the complexity of issues involved.

When Hotham Mission ASP has sought legal advice in relation to the status of asylum seekers under the Victorian Residential Tenancy Act (1997) there is generally confusion about whether the legislation is relevant to this group.

Marita presented homeless to the Hotham Mission Asylum Seeker project with no permission to work or access to Centrelink. She was not eligible for any government funded program and was assessed by Hotham Mission ASP to be eligible for rent-free housing and utilities. She was placed in a house in the Eastern suburbs of Melbourne. Hotham Mission ASP paid her utilities and the local community began to form a relationship with her. After 3 years Marita was granted a visa by the Minister for Immigration and began earning an income. This meant she was no longer eligible for free housing with Hotham Mission ASP. Despite informing Marita she had 120 days to work with caseworkers to find another property she refused to co-operate and refused to pay rent. Marita refused to leave the property when the 120 days had expired. Without a tenancy agreement in place Hotham Mission ASP could not require her to leave or to pay rent.

Furthermore, agencies and individuals housing asylum seekers may find themselves compromised by the lack of options available to asylum seekers. Such agencies or staff may be placed at risk when housing asylum seekers who have no other available option to them. Agencies in NSW and Victoria have reported accepting levels of violence or verbal abuse that would not otherwise be tolerated if a referral option for the client existed.

During a period of depression Jean displayed consistent aggressive behaviour to other residents and staff whilst being housed by Hotham Mission ASP. After many attempts to resolve the issues including offering mediation and access to mental health support services a notice to vacate was issued to Jean. At the Victorian Civil and Administrative Tribunal hearing (VCAT) the magistrate questioned why the matter had come before her. She noted there was no payment of rent nor was there a tenancy agreement in place. The magistrate noted that the court had no jurisdiction in the matter. However, without the independent judgment of the tribunal Hotham Mission ASP had no means to evict Jean and no other pathways for referral. As a result Hotham Mission ASP continued to house Jean despite serious concerns about the safety of other staff and residents.

In some cases Hotham Mission ASP has had concern in relation to lack of options for clients living in domestic violence situations where there are no other housing options to create a safe and secure environment for women and children.

A woman with three children under the age of 18 disclosed to Hotham Mission ASP that she had experienced ongoing violence from her husband whilst applying for protection in Australia. She was afraid to leave her husband and with no form of income to find alternative accommodation she felt she had no options. The violence began to extend to the children and Hotham Mission ASP tried to access a women's refuge, however, were told that without an income and with no exit option she would not be eligible.

Clients housed by community agencies may have their own grievances in relation to the conduct of the agency or staff working with them. However, due to their immigration status asylum seekers are not eligible for mainstream services and often services will be completely unfamiliar with their eligibility or context.

In revising the client complaints procedures Hotham Mission ASP wished to provide asylum seekers with information in relation making complaints to a third party who could advocate for them when housing issues arose. In approaching the Victorian Council to Homeless Persons (CHP) to enquire about access for asylum seekers to the Homeless Advocacy Service, CHP responded that the service could only apply to those who have a problem with a Government funded Homelessness support and accommodation service such as Crisis Accommodation, THMs or a Rooming House service. As Hotham Mission ASP is not a Government funded service CHP indicated that it could not guarantee that a complaint could be received or responded to if an asylum seeker had a concern with the way Hotham Mission ASP treated them.

The Hotham Mission ASP recognises that whilst we are a successful service, the model of providing housing through the generosity of housing donors is neither sustainable long term, nor practicable for national expansion into the future. Whilst the Hotham Mission ASP estimates up to \$700,000 of in kind support is offered through housing managed by the agency per year, this stock cannot be guaranteed

to be available into the future and lacks a robust legislative framework for agreements and potential grievances.

A local church community provided a vacant manse to Hotham Mission ASP to use for asylum seekers who had no form of income and were homeless. An agreement was signed for the use of the property for a year. A family was placed in the house and lived there for a further 4 years waiting for their request for Ministerial intervention to be determined. During this time the family had no form of income or permission to work. After four years the family received a visa and Hotham Mission ASP warned the local church that the family were no longer eligible for housing and would need to find alternative accommodation. The local church community did not want the family to leave and refused to assist the family to move. The donor agreement dissolved and Hotham Mission ASP lost access to the house for the housing of asylum seekers with no form of income.

Whilst the incidence of damage to donor properties managed by Hotham Mission ASP has been low, the lack of access to a bond scheme or the lack of ability to pay rent can place donors and the managing agency at risk of significant financial costs. With access to a local bond scheme (currently unavailable to asylum seekers) at least a minority of such costs could be covered in the event of damage to a property.

Furthermore, the issue of equity arises for community agencies providing housing for asylum seekers when resources are very limited. In interviews with housing agencies in NSW and VIC the common problem of few spaces and a great demand, resulted in a potentially inequitable intake process. Agencies reported that the method of prioritizing vulnerable asylum seekers for housing was little more than who turned up on the day a house was available. Furthermore, the capacity to prioritise vulnerable children and families was limited where shared housing was the only option.

Many of the issues outlined above have resulted in a confusing context for agencies providing accommodation for asylum seekers with no form of income. Agencies providing housing outside the mainstream housing sector are not required to comply with standards relevant to other services, are not required to comply with legislation such as the Victorian Human Rights Charter and often do not have the resources to keep up to date with tenancy agreements, outreach support and housing maintenance issues.

The result, though not intentional, could discriminate against and further victimize asylum seekers seeking housing through non-funded community housing organizations.

Recommendation 7:

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Recommendation 8:

That bond loan schemes be extended to include asylum seekers seeking to establish themselves in private rental.

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Hotham Mission Asylum Seeker Project

August 2009