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Homelessness Green Paper Submissions
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**Submission on the Government's Green Paper
'Which Way Home? A New Approach to Homelessness'.**

This submission is provided by the National Pro Bono Resource Centre (**Centre**) in response to the Government's Green Paper, 'Which Way Home? A New Approach to Homelessness'.

A. Executive Summary

Addressing the legal problems of people who are homeless or at risk of homelessness (**Homeless Persons**) is a vital part of supporting them back towards a stable home environment. Homeless Persons present at a variety of community agencies including community legal centres with a range of problems, some of which may be redressed through legal assistance.

The legal profession, and in particular large law firms, have become increasingly involved in providing pro bono legal advice and assistance to Homeless Persons. The Homeless Persons Legal Clinic model is particularly attractive to the legal profession for the following reasons:

- It provides law firms with a structured program through which they can provide pro bono legal assistance to disadvantaged people mainly during work hours
- It is unlikely to result in legal conflicts with their corporate clients
- It provides lawyers with discrete pro bono tasks
- It provides lawyers with direct access to individual clients (this is particularly attractive for young lawyers)
- It provides lawyers with training in areas relevant to the service
- It builds relationships with community agencies

There is potential for the legal profession to become further involved in reducing homelessness through case-work, community legal education, and law reform and policy initiatives.

The Centre makes the following recommendations:

- Both state and federal government should acknowledge and support the existing pro bono legal work by the legal profession;
- Governments and the legal profession should support and facilitate the establishment of a dedicated legal service for Homeless Persons in the Australian Capital Territory, Northern Territory and Tasmania so as to maximise the legal profession's involvement in reducing homelessness;



- Legal professional associations across Australia should review practicing certificate rules to ensure that government and in-house lawyers are authorised to provide pro bono legal services under their practicing certificate, whether that is as a volunteer at a CLC or not; and
- Governments and businesses should support the creation of a multi-sector professional network similar to ProHelp in the United Kingdom that will encourage the broader business community to provide pro bono assistance to disadvantaged persons.

B. National Pro Bono Resource Centre

The Centre is incorporated as a company limited by guarantee and was established at UNSW in 2002 following the recommendation of the National Pro Bono Task Force to the Commonwealth Attorney-General. The Centre exists to support and promote the provision of pro bono services. Its role is to stimulate and encourage the development, expansion and coordination of pro bono services as well as offering practical assistance in this regard.

The Centre is an independent, non-profit organisation that aims to:

- Promote pro bono work throughout the legal profession;
- Undertake research and projects to inform the provision of pro bono legal services;
- Provide practical assistance to pro bono providers (including information and other resources);
- Develop strategies to address legal need; and
- Promote pro bono law to community organisations and the general public.

The Centre receives financial assistance from the Commonwealth and States' Attorney-General's Departments, and support from the Faculty of Law at the University of New South Wales.

The Centre has established an Advisory Council and consults widely with the legal profession, community sector and other relevant people and produces resources of immediate benefit to the legal profession and community sector.

C. Submission

The Centre's submission aims to provide a national picture of pro bono legal services that are available to Homeless Persons, as well as provide some recommendations on:

- (a) *'how the business sector best be involved in reducing homelessness'*; and
- (b) *'how we can develop broader community involvement and maximise the contribution of the philanthropic sector?'*

It is not intended for this submission to outline in detail the various pro bono legal services available to Homeless People in each state, but simply provide a broad overview of the ways in which the legal profession presently assists homeless persons across Australia.



D. National overview of pro bono legal services for homeless people

In Australia, there are a number of dedicated services that provide legal assistance to, and advocacy on behalf of, Homeless Persons. These include the Homeless Persons' Legal Clinics or Services (**HPLC**) in Victoria, New South Wales, Queensland and South Australia, Shopfront Youth Legal Service in Sydney, and the Adelaide Legal Outreach Service.

Since the first dedicated legal service for Homeless Persons opened in Victoria in 2001, the legal profession's interest in and dedication to providing pro bono legal assistance to Homeless Persons has grown exponentially. The primary model through which the legal profession has provided pro bono legal services to Homeless Persons is a HPLC. The clinics in Melbourne, Brisbane, Toowoomba, Townsville and Sydney, were established by the Public Interest Law Clearing Houses (**PILCH**) in each state. The clinics provide free legal assistance to, and advocacy on behalf of, Homeless Persons. The clinics aim to use the law to reduce unfair and unjust treatment of Homeless Persons, pave pathways out of homelessness, and to promote fundamental human rights.

While service delivery and focus by the clinics varies from state to state, they generally use the same fundamental model. Services are provided by the PILCH members – pro bono lawyers from participating law firms and legal departments. Civil, administrative (and in some cases criminal) advice and information are provided direct to clients at crisis accommodation centres and welfare agency premises frequented by homeless clients. Each firm is responsible for the provision of services (usually on a roster system) at one or two host agency premises on a weekly or fortnightly basis. In addition to providing legal services, the clinics seek to identify a range of services, and conduct advocacy regarding relevant law reform and social policy issues.

The clinics overcome some of the barriers traditionally faced by Homeless Persons in accessing legal services by providing face-to-face legal services with lawyers at locations familiar to and easily accessible by clients.¹ Under the model, lawyers are trained to provide legal assistance to clients experiencing extreme disadvantage in conjunction with the services required by Homeless Persons, such as counselling and accommodation services. Welfare agencies facilitate the provision of the legal services by providing a space for lawyers to consult with clients and acting as points of contact for clients.

State Overview of pro bono legal services for Homeless Persons

Victoria

The first HPLC was established by PILCH (Vic) in October 2001. The service now operates 11 clinics has provided free legal assistance to nearly 3,000 homeless people. Clinics are staffed by pro bono lawyers from private sector law firms and legal departments at eleven outreach locations across Melbourne including crisis shelters, soup kitchens and welfare agencies.

¹ Public Interest Advocacy Centre (NSW), <http://www.piac.asn.au/legal/operation.html>



Queensland

The HPLC in Brisbane was established by the Queensland Public Interest Law Clearing House (**QPILCH**) in December 2002. The has grown to 13 clinics - nine metropolitan clinics across Brisbane (including one telephone clinic for people in outer-metropolitan areas) and four regional clinics, which provide pro bono assistance on a weekly or fortnightly basis to Homeless Persons. Toowoomba HPLC was established in September 2007 as the first regional HPLC in Australia. Eight of the 24 law firms in Toowoomba participate in the service. Townsville HPLC opened in May 2008 and now three community legal centres and nine law firms as well as Legal Aid provide pro bono legal services at three clinics in Townsville. In Queensland the service opens approximately 250-300 new files a year and has provided pro bono legal assistance in approximately 1436 matters since it first opened.

New South Wales

There are two specialist services that provide pro bono legal assistance to Homeless Persons in New South Wales – the Homeless Persons' Legal Service (**HPLS**) and Shopfront Youth Legal Service (**Shopfront**).

The HPLS in Sydney commenced in May 2004. The service now has nine clinics from Bondi to Sydney City and Parramatta. Ten PILCH members, through volunteer lawyers, provide legal services on a pro bono basis at nine welfare agencies that provide a range of services and support to homeless people. At least two lawyers attend at each welfare agency, ie, 18 lawyers at nine welfare agencies, in any given week. These lawyers are drawn from a pool of over 280 pro bono lawyers from the participating firms and Legal Aid. To date the service has opened 2,072 matters.

Established in 1993, Shopfront is a partnership between Freehills and Mission Australia and later, the Salvation Army. It provides pro bono legal advice to and advocacy on behalf of homeless and disadvantaged young people. Shopfront opens 600 new matters per year, more than half of which involve new clients.

South Australia

There are two specialist services that provide pro bono legal assistance to Homeless Persons in South Australia – the Adelaide Legal Outreach Service and the Housing Legal Clinic.

The Adelaide Legal Outreach Service was established by the University of Adelaide Law School in March 2005 as a free preliminary advice and referral service for homeless persons in South Australia. The service is operated by students from the law school, under the supervision of lawyers and law lecturers, at locations frequented by homeless people.

The Housing Legal Clinic was established by the Welfare Rights Centre SA in July 2006 with funding from the Department of Housing. Since it opened, the Housing Legal Clinic has provided pro bono legal advice to, and advocacy on behalf of, approximately 850 clients at five homeless services in Adelaide.



Unlike the cities in the eastern states, Adelaide does not have a pro bono law clearing house to foster the pro bono involvement of the legal profession.

Western Australia

Western Australia does not have any specialist services that provide pro bono legal assistance to Homeless Persons but has undertaken a scoping study and established a steering committee with a view to establishing a HPLC.

Australian Capital Territory, Northern Territory and Tasmania

The Australian Capital Territory, Northern Territory and Tasmania do not have any dedicated pro bono legal services for Homeless Persons.

E. How can the business sector best be involved in reducing homelessness?

The legal profession can help reduce homelessness by providing Homeless Persons with pro bono legal assistance. In doing so, lawyers can use their legal experience to reduce unfair and unjust treatment of Homeless Persons, construct sustainable pathways out of homelessness, and to promote fundamental human rights. The key areas in which lawyers can assist Homeless Persons are debt, outstanding fines, victim's compensation, housing and tenancy, personal injury, bankruptcy, discrimination, mental health, social security and problems with Centrelink, guardianship and administration issues. In addition to case work, they may also be able to reduce homelessness at a systemic level by engaging in community legal education, law reform and policy initiatives.

Since the first HPLC was opened in Melbourne in 2001, the legal profession has become increasingly involved in providing pro bono legal advice assistance to Homeless Persons through HPLCs. PILCHs, which coordinate HPLCs in Victoria, New South Wales and Queensland, have not only attracted private law firms as members but have also attracted community legal centres, corporate legal departments, and universities – thereby broadening the impact that the legal profession can have on reducing homelessness. In Victoria, HPLCs continued as the major pro bono partner for seven of the thirty-four law firms on the Victorian government legal services panel in 2006-2007.²

Engaging government and in-house lawyers

The Australian Corporate Lawyers Association (ACLA) had almost 2,400 members at 30 June 2005,³ and this number may have since risen. Sixteen percent of these are government lawyers. ACLA estimates that there are about 6,750 in-house lawyers in Australia which, if correct, indicates that in-house lawyers constitute around 18% of the lawyers in Australia.⁴ Government and in-house lawyers represent a largely

² Victorian Government Legal Services Annual Report 2006-2007, at <http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/resources/file/eb564d07f330caa/GovernmentLegalServicesAnnualReport20062007.pdf>, p11

³ ACLA 2005 Annual Report at www.acla.com.au/Portals/0/downloads/Annual%20Report%202005%20-%20final cited in National Pro Bono Resource Centre, *Mapping Pro Bono in Australia* (2007) p27

⁴ Based on 36,124 solicitors and barristers in Australia, Australian Bureau of Statistics (2001-2002), cited in National Pro Bono Resource Centre, *Mapping Pro Bono in Australia* (2007) p27



untapped resource that could be encouraged to deliver a significant amount of pro bono legal services to Homeless Persons.

The scope for the legal profession to provide pro bono legal assistance to Homeless Persons and construct sustainable pathways out of homelessness is limited by the restrictions on the practicing certificates of government and in-house corporate lawyers.

Government lawyers are not required to hold a practising certificate to engage in legal practice but may hold a 'corporate legal practitioner' certificate, being the class of practicing certificate held by lawyers at in-house legal departments.

Under a corporate practising certificate, a lawyer is only entitled to engage in legal practice *on behalf of* their employer. This means that in-house or government lawyers who want to provide pro bono legal assistance at a CLC, HPLC or other pro bono legal work, with or without their employer's permission, are not authorised to do so.

In Victoria, these problems have been partly addressed under the *Legal Profession Act 2004 (Vic)*, which introduced a class of practicing certificate that authorises a lawyer to volunteer at a CLC.

However, the way in which has been done does not provide a holistic approach to the broader issue of recognising and authorising pro bono legal work done by lawyers, whether at a CLC or not, nor does it adequately deal with the integration of this new type of practising certificate with existing certificates.

The Centre considers that the government should support and facilitate pro bono legal work by all lawyers in Australia by encouraging legal professional associations to authorise government and in-house lawyers to provide pro bono legal services under their practicing certificate, whether that is as a volunteer at a CLC or not. This would significantly broaden the pool of lawyers that would be able to provide pro bono legal assistance to Homeless Persons.

Coordinating pro bono legal services for Homeless Persons

It is well acknowledged that the legal needs of Homeless Persons are better addressed in states that have a dedicated pro bono legal service for Homeless Persons. In Victoria, New South Wales and Queensland, these services have been introduced and managed through a PILCH. In South Australia, which does not have a PILCH, the Housing Legal Clinic is run through the Welfare Rights Centre. The Welfare Rights Centre acts as a quasi-PILCH, coordinating the pro bono involvement in of the legal profession in Adelaide with respect to Homeless Persons.

States that do not have a clearing house or similar body (Western Australia, Northern Territory, Australian Capital Territory, Tasmania) do not have structured programs that address the legal needs of Homeless Persons. Clearing houses are extremely effective in bolstering the pro bono activities of the legal profession, and focus on programs that ameliorate homelessness. They also provide a structured approach to pro bono that is well received by the legal profession.

In light of the benefits in having dedicated pro bono legal services for Homeless Persons, the Centre considers that the government should support and facilitate the



establishment of a dedicated legal service for Homeless Persons in the ACT, Northern Territory and Tasmania so as to maximise the legal profession's involvement in reducing homelessness.

F. How can we develop broader community involvement and maximise the contribution of the philanthropic sector?

Internationally, multi-sector professional firm networks have been extremely effective in fostering a broader community involvement in projects effecting disadvantaged people, thus extending organised pro bono assistance beyond lawyers to include accountants, architects and other professionals.

The most relevant example of this type of network is ProHelp in the United Kingdom, which was established by Business in the Community (**BITC**) in 1989. ProHelp has more than 1,000 professional firm members who are committed to making a difference in the community by offering free advice and support. Collectively, ProHelp is the largest national provider of pro bono support in England, Wales and Northern Ireland. In the past year alone, ProHelp firms supported 1,600 local community groups and voluntary organisations with more than £2.3m worth of free professional advice and expertise to voluntary organisations that would not otherwise have access to these services.

As the only national multi-sector professional firm network, ProHelp is able to provide members with opportunities to meet with and work alongside other professions, and provide a valuable 'one-stop' resource to community organisations seeking support. ProHelp involves surveyors, architects, consulting engineers, accountants, solicitors, consultants (management, property, IT), public relations, marketing and design agencies. Projects undertaken by members range from one-off projects, such as marketing/business plans, to collaborative working on projects requiring support from a number of professional disciplines, and workshops addressing community concerns. ProHelp has demonstrated the utility in having a network of legal and non-legal professionals willing to provide pro bono assistance across a range of disciplines. It also gives professional firms the opportunity to support their local community whilst being a part of a national movement.

There are a number of very good agencies that facilitate these activities, such as Good Company, but more could be done.

By introducing a multi-sector professional firm network in Australia, the opportunities to engage the broader business community in projects effecting Homeless Persons would be significantly increased.