

# **PARLIAMENTARY INQUIRY INTO HOMELESSNESS IN VICTORIA**

FORMAL SUBMISSION

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## **NORTHERN COMMUNITY LEGAL CENTRE**

### **Our Submission**

Northern Community Legal Centre (NCLC) welcomes the opportunity to make a Formal Submission to the Parliamentary Inquiry into Homelessness in Victoria and supports the Victorian government's efforts to address homelessness in Victoria.

NCLC is funded to provide legal services under the National Partnership Agreement, Attorney Generals Department. NCLC is not funded to provide crisis support for homeless Victorians, however, we focus our limited resources on legal support for the most vulnerable in our community, which includes people who are experiencing or who have experienced homelessness.

### **Our Centre**

NCLC operates in one of the fastest growing and disadvantaged areas in Melbourne's North West and has a significant catchment including Moreland City Council, Hume City Council, and Mitchell Shire Council. The Australian Bureau of Statistics indicates that the total population of our Local Government Areas was 400, 850 in 2016.<sup>1</sup> NCLC operates from a central office located in Broadmeadows, with outreach services to other service areas, including Broadmeadows, Brunswick, Coburg, Craigieburn, Dallas, Fawkner, Glenroy, Sunbury and Wallan. All outreach services are imbedded in Youth, Mental Health, Health, and Family Services to ensure accessibility is provided.

NCLC assisted 1,863 community members between January and December 2019 and 6,789 clients in total since inception in 2016.

### **Our Purpose**

NCLC's purpose is to ensure equal access to justice for all in the Melbourne North West region through provision of legal services, community legal education, and law reform initiatives.

### **Our Priority to Clients Experiencing Homelessness**

NCLC is committed to assisting the most vulnerable and disadvantaged members of NCLC's community. These are people who have much more limited access to legal assistance and include: Aboriginal and Torres Strait Islanders, people experiencing homelessness, people who have a diagnosed mental illness, refugees and the newly arrived, victims/survivors of family violence, and young people.

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<sup>1</sup> Population totals taken from the result of the 2016 Australian Bureau of Statistics Census. Census, *Australia Bureau of Statistics*  
<<https://www.abs.gov.au/websitedbs/D3310114.nsf/Home/Census?OpenDocument&ref=topBar>>.

NCLC's 2020-2024 Strategic Plan affirms our commitment to assisting clients who face multiple systemic barriers to justice. Ultimately, we see significant cross over between our priority clients and their homelessness experiences, namely that their homelessness has contributed to or has been exacerbated by their legal matter.

## **TERMS OF REFERENCE**

The Legislative Council of the Parliament of Victoria is requiring the Legal and Social Issues Committee to inquire into, consider and report, within 12 months, on the state of homelessness in Victoria, and in particular, the Committee should:

1. provide an independent analysis of the changing scale and nature of homelessness across Victoria;
2. investigate the many social, economic and policy factors that impact on homelessness; and
3. identify policies and practices from all levels of government that have a bearing on delivering services to the homeless.

## **RESPONSE TO TERMS OF REFERENCE**

We will respond to the Terms of Reference by broadly addressing the overlapping themes in three parts as follows:

- Nature of Homelessness
- Social, Economic, and Policy Factors
- Policies and Practices and Service Delivery

Our submission and recommendations will be restricted to exploring and commenting on the intersectionality between legal matters and homelessness.

## **NATURE OF HOMELESSNESS**

The Council to Homeless Persons reports that 'over 24,000 Victorians and 116,000 Australians are homeless on any given night'.<sup>3</sup>

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<sup>3</sup> Council to Homeless Persons, *Facts about Homelessness* (2020) <<https://chp.org.au/homelessness/>>.

The demographics of homeless people are diverse. However, links between age, race, family violence, and mental ill health and homelessness are undisputed. Further, the increase in youth, female, and elder homelessness is staggering.

Similarly, it is acknowledged that rough sleeping is ‘the tip of the iceberg’ as only 7% of homeless people classify as rough sleepers.<sup>4</sup> It is accepted that there is an underreporting of homelessness and the experiences of homelessness differ and can include people living in refuges, boarding houses, temporary and crisis accommodation, or those couch surfing.

Nearly 15% of NCLC’s clients in the last 12 months identified as homeless or at risk of homelessness.<sup>5</sup> We know that people often do not report their homelessness status for a range of reasons and there is an assumption that this figure is conservative.

Of all NCLC clients experiencing or at risk of homelessness:

- 25% were young people aged less than 25 years
- 74% either experienced, or were at risk of experiencing, family violence
- 45% had been diagnosed with a mental illness or disability

Additionally, of these clients 87% were reliant on Centrelink benefits or were not receiving any income.

## **SOCIAL, ECONOMIC, AND POLICY FACTORS**

### **Family Violence, Mental Ill Health, and Age**

#### ***Family Violence***

NCLC assisted 890 clients between January and December 2019 who were at risk of family violence or were experiencing family violence. Of these clients, 89 were homeless, and 113 were at risk of homelessness.

The Australian Bureau of Statistics states that ‘domestic and family violence is a significant cause of homelessness and personal safety is a concern for people who are subject to, or fleeing domestic and family violence’.<sup>6</sup>

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<sup>4</sup> Ibid.

<sup>5</sup> Of the 1,863 clients, 274 clients were homeless and or at risk of homelessness.

<sup>6</sup> Australian Bureau of Statistics, *Census of Population and Housing: Estimating homelessness, 2016* (14 March 2018) <<https://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/bdea387026fd437dca257ab100170b0d!OpenDocument>>

The Australian Housing and Urban Research Institute reports that 37.8% of clients accessing homelessness services during the financial year end 30 June 2016 were escaping family violence.<sup>7</sup>

### **Mental Ill Health**

Homelessness Australia recognises that:<sup>8</sup>

While the onset of mental illness can be triggered or exacerbated by the experience of homelessness, it is perhaps equally true that a cohort of people with mental illness are vulnerable to homelessness at least in part because of the way in which their illness manifests.

People with mental illness are at greater risk of homelessness due to requirements of personal care, social isolation, family breakdown, stigma, discrimination and a breakdown in housing tenure due to hospital admissions.

NCLC assisted 529 clients between January and December 2019 who were experiencing mental ill health. 130 (25%) of these clients were also at risk of, or experiencing homelessness.

### **Age**

The Council to Homeless Persons reports that 24% of homeless Australians are young people.<sup>9</sup>

The Australian Human Rights Commission highlights that women aged 55 or older were the fastest growing cohort of homeless Australians between 2011 and 2016.<sup>10</sup>

NCLC assisted 331 clients between January and December 2019 who were aged under 25 years of whom 30 clients self-identified as homeless, and a further 39 clients were at risk of homelessness.

NCLC assisted 109 clients between January and December 2019 who were aged over 55 and seven of these clients identified as homeless or at risk of homelessness.

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<sup>7</sup> Australian Housing and Urban Research Institute, *What is the link between domestic violence and homelessness?* (5 December 2017) <<https://www.ahuri.edu.au/policy/ahuri-briefs/what-is-the-link-between-domestic-violence-and-homelessness>>

<sup>8</sup> Homelessness Australia, 'States of being: Exploring the links between homelessness, mental illness and psychological distress. An evidence based policy paper' (November 2011) 50.

<sup>9</sup> Council to Homeless Persons, 'Youth Homelessness Fact Sheet' (2018).

<sup>10</sup> Australian Human Rights Commission, *Risk of Homelessness in Older Women* (April 2019). <<https://www.humanrights.gov.au/our-work/age-discrimination/projects/risk-homelessness-older-women>>

## Financial and Residential Support

Limitations on financial and residential support are key to the growing homelessness population in Victoria and in Australia.

The *Homeward Bound: Social Security and Homelessness Report* examines the impact of social security and public housing on residents in the Australian Capital Territory and provides recommendations on how the systems can be improved to prevent and address homelessness.<sup>11</sup> Namely, the report highlights that public housing is ‘the only viable option’ for social security recipients and that ‘aspects of the Australian social security system increases, rather than decreases, the risk of homelessness’. The following cohorts are overrepresented in the homeless population:

- Single parents
- People with disabilities
- Aboriginal and Torres Strait Islander peoples
- Newly arrived migrants
- Victims of domestic violence

The Refugee Council of Australia also advocates that people seeking asylum in Australia are at particular risk of homelessness.<sup>12</sup> For persons who are ineligible for commonwealth social security payments, are in receipt of limited social security payments, or have little to no income, reliance for housing usually falls on specialised non-governmental agencies.<sup>13</sup>

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<sup>11</sup> National Social Security Rights Network and Canberra Community Law, ‘Homeward Bound – Social Security and Homelessness’ (December 2019).

<sup>12</sup> Refugee Council of Australia, *Australia’s hidden homeless* (21 March 2018) <<https://www.refugeecouncil.org.au/australias-hidden-homeless/>>.

<sup>13</sup> *Ibid.*

Similarly, the increasing cost of housing has had a detrimental impact on accessibility of housing for older people, furthering the homeless population of older women.<sup>14</sup>

In addition to the limitations and unavailability of public housing and the affordability of private housing, there are limitations to residential support programs, including the number of beds available and the maximum stay periods. Homelessness Australia recognises that ‘the lack of accommodation beyond crisis services and the problem of staying in contact with a client group that is often transient’ is one of the barriers to effective service interventions.<sup>15</sup>

Homelessness Australia has also identified difficulties for persons who are mentally unwell but not unwell enough for inpatient mental health assistance.<sup>16</sup> As the homeless population increases, mental health services may be seen as a temporary solution to sleeping rough or couch surfing, however, these services are already inundated with consumers and a diagnosis of mental ill health without confirmation of acute crisis may result in pushback and rejection from the services.

## Legal Issues

Often people experiencing homelessness have legal issues that are compounded by or result from their homelessness. The Law Foundation of New South Wales recognises that ‘distinguishing between legal issues that lead into homelessness and the legal issues that maintain homelessness is more problematic’.<sup>17</sup>

The following legal issues were recognised by the Law Foundation of New South Wales as those commonly encountered by homeless people:<sup>18</sup>

- family law
- care and protection
- domestic violence
- victim of crime
- housing (including SAAP Services, boarding houses, caravan parks and villages)
- discrimination
- debt
- social security
- crime (including fines)

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<sup>14</sup> Mission Australia, *Homelessness and social housing* <<https://www.missionaustralia.com.au/what-we-do/homelessness-social-housing/content/267-sh404sef-custom-content/>>.

<sup>15</sup> Homelessness Australia, above n 6, 16.

<sup>16</sup> Homelessness Australia, above n 6, 12.

<sup>17</sup> Law and Justice Foundation of New South Wales, ‘No home, no justice? The legal needs of homeless people’ (2005).

<sup>18</sup> Ibid.

NCLC clients who accessed the service between January and December 2019 and were experiencing homelessness sought assistance for the following legal issues:

- family violence
- family law
- victim of crime
- housing
- credit and debt
- crime
- infringements
- driving offences
- immigration

Examples of the intersectionality between homelessness and legal issues faced by clients presenting at NCLC are demonstrated in the below Case Study examples. It should be noted that these clients were also experiencing or had experienced mental ill health, family violence, and were aged under 25 years.

### CASE STUDY

Michael\* was homeless when we met him.

He explained to our lawyer that he had become homeless after escaping family violence. He was living from his car immediately prior to entering a youth refuge.

Michael wanted our help after the car he had been living in was towed from a Clearway Zone and then impounded. The tow truck company was prepared to release Michael's car but requested he pay a release fee of \$475.

Michael could not afford the fee.

We assisted Michael by negotiating with the tow truck company and the local council. We explained Michael's personal situation and the hardship he was experiencing, and requested they consider releasing Michael's car without any cost to him.

As a result of our advocacy, Michael's car was released and he did not have to pay the \$475 fee.

\*Name Changed

## CASE STUDY

When we first met Tilly\*, she was residing in a youth refuge.

At her initial legal appointment, she explained that Child Protection had removed her from her biological family's care when she was three years old. She stayed with a foster care family for a few years before returning to the care of her biological mother.

Tilly did not recall the events that lead to her removal from her biological family. She wanted to know what had happened to her biological parents and why Child Protection had removed her from her parent's care.

Tilly really wanted access to her Child Protection Records but she did not know her rights or how to request this material.

Our Youth Lawyer helped Tilly to understand the law and explained her right to apply for access to her Child Protection Records.

We assisted Tilly by submitting a Freedom of Information request to the Department of Health and Human Services for some of her Child Protection Records.

Tilly was able to access the material she had requested and she was very thankful to our lawyer for assisting her to find out more about her past.

\*Name Changed

As a result of our casework assessment and advocacy, NCLC recognises that specific changes to policies and practice and service delivery to the homelessness population are necessary to reduce homelessness and to address corresponding legal issues.

## POLICIES AND PRACTICES AND SERVICE DELIVERY

### Infringement Policies and Service Reforms

Infringement matters are amongst the most significant for people experiencing homelessness. Within our cohort of clients identifying or at risk of homelessness, 71 sought assistance with Infringements matters between January and December 2019. Common infringements include parking fines, low level driving offences, public transport offences, and toll fines.

Agencies responsible for issuing fines have their own policies in relation to withdrawal of fines at their initial stage.<sup>19</sup> However, Fines Victoria, the state government administrative

<sup>19</sup> See Fine Lifecycle by Fines Victoria for an overview <https://online.fines.vic.gov.au/The-fines-lifecycle>.

body, assumes responsibility for infringement processes and collections once a fine progresses from the initial stage of the fines lifecycle.

To apply to have a fine waived once Fines Victoria is responsible for its administration, a person must satisfy that they have grounds to do so. A person who has fines resulting from family violence or due to their special circumstances may request that their fine(s) be reviewed. Special circumstances include intellectual disability, mental illness or disorder, a serious addiction to drugs or alcohol, homelessness, and/or family violence. Supporting evidence confirming the condition or circumstance and the nexus to the commission of the offence is required.

Fines Victoria outlines that to rely on homelessness as a special circumstance, an applicant will need to provide a report from a case worker, case manager, approved agency, or a recognised health or community welfare service provider. Additional criteria specifically for meeting the homelessness grounds of special circumstances are set out on the Fines Victoria website. Demonstrating the nexus between homelessness and the offending may also be scrutinised depending on the offence and in turn, NCLC assesses cases to determine what other grounds constituting special circumstances may be applicable to clients.

### **CASE STUDY**

Lulu and her family came to Australia in approximately 2011 as refugees, Lulu and her family had been subject to serious family violence from her father, and he had made threats of killing her as an 'honour killing'.

After moving here, Lulu found that her older brother began to act in a highly controlling way towards her, and began to verbally and physically abuse her, treating her in a way similar to how her father had.

To escape this violence, she left the house and was couch surfing a long way from where she lived and worked, so that she would be safe from her brother. Lulu struggled to cope during this period, as she had lost contact with her family and was struggling to maintain stable housing. This was a stressful time for Lulu because she was not sleeping well as she was staying a long way from where she was working.

We applied to Fines Victoria's Family Violence Scheme Application to have her fines reviewed, and they were successfully withdrawn. We also applied for an internal review with the Public Transport Regulatory Operations, and her public transport fines were also successfully withdrawn.

\*Name Changed

A key issue for homeless people is that the system for issuing infringement notices and reminders is by mail correspondence. An absence of a fixed address means that

infringements can progress through the fines lifecycle unbeknown to the fines recipient. As a result, the infringement fees escalate and risk of enforcement action, which includes risk of arrest, increases. Driving offences carry additional demerit point penalties and therefore the risk of loss of licence and subsequent charges of driving while suspended are increased.

State government agencies and administrators, including VicRoads and Fines Victoria, must improve data systems to allow for electronic and text message notification. If persons experiencing homelessness are unable to access their fines, then they will be unable to address them before escalation. Similarly, criminalisation may be avoided if automatic demerit point updates were provided electronically any time a point is incurred.

### **Decriminalisation of Public Space Offences**

The Criminalisation of poverty and homelessness in Australia: A national study identifies common public order crimes as obstruct/disobey police, breach of bail, and minor property offences.<sup>20</sup> Further, the Human Rights and Equal Opportunity Commission highlights that specific laws ‘criminalise poverty and homelessness, such as laws which prohibit sleeping and drinking in public’ which other laws ‘disproportionately impact on homeless people, such as begging laws, public drinking laws and public space laws’.<sup>21</sup>

NCLC submits and supports the decriminalisation of these offences and endorses the submissions made by other members of the Federation of Community Legal Centres in this regard.

### **Integrated Services and Speciality Funding**

NCLC submits that the key to addressing homelessness, and the adjacent legal issues, is integrated services.

Homelessness Australia recognises that to ‘improve the changes of promoting recovery and well-being ... effective outreach must aim to encourage people to address their situation wherever they are located’.<sup>22</sup> Homelessness Australia specifically focuses on the intersection between mental ill health and homelessness and access to mental health services in *States of being: Exploring the links between homelessness, mental illness, and psychological distress*, however NCLC submits that as legal issues can further exasperate mental ill health, service integration should extend to provide medical, social, and legal services.

Due to the transient nature of homelessness, attending appointments at more than one service location may be impossible for a person experiencing homelessness. Further, addressing other social or legal matters may not be prioritised when a person is seeking to securing housing, or even temporary accommodation. Funding initiatives to support and

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<sup>20</sup> School of Law, *Criminalisation of poverty and homelessness in Australia: A national study*, The University of Queensland <<https://law.uq.edu.au/project/criminalisation-poverty-and-homelessness-australia-national-study>>.

<sup>21</sup> Human Rights and Equal Opportunity Commission, ‘Homelessness is a Human Rights Issue’ (2008) 7.

<sup>22</sup> Homelessness Australia, above n 6, 16.

develop integrated services are necessary to establish sustainable partnerships between the sectors.

## RECOMMENDATIONS

1. That there be core State Government funding provided for all Victorian Community Legal Centres to enable integrated services especially in areas where there are high levels of homelessness.
2. That there be specific Integrated Services funding for lawyers in homelessness programs.
3. That the Legal Assistance sector funding through the National Partnership Agreement ensure a more specific focus on homelessness and promotion and funding of integrated service delivery with homeless services.
4. That funding agreements for other social services provide incentives for collaboration with additional services including Community Legal Centres, thereby providing wrap-around services to ensure the reduction of homelessness.
5. That there be decriminalisation of offences that disproportionately impact homeless people.
6. All government instrumentalities improve systems to enable a person's address to be classified as 'homeless' and therefore to be contacted by electronic means including email and text message.