

The Shopfront

YOUTH LEGAL CENTRE

Submission in response to Green Paper on Homelessness

The Shopfront Youth Legal Centre, June 2008

1 About the Shopfront Youth Legal Centre

The Shopfront Youth Legal Centre is a free legal service for homeless and disadvantaged young people aged 25 and under.

The Shopfront is a joint project of Mission Australia, the Salvation Army and the private law firm Freehills. It was established in 1993 as a response to the Burdekin Report¹, particularly those recommendations in Chapter 21 regarding the need for specialised legal services for young people.

The Shopfront now employs 4 solicitors (3 full-time equivalent), 3 legal assistants (2.6 full time equivalent), and is assisted by a number of volunteers.

The Shopfront is based in Darlinghurst in the inner city of Sydney. While remaining true to our "traditional" client base (homeless young people around the Kings Cross and inner city areas), we now service clients in most parts of the Sydney metropolitan area and, occasionally, clients outside Sydney.

The Shopfront aims to assist those young people who are the most vulnerable, including those in need of more intensive support and continuity of representation than the Legal Aid system can provide.

The Shopfront's clients come from a range of cultural backgrounds, including a sizeable number of indigenous young people. Common to most of our clients is the experience of homelessness: most have been forced to leave home due to abuse, neglect, domestic violence or extreme family dysfunction. Moreover, most of our clients have limited formal education and therefore lack adequate literacy, numeracy and vocational skills. A substantial proportion also have a serious mental health problem, an intellectual disability and/or a substance abuse problem.

We deal annually with about 500 – 600 new matters, about half of which involve new clients. These range from simple legal advice to court representation on serious and complex criminal cases. Although we specialise in criminal law, we provide advice and assistance on a range of other issues, including outstanding fines, victims' rights and entitlements, family law, child welfare, and minor civil matters.

As well as representing and advising individual clients, the Shopfront provides legal information and training for young people, youth workers and lawyers. We have produced several legal fact sheets², and contributed to a number of books and publications³.

1 Human Rights and Equal Opportunity Commission, *Our Homeless Children: Report of the National Inquiry into Homeless Children* (1989).

2 Copies are available at www.theshopfront.org/24.html

3 For example, *Youth Justice: Youth Guide to Cops and Court in New South Wales*, 3rd Edition 2003, Federation Press

The Shopfront also performs systemic advocacy to help advance the rights and interests of people who are young, homeless, and disadvantaged. Over the years we have made submissions to a number of inquiries and legislative reviews⁴.

2 Issues to be addressed in this submission

As the Green Paper acknowledges, homelessness in Australia takes many forms. It can be temporary or long-term. Its causes can be relatively simple (in recent years, a lack of affordable housing has become a major contributor) or very complex.

The Prime Minister, Kevin Rudd, recently described many homeless people as *'mainstream Australians knocked sideways by unexpected circumstances'*. While this is undoubtedly true of a large number of homeless Australians, there is a significant population whose homelessness is not a result of "unexpected" circumstances. The Shopfront's client base is comprised largely of young people from this group. Most of these young people have never been part of the "mainstream", but have been marginalised since early childhood. With such a poor start in life, a future of homelessness and poverty is not unexpected.

In this submission we will focus on youth homelessness, as experienced by our clients. Specific issues we wish to comment on include:

- child protection and young people in care;
- the link between mental illness and homelessness;
- the 'revolving door' between homelessness and imprisonment;
- comments on the options proposed by the Green Paper.

3 National Youth Commission Inquiry into Youth Homelessness

We commend to you the report of the National Youth Commission (NYC) Inquiry, *Australia's Homeless Youth*⁵. We urge the Government to carefully consider the findings and recommendations of this Inquiry, including the proposed '10 point road map'.

We also ask you to take into account the matters raised by the Shopfront Youth Legal Centre in our submission to the NYC Inquiry, which is annexed to this submission.

As that submission shows, it is easy for us to catalogue the myriad problems faced by homeless young people. To suggest practical, workable solutions is more challenging. We do not claim to have the answers but we hope to offer some worthwhile observations and suggestions.

4 The need for an improved child protection system

We are pleased to see a reference to the development of a national child protection framework in the list of 'Government reforms that will affect homelessness' at the end of the Green Paper.

It is beyond the scope of this submission to embark on a detailed critique of the child protection system in NSW or elsewhere in Australia. Suffice it to say that the current child protection system has many shortcomings which need to be addressed if we are to

⁴ Copies of our submissions and policy papers are available at www.theshopfront.org/25.html.

⁵ *Australia's Homeless Youth*, published by National Youth Commission, with funding from the Caledonia Foundation, May 2008

make a serious attempt to solve the problem of youth homelessness. We refer to our comments in our submission to the NYC inquiry⁶ and to the reports referred to in that submission.

We also refer to the report of the NYC Inquiry, particularly Chapter 9 – *State Care and Protection*. The report cites statistics showing that 42% of adults and young people in SAAP services have been in state care at some stage. It also comments on the use of SAAP services to house children who should be in state care, and the high rate of homelessness among young people leaving care. The NYC has recommended a national inquiry into care and protection, and a partnership between federal and state governments aimed at reforming the care and protection system.

We support, in principle, the development of a national child protection framework. Our experience in NSW suggests that state governments may be unable (or unwilling) to adequately resource the child protection system, and in particular the provision of services to vulnerable families, children and adolescents.

Resource allocation within the NSW Department of Community Services (DOCS) is heavily weighted towards investigating and responding to notifications of abuse, at the expense of providing early intervention and family support. Adolescents are often neglected by DOCS in favour of younger children. It is understandable that younger children should be prioritised, but there is a pressing need for support during adolescence to prevent young people becoming entrenched in homelessness.

It is also important to recognise that adolescence usually extends well beyond the age of 18. Experience tells us, and recent research confirms, that adolescent cognitive and emotional development is rarely complete by age 18. Most young adults who have been in care (or who otherwise cannot rely on family support) still require intensive assistance. This has been recognised in recent years with the funding of after-care programs. Some of these programs have achieved excellent results but, in our view, more funding needs to be provided.

Luke

The case study of Luke, included in our submission to the NYC Inquiry,⁷ was used to illustrate the difficulties faced by children without a stable residence when they come into contact with the juvenile justice system.

Luke's story also highlights the inability of the child protection system to provide support where and when it is needed. In the last 12 months, Luke's situation has gone from bad to worse. He has spent further time in juvenile detention on remand, mainly for petty property-related offences. The Children's Court and the Department of Juvenile Justice have referred him to DOCS in the hope that DOCS will be able to find him some sustainable accommodation and provide some support. However, DOCS' involvement has typically been limited to placing him in short-term accommodation (most recently with his father, a placement which only lasted a couple of days) and then closing his file.

DOCS have expressed the view that their intervention is not warranted because Luke has a home to go to (his mother's house) and that there are no child protection issues there (meaning that he is fed, clothed and not subjected to physical or sexual abuse). In our view, though, this represents a narrow view of what child protection and support services should offer. It is clear that Luke's

⁶ Shopfront Youth Legal Centre Submission to National Youth Commission Inquiry into Youth Homelessness, June 2007, section 2.3.

⁷ Shopfront Youth Legal Centre, Submission to National Youth Commission Inquiry into Youth Homelessness, June 2007, section 3.6 on page 37.

needs are not being met and his mother is unable to perform her parenting role unassisted.

We foresee that Luke will become entrenched in long term homelessness (probably interspersed with increasingly long periods in detention, and eventually adult prison) unless adequate support services are put in place very soon.

Leonie

By contrast, Leonie (who has recently turned 16) is receiving assistance from DOCS through their Intensive Support Services. Leonie was taken into care at the age of 3, when her mother was imprisoned. She had minimal contact with her father, who passed away when she was 11. Leonie was placed in foster care; initially she had several placements, but remained in one foster placement for some years until it broke down when she was 14.

From the age of 14, Leonie stayed in numerous refuges, many of which she was asked to leave because of her difficult behaviour. She also spent some time squatting with her mother, who is also homeless. At 15, Leonie was placed in semi-supported youth accommodation which, although it provided a roof over her head, did not provide her with adequate support and supervision. Leonie, together with a group of other homeless young people, became involved in some serious criminal behaviour. As a result, Leonie spent over 3 months in custody.

Fortunately, DOCS has now been able to find a suitable placement for Leonie, and the Children's Court has released her on probation. DOCS is working intensively with Leonie to ensure her long-term accommodation and support needs will be met.

Vicky

The case study of Vicky was used in our submission to the NYC Inquiry⁸ to illustrate the problems faced by young people who are unable to obtain a driving licence due to outstanding fines. As is the case with many of our clients, Vicky's fines were mostly incurred when she was homeless during her mid to late teens.

Although Vicky's problems are far from over (as the case study shows) she has achieved success in one major area of her life: stable housing. This has largely been due to the support of Centacare's ALIVE (Adolescents Living Independently Via Empowerment) Program, which is an after-care service funded to work with 18-25 year olds who have left care. In our experience, the ALIVE program has excelled in helping vulnerable young adults to break the cycle of homelessness. Without their support, Vicky would almost certainly be in full-time custody and would most likely be homeless upon release.

5 The link between homelessness and mental illness

The link between ill-health and homelessness was discussed in our submission to the NYC Inquiry. Of particular concern are mental illness, substance abuse and dual diagnosis⁹.

The report of the NYC Inquiry also highlighted the need for better mental health and dual diagnosis services. It devoted separate chapters to *Mental health*, *Alcohol and other drugs*, and *Health*. Recommendations included the development of new residential

⁸ Shopfront Youth Legal Centre, Submission to National Youth Commission Inquiry into Youth Homelessness, June 2007, section 3.8 on page 46.

⁹ Shopfront Youth Legal Centre, Submission to National Youth Commission Inquiry into Youth Homelessness, June 2007, section 2.9 on page 18.

models enabling services to work in partnership to support homeless young people with dual diagnosis¹⁰.

Carlos

Carlos, aged 21, was raised by migrant parents in suburban Sydney. His father is still in Sydney but his mother has returned to live overseas.

For the last couple of years, Carlos has led a chaotic life characterised by unstable accommodation, mental illness, cannabis and alcohol abuse and low-level offending.

Carlos has had several admissions to psychiatric wards, often while acutely psychotic, but has generally been discharged without appropriate follow-up. His local community mental health centre appears to have put him in the 'too hard basket', and has shown itself to be totally inadequate in dealing with dual diagnosis.

Carlos is currently living in a small flat (his dad paid the bond and is helping him with the rent) but his prospects of maintaining this tenancy are not good while his mental health and substance abuse problems remain untreated.

Carlos is on the Personal Support Program with Centrelink, but risks having his benefits cut off for failure to attend appointments. He probably should be on a disability support pension, but has not been able to organise himself to see a Doctor who can assess him and complete the forms.

We are aware of some services that would be ideal for Carlos, but unfortunately they are not within his local area. He feels very strong ties to the area where he grew up and (despite the lack of appropriate services) he understandably wants to remain in the suburb he calls 'home'.

6 Homelessness and the criminal justice system

The links between homelessness and the criminal justice system were discussed in our submission to the NYC Inquiry. In particular, we focused on the following issues:

- the over-representation of children in care in the juvenile and adult criminal justice systems¹¹;
- young people with mental health problems or intellectual disabilities¹²;
- difficulties obtaining bail¹³.

There is often said to be a 'revolving door' between prison and the streets. We have observed many of our clients cycling between imprisonment and homelessness. There is also a body of research which shows that a high proportion of prisoners are homeless before and/or after their release¹⁴.

¹⁰ *Australia's Homeless Youth*, published by National Youth Commission, with funding from the Caledonia Foundation, May 2008, Chapter 17 – *Health*, recommendation 17.5

¹¹ Shopfront Youth Legal Centre, Submission to National Youth Commission Inquiry into Youth Homelessness, June 2007, section 3.1 on pages 26-27.

¹² Shopfront Youth Legal Centre, Submission to National Youth Commission Inquiry into Youth Homelessness, June 2007, section 3.4 on pages 28-29.

¹³ Shopfront Youth Legal Centre, Submission to National Youth Commission Inquiry into Youth Homelessness, June 2007, section 3.6 on pages 35-41.

¹⁴ See Baldry and Maplestone, *Ex-prisoners and accommodation: what bearing do different forms of housing have on social reintegration of ex-prisoners?*, paper presented at Australian Institute of Criminology seminar on Housing, Crime and Stronger Communities, May 2002, <http://www.aic.gov.au/conferences/housing/baldry.html>. In a survey of 356 prisoners from NSW and Victoria it was found that approximately 20% were either homeless, living in squats or in other marginal housing prior to

The 'revolving door' effect is even more pronounced when a homeless person has a mental illness, a substance abuse problem or, worse still, a dual diagnosis.

The NSW government appears to be prioritising policing and corrective services (which prosecute and incarcerate large numbers of homeless and disadvantaged people) at the expense of providing sound early intervention and support for people at risk. In fact, the NSW government boasts about its soaring imprisonment rates and its increase in the Corrective Services budget to build and staff new prisons. In a recent media release, the Attorney-General and Minister for Justice, the Hon John Hatzistergos, was quoted as saying '*NSW has the strongest sentencing regime and toughest bail laws in the country. Over the last 10 years the total number of full-time inmates has increased by almost 50 per cent, while the number of remandees has risen by 129.5 per cent*'¹⁵. In our view the increase in the prison population, especially the remand population, is cause for shame and not for pride.

Tom

Tom is in his mid-twenties and is currently a prison inmate. Unlike most of the Shopfront's clients, Tom had a middle class upbringing and a good education up until Year 10. However, his mental health began to deteriorate and at 17 he was diagnosed with schizophrenia. His family, understandably, found Tom's illness very challenging to deal with and were unable to keep him at home because his behaviour posed a risk to his younger siblings.

Tom soon found himself involved with the criminal justice system, mostly for minor assaults or property damage committed while he was experiencing a psychotic episode. In the early stages he was involved with an early psychosis program and the courts were willing to deal with him using the diversionary options in the *Mental Health (Criminal Procedure) Act*.

Although he was receiving treatment for his mental illness, Tom's housing problem was never resolved. There was a housing program in his area for people with mental health problems, but criteria were strict and waiting lists very long. Tom found himself living in sub-standard and unstable accommodation, mainly boarding houses, and drifting between parts of the inner city so that he could not always be case managed by the same community mental health service. During this time Tom developed a drinking problem and soon started getting involved in fights while intoxicated and/or acutely ill.

Tom has tried many times to get into a rehabilitation program, but his options were limited: in fact, there appears to be only one dual diagnosis rehab program available. At one stage he succeeded in gaining entry into this program, and did well for a while, but was kicked out for a breach of the rules.

With nowhere else to go, Tom returned to the streets, to drinking and soon to prison. Because of his homelessness and untreated alcohol problem, not to mention his mental illness, Tom is considered too much of a risk to be released on bail.

Organising a place in rehab from within custody is virtually impossible, Seeking discharge to hospital is not an option either: beds are full and long-term psychiatric rehabilitation places are scarce.

imprisonment. In addition, 34% had been dependent on public and assisted housing prior to imprisonment and 16% expected to be homeless or did not know where they were going to live post-release. See also *The Housing and Support Needs of Ex-Prisoners*, Salvation Army, 2005, www.salvationarmy.org.au/reports/housing_and_support_needs_of_ex-prisoners.pdf

15 See NSW Attorney-General, media release, 3 June 2008, *Boost for jail upgrade program*, available at www.lawlink.nsw.gov.au, in which the Attorney-General and Minister for Justice, the Hon John Hatzistergos, announced a substantial budget allocation towards funding new prisons. He was quoted as saying "NSW has the strongest sentencing regime and toughest bail laws in the country. Over the last 10 years the total number of full-time inmates has increased by almost 50 per cent, while the number of remandees has risen by 129.5 per cent".

A program like the Drug Court might also be a good option for Tom – if it were available. Unfortunately, after 9 years and some encouraging evaluations, the Drug Court remains a pilot, restricted to offenders from Western Sydney. Entry criteria are strict, excluding people who commit violent offences and whose primary drug of dependence is alcohol¹⁶.

Typically Tom is sentenced to a term of imprisonment with parole conditions requiring him to undertake treatment and rehabilitation. However, there is rarely any adequate pre-release planning; he is usually assigned a parole officer at a very late stage and is released into unstable accommodation, where the pattern begins to repeat itself.

7 Comments on options proposed by Green Paper

The Green Paper has proposed the following three options:

We do not support any of the three options proposed by the Green Paper as a stand-alone option. Instead we prefer a fourth option along the lines proposed by the Youth Accommodation Association. However, if we had to choose one of these options, we would choose Option 2.

Option 1: Transform SAAP to build a national homelessness response focused on distinct streams

Option 1, which proposes re-organising SAAP into distinct streams, runs a risk of creating more “silos”, or more cracks for people to fall into.

To a large extent, SAAP services are already directed at particular target groups (eg young people, women seeking refuge from domestic violence) and there is undoubtedly a role for this sort of specialisation.

However, there also need to be services which are flexible enough to accommodate people who do not fall neatly into one category (eg young people who are parents).

Option 2: Improve the current SAAP response

Of the three options proposed, this is the one we believe would be the most effective.

This would involve building upon existing SAAP services, while giving them greater resources to extend beyond crisis intervention and to deal with clients in a holistic way.

The NYC report, in Chapter 14 – *Supported accommodation* and Chapter 15 – *Post-SAAP transitions*, discusses the benefits and limitations of the SAAP model. It concludes that the SAAP model is fundamentally sound, but that there is room for improvement, for example:

- better co-ordination to minimise gaps in service delivery;
- less restrictive targets as to the length of stay in SAAP services (evidence shows that outcomes are better for young people who stay longer in SAAP services¹⁷);
- enhanced funding must be provided to provide better wages and career development for staff;

¹⁶ For information about the NSW Drug Court, see www.lawlink.nsw.gov.au/drugcrt; for the evaluation by the NSW Bureau of Crime Statistics and Research, see www.lawlink.nsw.gov.au/bocsar.

¹⁷ *Australia's Homeless Youth*, published by National Youth Commission, with funding from the Caledonia Foundation, May 2008, para 15.1, page 231

- development and resourcing of strategies for clients with high and complex needs, including brokerage funding to buy in specialised services where necessary.

The Shopfront Youth Legal Centre (as a non-SAAP service which has regular dealings with SAAP services) shares the above views expressed by the NYC.

Option 3: Improve the mainstream service response to homelessness and restrict SAAP to responding to crisis interventions

Option 3, we suggest, is somewhat unrealistic. While mainstream services could undoubtedly improve their response to people who are homeless or at risk of homelessness, it is difficult to see them meeting the needs of this client group without the involvement of more holistic, specialised services.

Mainstream services (whether it be community mental health centres, Legal Aid offices, or educational institutions) must of necessity be focused towards meeting the needs of the majority. They will usually be area-based and not in a position to case-manage clients in a holistic way. It is easy for homeless people to fall between the cracks in mainstream services.

In addition, restricting the SAAP program to crisis intervention only, as proposed by Option 3, would do nothing to stop (and may in fact exacerbate) the problem of people “churning” through crisis accommodation.

Option 4?

This option, as proposed by the NSW Youth Accommodation Association in its submission to the Green Paper, involves several elements including:

- Expansion of early intervention programs such as Reconnect;
- Age-specific responses recognising the diversity and complexity of young people;
- Targeted affordable housing for young people;
- Co-ordination and increased brokerage resources for youth homelessness to either purchase or integrate mainstream and wrap-around support services;
- Increased workforce development and sector capacity;
- Resourcing strong state/federal peak bodies and community infrastructure

To quote from YAA's draft Green Paper submission:

‘The key issue for the YAA is that a homelessness response needs to be firmly embedded in National policy and have a high public profile. This can be achieved by homelessness legislation, quality service delivery that is provided in a non judgemental manner, that homelessness is understood and supported by the whole community and that the responses meets the needs of all homeless young people. It is critical that services are provided which are specifically designed to respond to the needs of young people.’

8 Summary and Recommendations

Holistic service delivery

It is clear that young people who are homeless, or at risk of homelessness, need services that are flexible, holistic and able to stick with them for as long as necessary.

In our submission to the NYC Inquiry, we provided our comments about effective models of service delivery¹⁸. In our experience, effective services are those that are well coordinated with other services, foster a sense of ‘connectedness’ with the client, and are in it for the long haul.

The ability to wrap services around a particular individual, using brokerage funding if required, is crucial – especially for clients with complex needs who do not fit neatly into the mainstream.

We recommend an increase in funding for services of this type. The Kings Cross Youth at Risk Project is but one example¹⁹.

We do not claim that such service models come cheaply. However, we believe that money spent in the right places will ultimately lead to savings in other areas – most notably health, policing, courts and corrections.

Simon

The case study of Simon was used in our submission to the NYC Inquiry to illustrate the importance of “joined-up” or “wrap-around” service delivery²⁰.

Simon is now being housed by a different youth accommodation service, and continues to receive a high level of support from DADHC. His living skills, and his ability to say no to negative peer influences, continue to improve. He has also taken some steps towards reconciliation with his parents.

Simon’s story is an example of what can be achieved through professionalism, commitment and collaboration.

Co-ordination at government level

One of the barriers to effective service delivery is the fact that government funding often comes from different sources, all with different types of strings attached.

It is also our observation that many services are run on pilot funding without ever being certain of recurrent funding. While it is important to evaluate pilots before committing to permanent funding, it appears that some potentially (or demonstrably) good services never have a real chance to get off the ground.

Although “whole of government approach” sounds like a dreadful cliché, this is what is needed to ensure seamless, rather than patchwork, service delivery. This requires partnerships between different portfolios and departments, and between state and federal government.

Child protection

We support the principle of a national child protection strategy, using as its basis the Convention on the Rights of the Child.

We also support quarantining of part of the child protection budget to be spent on early intervention and family support. In addition, some degree of cultural change may be required to ensure that such services are delivered in a non-stigmatising way.

As with the SAAP sector, high staff turnover is a barrier to successful service delivery. Remuneration is one factor in this, but even more important are appropriate supervision and support to minimise the risk of burnout.

¹⁸ Shopfront Youth Legal Centre, Submission to National Youth Commission Inquiry into Youth Homelessness, June 2007, section 2.13 on page 23.

¹⁹ See Petersen and Janssen, *Report on Youth Brokerage Applications administered through the Kings Cross Youth at Risk Project*, auspiced by South-Eastern Sydney Illawarra Area Health, January 2008

²⁰ Shopfront Youth Legal Centre, Submission to National Youth Commission Inquiry into Youth Homelessness, June 2007, section 2.13 on pages 23-24.

Improving working conditions for staff in SAAP and child protection sectors

One of the barriers to effective interventions is high staff turnover, often associated with low wages, inadequate support and poor prospects for career development.

We urge the Government to pay heed to the recommendations of the Youth Accommodation Association and the NYC in this regard.

Well-funded peak bodies and inter-agency networks

This is crucial to ensure that services are adequately co-ordinated and that gaps in service delivery are minimised.

Mental health

Much has already been written and said about the inadequacies of Australia's mental health services.

A properly-resourced continuum of mental health services is a vital part of any homelessness strategy.

Criminal justice and corrections

As a minimum, we recommend the following measures to break the vicious circle between homelessness and offending:

- Expansion of funding for organisations such as CRC Justice Support, so that greater numbers of prisoners can be provided with post-release accommodation;
- Establishment of protocols to facilitate the assessment of people in custody for accommodation in SAAP services, residential AOD programs and mental health services;
- A network of bail hostels for juveniles and adults;
- A thorough review of bail laws to re-establish presumptions in favour of bail and to ensure that homelessness is not a reason for refusing bail;
- Increased funding for therapeutic and diversionary programs such as Drug Courts, MERIT, Circle Sentencing and Youth Justice Conferencing.

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