

## DISCRIMINATION ON THE GROUNDS OF HOMELESSNESS OR SOCIAL STATUS

### REPORT TO THE DEPARTMENT OF JUSTICE March 2007

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## 1. Executive Summary

*'Discrimination is discrimination, whether on the basis of race, religion, sex or homelessness. Everyone has a right to fair treatment. So in my view, discrimination on the grounds of homelessness is as bad as any other, and setting up guidelines is a step in the right direction.'* (Anonymous, Ozanam House)

In 2007, the Victorian Government will introduce guidelines on discrimination on the grounds of homelessness or social status (**Guidelines**). The Guidelines will apply to businesses and other entities that provide accommodation or goods and services. The aim is to protect, educate and reduce the extent of this form of discrimination.

In order to inform the Guidelines, the PILCH Homeless Persons' Legal Clinic (**Clinic**) conducted a series of consumer workshops at homelessness assistance services in Melbourne and Geelong where qualitative and quantitative data was gathered regarding the nature and extent of this form of discrimination. The results suggest that the discrimination on the grounds of homelessness and social status is frequent and widespread in Victoria.

Almost 70% of people surveyed have experienced discrimination on the basis of homelessness or social status at the hands of accommodation providers. Most frequently, people are discriminated against in private rental or by real estate agents, followed by boarding houses, transitional or crisis accommodation, hotels and public housing. Almost half of those surveyed reported that discrimination on these grounds had prolonged their homelessness and had made it increasingly difficult to find a sustainable pathway out of homelessness.

A similar picture emerges in relation to goods and services providers, who discriminated against almost 60% of respondents on the basis of their homelessness or social status. Discrimination was most often experienced from restaurants, cafés or bars, followed by banks, retail shops, hospitals and telecommunications providers.

The adverse consequences experienced as a result of both forms of discrimination include poor physical and mental health, social isolation and family or relationship difficulties. As a result of discrimination, the feelings of victims range from marginalisation and frustration, to anger, worthlessness, grief, anxiety and suicidal tendencies. Perhaps unsurprisingly, some respondents have simply become accustomed to such treatment and have learned to deal with it.

People who have experienced discrimination on the grounds of homelessness or social status are overwhelmingly in favour of the proposed Guidelines, and most are optimistic that the Guidelines will reduce the amount of discrimination that occurs on these grounds. However, some are understandably cynical at the ability of the Guidelines to overcome the behaviour that a lifetime of experience has led them to expect.

## 2. Introduction

### 2.1 Project background

In 2007, the Victorian Government will introduce Guidelines on discrimination on the grounds of homelessness and social status that will apply to businesses and other entities that provide accommodation or goods and services. The Guidelines will aim to protect and educate the community in relation to discrimination on these grounds, and to reduce the extent to which this form of discrimination occurs.

In January 2007, the Department of Justice (**DOJ**) engaged the Clinic to conduct a series of consumer consultations aimed at gathering qualitative and quantitative data regarding the nature and extent of discrimination that occurs in Victoria on the grounds of homelessness or social status. This report analyses the outcome of the consumer consultations and provides a summary of the data obtained during the consultation process.

### 2.2 About the Clinic

The Clinic is a project of the Public Interest Law Clearing House (Vic) Inc and was established in 2001 in response to the great unmet need for targeted legal services for people experiencing homelessness. Legal services are provided by volunteer lawyers from private law firms and legal departments at 11 homelessness assistance services in and around Melbourne. Since its establishment, the Clinic has assisted over 2200 people in a range of areas. The Clinic also undertakes significant community education, public policy advocacy and law reform work to promote and protect the right to housing and other fundamental human rights.

As a provider of legal services to homeless people, or people at risk of experiencing homelessness, the PILCH Homeless Persons' Legal Clinic is in a unique position that allows it to access those people who are most likely to have experienced discrimination on the basis of homelessness or social status.

### 2.3 Non-discrimination on the grounds of homelessness or social status – the legal framework

The *Equal Opportunity Act 1995* (Vic) (**EO Act**) makes it unlawful in Victoria to treat anyone less favourably on the basis of particular attributes or personal characteristics in certain areas of public life. However, not all acts of unfair, unjust or less favourable treatment are unlawful. Discrimination is not unlawful unless it occurs on the basis of one (or more) of the attributes set out in section 6 of the EO Act, including age, sex, race, disability and political belief, and in respect of an area of activity set out in Part 3 of the EO Act, including education, accommodation, employment and the provision of goods and services.

Homelessness and social status are not attributes that are currently protected by the EO Act. Accordingly, despite evidence that discrimination on the grounds of a person's homelessness or social status is widespread in Victoria, it is not unlawful to discriminate against a person on these grounds.

The norm of non-discrimination on the grounds of homelessness or social status is entrenched in international treaty law. The obligation of all Australian governments to guarantee, by law, equal and effective protection against discrimination, including on the ground of social origin or status, is set out in article 26 of the International Covenant on Civil and Political Rights (ICCPR):

*'All persons are equal before the law and are entitled without discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'*<sup>1</sup>

This article is a free-standing non-discrimination provision that is not confined to the enjoyment of rights in the ICCPR, but extends to all human rights and fundamental freedoms, including economic and social rights such as the right to an adequate standard of living and social security.<sup>2</sup>

Following ratification, the ICCPR entered into force for Australia on 13 August 1980. Australia's obligation to protect and promote the norm of non-discrimination is set out in article 2(1) of the ICCPR:

*Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

Australia is also a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>3</sup> The ICESCR promotes recognition of people's cultural, economic and social rights. Article 9 of the ICESCR recognises the right of everyone to receive social security. Article 11 recognises the right to an adequate standard of living, which includes adequate housing. Article 2 of the ICESCR provides:

*'(1) Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*

*(2) The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind*

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<sup>1</sup> *International Covenant on Civil and Political Rights*, 19 December 1966, (1980) ATS 23 (entered into force generally 23 March 1976 and for Australia 13 August 1980). See also article 7 of the *Universal Declaration of Human Rights* (entered into force generally and for Australia 10 December 1948).

<sup>2</sup> See, for example, *Broeks v The Netherlands* (172/84) and *Zwaan de Vries v The Netherlands* (182/84), in which the United Nations Human Rights Committee found article 26 to be applicable to complaints concerning discrimination in the field of social security.

<sup>3</sup> *International Covenant on Economic Social and Cultural Political Rights*, 19 December 1966, (1976) ATS 5 (entered into force generally 3 January 1976 and entered into force for Australia 10 March 1976).

*as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'*

The United Nations Committee on Economic, Social and Cultural Rights has recommended to several States Parties to the ICESCR that these rights be protected by including social and economic rights in domestic human rights legislation to prevent discrimination against homeless and impoverished people.<sup>4</sup>

In Victoria, the *Charter on Human Rights and Responsibilities Act* (2006) (**Charter**) has enshrined certain civil and political rights in domestic legislation. The Charter is derived from the ICCPR and does not presently extend to provide protection for economic, cultural and social rights. Section 8 of the Charter deals with recognition and equality before the law and provides that:

- 1) *Every person has the right to recognition as a person before the law;*
- 2) *Every person has the right to enjoy his or her human rights without discrimination; and*
- 3) *Every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.*

However, 'discrimination' for the purposes of section 8 of the Charter is limited to the attributes set out in section 6 of the EO Act, which do not include homelessness or social status.

### 3. Consumer consultations

#### 3.1 Objectives

The Clinic recognises that the participation of people who are homeless or at risk of experiencing homelessness, or who are disadvantaged and marginalised as a result of their social status, will likely result in the development and implementation of Guidelines that are targeted, efficient, and effective. The participation of consumers in the consultation process is also important in contributing to individual and community empowerment.

With this in mind, the Clinic conducted a series of 12 targeted consumer workshops in order to gauge the level of discrimination that occurs on the grounds of homelessness and social status and to encourage and enable people who are homeless to have their say about this form of discrimination in Victoria.

#### 3.2 Defining 'homelessness' and 'social status'

For the purpose of the consumer workshops, the Clinic adopted the widely accepted definition of 'homeless' developed and used by the Australian Bureau of Statistics (**ABS**). Pursuant to this

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<sup>4</sup> See for example, Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada* (10 December 1998) paragraph 51. See also Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ireland* (14 May 1999) paragraph 22, in which the Committee recommended that: "the State Party incorporate justiciable economic, social and cultural rights in the proposed amendment to the Constitution."

definition, a person is homeless if he or she experiences 'primary', 'secondary' or 'tertiary' homelessness.<sup>5</sup>

'Primary homelessness' refers to people with no form of conventional accommodation. This includes people living in the streets, squatting in derelict buildings or using cars or railway carriages for temporary shelter. 'Secondary homelessness' refers to people who are staying in or moving frequently between temporary accommodations. This includes people staying in crisis or emergency accommodation, refuges or shelters and people staying temporarily with friends or relatives because they have no accommodation of their own. 'Tertiary homelessness' refers to people who live in boarding houses or rooming houses on a medium to long-term basis. They are categorised as homeless because such accommodation is below the minimum community standard and does not provide security of tenure.

A person's 'social status' may encompass a variety of economic, cultural and social characteristics and is a difficult concept to narrowly define. A person's social status is a subjective characteristic that will depend upon the personal circumstances confronting each individual, in addition to the prevailing public perception of those circumstances which may result in people being categorized as, or left feeling like having, a low social status. There is also an obvious interrelationship between homelessness (and the many complex factors which may lead to a person becoming homeless) and a person's social status. In fact, researchers have argued that the commonality of experience and of discriminations of homeless persons makes homeless persons a 'social group', and that 'homelessness' in itself constitutes a 'social status'.<sup>6</sup>

For the purpose of the consumer workshops, 'social status' was described broadly to include being unemployed or in receipt of income benefits. However, consumer workshop participants were reminded during the consultation process of the interrelationship between homelessness and social status and were encouraged to consider the broader issues of public perception in relation to a person's social status and how these things may have contributed to personal experiences of discrimination.

### **3.3 Defining 'discrimination'**

For the purposes of the consumer workshops, 'discrimination' was described broadly as occurring when someone has been treated unfairly or unfavourably because of a personal characteristic. This definition is based upon the definition of 'discrimination' in the EO Act, and upon the definitions used in international human rights instruments.

Part 2 of the EO Act contemplates two forms of discrimination: direct and indirect. Section 8(1) defines direct discrimination as occurring when:

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<sup>5</sup> Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 1–2.

<sup>6</sup> The classification of homeless persons as a "social group" and of "homelessness" as a social status has been recognised in the United States: see, for example, *Pottinger v City of Miami*, 810 F Supp 1551, 1578 (SD Fla 1992).

*'...a person treats, or proposes to treat, someone with an attribute less favourably than the person treats or would treat someone without that attribute, or with a different attribute, in the same or similar circumstances.'*

Section 8(2) defines indirect discrimination as occurring when:

*'... a person imposes, or proposes to impose, a requirement, condition or practice-*

- a) that someone with an attribute does not or cannot comply with; and*
- b) that a higher proportion of people without that attribute, or with a different attribute, do or can comply with; and*
- c) that is not reasonable.'*

Although 'discrimination' is not defined in the ICCPR, the United Nations Human Rights Committee has defined it as:

*'... any distinction, exclusion, restriction or preference ... which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.'*<sup>7</sup>

It is recognised that many people, particularly those who are disadvantaged, are often discriminated against on a number of grounds (for example, mental health, age, disability etc). However, given that the Guidelines are intended to operate only in relation to discrimination on the grounds of homelessness and social status, to the extent that it was possible, the consumer consultations sought only to isolate and capture experiences of discrimination on these grounds.

### **3.4 Consultation and Research Methodology**

#### **3.4.1 Consumer workshops**

In order to facilitate direct access to people experiencing homelessness, 10 consumer workshops were conducted at homelessness assistance services located in and around Melbourne, in addition two regional workshops which were conducted at homelessness assistance services in Geelong.

Participants in the workshops were required to be currently experiencing homelessness or to have experienced homelessness in the past. One hundred and seventy seven people participated in the workshops, and six individuals responded to the Clinic directly through individual consultation. In total, 183 consumers participated in the research.

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<sup>7</sup> Human Rights Committee, *General Comment No 18: Non-Discrimination*, HRI/GEN/1/25 (1989). This definition is based on the definitions contained in article 1 of the *Convention on the Elimination of All Forms of Racial Discrimination* (1965) and article 1 of the *Convention on the Elimination of All Forms of Discrimination Against Women* (1975).

Workshops were conducted and facilitated by two to three Clinic lawyers with the assistance (where possible) of one or two consumer consultants who have prior first-hand experience of homelessness and are members of the Clinic's Consumer Advisory Group. Both the lawyers and the consumer consultants participated in a training and information session prior to the workshops where the project background and objectives were discussed, and assisted with the preparation for, and collation of information from, the workshops. The workshops were supervised by the Clinic Coordinator and/or a PILCH Seconded Solicitor who had carriage of the project on behalf of the Clinic.

Each of the workshops involved:

1. the provision of information about discrimination on the grounds of homelessness and social status, the proposed Guidelines, the consultation process and how to engage with and make submissions to that process;
2. a structured survey about participants' personal experiences of discrimination on the grounds of homelessness and social status in relation to accommodation and goods and services providers (**consumer surveys**)(see 3.4.2, below); and
3. an opportunity to provide feedback and ask questions in relation to the project and the consultation process.

Each workshop lasted between 1.0 and 2.5 hours depending on the number of participants. Details of the workshops, including the location, date, number of participants, and the names of responsible consumer advocates and lawyers, are set out in Table 1, below.

**Table 1: Consumer workshops by Agency**

AGENCY	DATE	NUMBER INTERVIEWED	CONSUMER ADVOCATE	COORDINATING LAWYER(S)
<b>St Mary's House of Welcome</b> 165 Brunswick St, Fitzroy	1/02/07	20	N/A	<b>Mat Tinkler</b> Homeless Persons' Legal Clinic
<b>The Lazarus Centre (Anglicare)</b> 205 Flinders Lane Melbourne	5/02/07	12	N/A	<b>Natalie Mendelsohn &amp; Penelope Smith</b> Blake Dawson Waldron
<b>Flagstaff Crisis Accommodation (Salvation Army)</b> 9 Roden St West Melbourne	6/02/07	31	Diarmuid Shaw	<b>Anna Lozynski</b> Minter Ellison
<b>St Peter's Eastern Hill Breakfast Program (Anglicare)</b> 15 Gisborne St, East Melbourne	7/02/07	15	Diarmuid Shaw Kirra Atkinson	<b>Natalie Mendelsohn &amp; Penelope Smith</b> Blake Dawson Waldron
<b>The Big Issue</b>	12/02/07	10	Diarmuid Shaw	<b>Afrooz Kaviani</b>



148 Lonsdale St Melbourne			Kirra Atkinson Tanya Unger	<b>Johnson</b> Clayton Utz
<b>Credo Café (Urban Seed)</b> 174 Collins St Melbourne	13/02/07	15	Diarmuid Shaw Tanya Unger	<b>Mele-Ane Havea</b> Clayton Utz
<b>Ozanam House (St Vincent de Paul)</b> 179 Flemington Rd North Melbourne	13/02/07	18	Diarmuid Shaw	<b>Anna Lozynski</b> Minter Ellison
<b>HomeGround Argyle Housing</b> 2/107 Cambridge St Collingwood	16/02/07	14	Kirra Atkinson Diarmuid Shaw Tanya Unger	<b>Erin Hawthorne</b> Allens Arthur Robinson
<b>Outpost (United Way)</b> 2 Transit Place, Geelong	16/02/07	14	N/A	<b>Mat Tinker &amp; Kristen Hilton</b> Homeless Persons' Legal Clinic
<b>Christ Church Breakfast Program</b> Cnr Moorabool & McKillop Streets, Geelong	16/02/07	8	N/A	<b>Mat Tinker &amp; Kristen Hilton</b> Homeless Persons' Legal Clinic
<b>Hanover Southbank</b> 52 Haig St South Melbourne	20/02/07	17	Diarmuid Shaw Tanya Unger	<b>Joel Zyngier</b> Phillips Fox
<b>Coolabah Centre (Brotherhood of St Laurence)</b> 67a Brunswick Street, Fitzroy	23/02/07	3	N/A	<b>Erin Hawthorne</b> Allens Arthur Robinson

#### 3.4.2 Consumer surveys

The consumer surveys consisted of a series of optional questions, broken down into five distinct sections. Many questions throughout the survey required respondents to 'tick', where appropriate, a series of optional boxes indicating a positive response to the question. As a result, for many questions more than one positive answer was received. The survey was structured as follows:

**Part A - Personal details:** respondents were asked to provide personal details and indicate where the survey was being completed. As responses were optional, surveys could be completed anonymously if desired.

**Part B – Homelessness:** respondents were asked to indicate whether they had experienced primary, tertiary or secondary homelessness. Respondents were also asked to indicate reasons for becoming homeless, and their primary source of income, and to describe the circumstances which led to their experience of homelessness.

**Part C - Discrimination in accommodation services:** Respondents were asked whether they had experienced discrimination in relation to accommodation on the basis of homelessness or social status, and asked to indicate what sort of accommodation service was responsible. Options included transitional/crisis accommodation, boarding houses, caravan parks, camping/mobile home sites, hotels, public housing, private rental/real estate agents and backpackers.

Respondents were also asked to indicate what, if any, were the consequences of the discrimination from a range of options, including prolonged homelessness, inability to get accommodation, social isolation, commission of a criminal offence, family or relationship difficulties, poor physical and mental health, inappropriate incarceration, becoming a victim of crime and experiencing a sense of disempowerment. Respondents were also asked to describe how they felt as a result of the discrimination.

**Part D: Discrimination in Public Housing Assistance Matters:** This section of the survey was included upon the request of the Victorian Law Reform Commission (VLRC) which is currently conducting a Community Law Reform Project in relation to assistance matters which fall outside the scope of residential tenancies legislation. The data captured in this section of the survey is not relevant to the DOJ project and will be reported to the VLRC separately by the Clinic

**Part E: Discrimination in the provision of goods and services:** Respondents were asked whether they had experienced discrimination in the provision of goods and services on the basis of homelessness or social status, and asked to indicate what sort of goods or services provider was responsible. Options included restaurants/cafes/bars, retail shops, utilities providers, health services providers, hospitals, telecommunications providers, legal services providers, employment services providers, banks and entertainment facilities.

Respondents were again asked to indicate what, if any, were the consequences of the discrimination (from a similar range of options as described above) and asked to describe how they felt as a result of being discriminated against.

**Part F: Guidelines on discrimination on the grounds of homelessness or social status:** Respondents were asked whether they considered that the Guidelines were a good idea, what business should be captured by the Guidelines and what grounds of discrimination the Guidelines should protect against. Respondents were also asked for feedback on the consultation process.

## 4. Results

### 4.1 Homelessness

Of the 183 people surveyed, 60% had experienced primary homelessness, 74% had experienced secondary homelessness, and 57% had experienced tertiary homelessness.

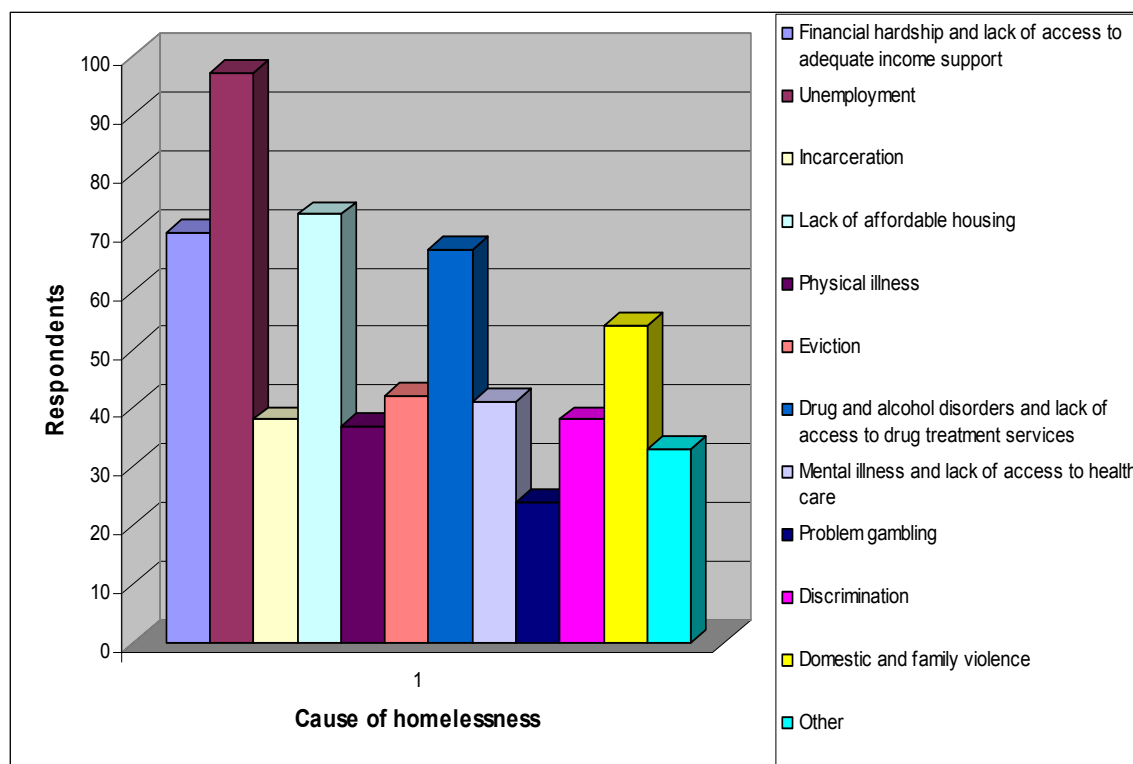
The primary source of income for the vast majority of respondents' was Commonwealth social security benefits. As indicated by Table 2, below, 48% (86) of respondents receive a disability support pension, while 38% (70 respondents) receive the Newstart Allowance. A further 15.7% (21 respondents) received an alternative form of social security (Aged Pension, Youth Allowance etc), while only around 5% of respondents receive their primary source of income from begging or have no source of income.

**Table 2: Source of income**

SOURCE OF INCOME	NO. RESPONDENTS	% RESPONDENTS
Disability Support Pension	86	46.99%
Newstart Allowance	70	38.25%
No Income	10	5.46%
Begging	9	4.92%
Other	9	4.92%
Employment (Pt/Ft)	7	3.83%
Sickness benefit	6	3.28%
Aged Pension	4	2.19%
Parenting payment partnered	4	2.19%
Parenting payment single	4	2.19%
Youth Allowance	2	1.09%
Student/Austudy	1	0.55%

As demonstrated by Figure 1, below, 53% (97) of respondents reported unemployment as a cause of their homelessness. A further 40% (73 respondents) indicated that a lack of affordable housing was a cause of their homelessness, while 38% (70 respondents) chose financial hardship and a lack of access to adequate income support. Other significant causes of homelessness included drug and alcohol disorders and lack of access to drug treatment services (37%) and domestic and family violence (30%).

**Figure 1: Causes of homelessness**



These figures suggest an unequivocal causal and consequential relationship between homelessness and social status. The results indicate that the vast majority of people experiencing homelessness are unemployed and in receipt of social security benefits. Each of these characteristics are incorporated in the definition of 'social status' used in the surveys, emphasising the importance of the Guidelines extending to protect people against both forms of discrimination.

On average, each survey respondent indicated at least three separate causes which contributed to their experience of homelessness, supporting the view that people experiencing homelessness do so because of a range of contributing factors, each with distinct and complex corresponding treatment or social service needs.

#### 4.2 Discrimination in accommodation services

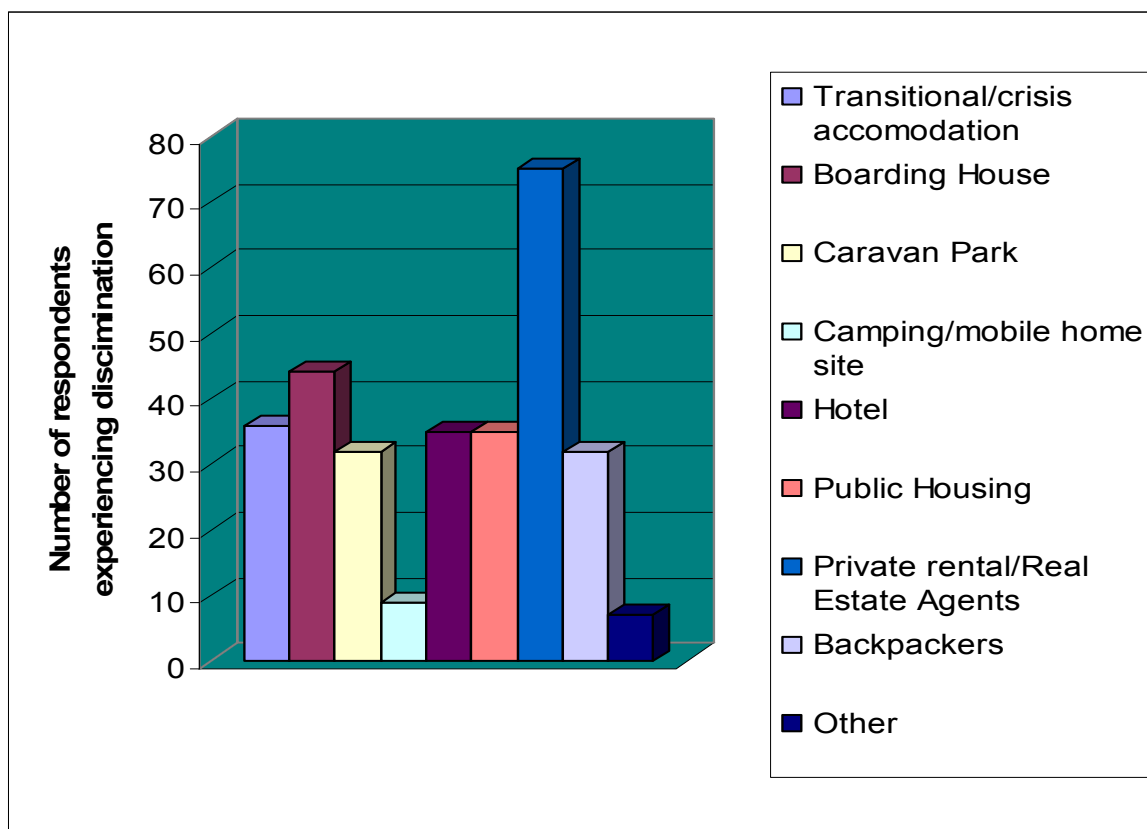
*'Although I can't prove it I applied for more than 40 flats in 4 weeks and didn't get one. Some places (shared accomm) also said "no" once I said I was on a benefit.'* (Tricia, Credo Café)

In total, 69% (127) of respondents reported experiencing discrimination in relation to accommodation services.

As demonstrated by Figure 2, below, the discrimination was most often experienced from private rental or real estate agents (41%, or 75 respondents), followed by boarding houses (24%, or 44

respondents), transitional or crisis accommodation (20%, or 36 respondents), hotels and public housing (each 19%, or 35 respondents) and caravan parks and backpackers (each 17%, or 32 respondents).

**Figure 2: Breakdown of discrimination by accommodation type**



The survey also elucidated many revealing anecdotal responses from workshop participants. For example, when asked to explain details of the discrimination experienced in relation to accommodation service providers, survey responses included the following:

*'Probably because I was unshaven, had coffee on my shirt and no socks. They said they had no space- I know that wasn't true. If a person is unemployed or on a pension the estate agent will never give it to them. In most cases the homeless people would be fantastic tenants because they would appreciate it so much.'* (R Green, St Mary's House of Welcome)

*'Sometimes people that can only pay with a cheque from a service will be refused because of perceived problems with tenant. eg. drug addicts may cause trouble'* (Anonymous, St Mary's House of Welcome)

*'Not allowed in caravan park because park mainly has grey army, not give[n] private rental because I was a student....Once denied into backpackers because I was Australian - said I would take him to court. So he changed story - said would make an exception for me. Not allowed to stay at crisis centre because no pyjamas. Not allowed to stay at crisis accommodation because not registered for dole (recent job loss).'*' (A Bush, The Big Issue)

*'In motel in St Kilda, I went in looking shabby with \$750 and asked for accommodation for the night. They said no rooms available. I later went in dressed up with a box of fruit and the motel said: how many rooms?'* (G Lewellin, Flagstaff Crisis Accommodation Centre)

*'When released from Jail I didn't have any references or proof of previous rentals. Made to live in Carport with no electricity'* (Graeme – Outpost)

*'Because I had been homeless for many years, Youth Refuge refused me a bed, stating I know how to survive on the streets. They would rather fresh out of home people.'* (Anonymous, no fixed address)

*'I had no references, and even though I had the money to move in they were reluctant to take a chance'* (Anonymous, Hanover Southbank)

*'Private rental/Real Estate Agents - went to E.Melbourne realtors to find accommodation. I had recently began in C.P.S and had a weekly free day out - not much in the way of "respectable" clothing yet EVERY reference ph no was contacted, realtor staff were rude, dismissive and frankly incredulous as to my employment.'* (L Kane, The Big Issue)

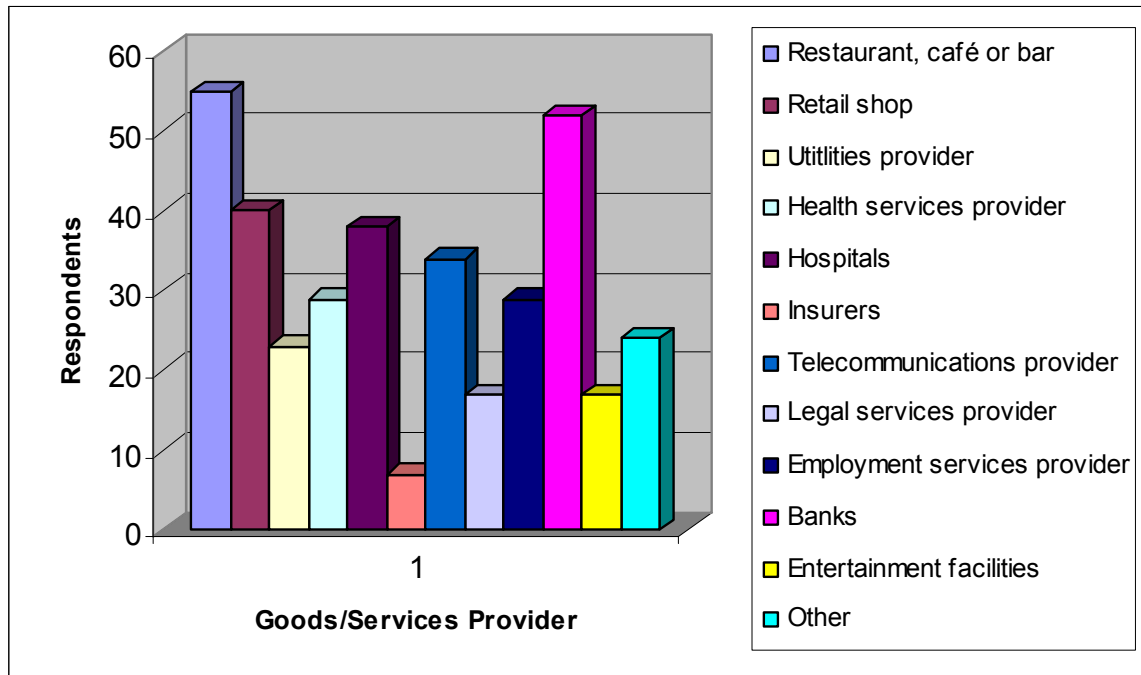
#### **4.3 Discrimination in the provision of goods and services**

*'Trams - target. Restaurants - look down on you. Bottle shop - won't serve people. Shops – get followed assume stealing. Phone - couldn't get extension, lost phone to cash converters. Hospitals - treated differently, 20 people come in after [me], get dealt with first, seem to serve everyone else first. Community centre good - Oz House'.* (C Johnston, HomeGround)

In total, 58% (107) of respondents reported experiencing discrimination by goods and services providers.

As demonstrated by Figure 3, below, the discrimination was most often experienced from restaurants, cafés or bars (30%, or 55 respondents), followed by banks (28%, or 52 respondents), retail shops (22%, or 40 respondents), hospitals (21%, or 38 respondents) telecommunications providers (19%, or 34 respondents) and health and employment services providers (each 16%, or 29 respondents).

**Figure 3: Breakdown of discrimination by goods/services provider**



Survey respondents were again asked to expand on their experience of discrimination in relation to goods and services. Respondents commonly encountered difficulties in being served in restaurants and cafés, banks and in retail shops based on their appearance. For example, one respondent commented that although he had money to pay for his meal at a restaurant in St Kilda, he *'[received] a very bad meal just to get rid of me [and] was served last*. The respondent also noted *'that Supermarkets - I get funny looks. Banks - look at me funny, I get served last. I feel they are saying 'why are you here?'. Make me wait longer than other customers. Centrelink - make me wait until last.'* (G Lewllin, HomeGround)

Respondents also reported delays in receiving medical treatment, and were even refused medical treatment in some cases. One respondent stated *'I've been denied access to stitches at hospital due to lack of address. I've also been denied trying to buy a phone (in ACT one needs an address on ID) to even get a pre-paid phone. Same as above for bank and Centrelink cut me off when they found out I had no permanent address.'* (B Fitzgerald, HomeGround).

Another commented that *'The hospital thought I was in casualty because I wanted drugs, although I had an injury that was clearly visible (broken hand). Turned away by security (I never even got to see Triage nurse). Police are constantly pulling me over as a result of my appearance.'* (S Wernyll, HomeGround)

Respondents also experienced difficulties in accessing bank accounts and social security payments.

Individual responses included the following:

*'Returned goods for refund or replacement - I was refused because of the way I looked. With the banks and legal services I wouldn't get them to understand what I was trying to say.'* (Brenda, St Mary's House of Welcome)

*'When purchasing from checkout at supermarket I felt very uncomfortable and [was] treated differently, told to hurry and not treated with respect.'* (VM Thompson, St Mary's House of Welcome)

*'Hospitals - wrong catchment. Legal Aid - only represent if guilty pleas entered at Court.'* (A Smith, Credo Cafe)

*'Get looks because don't have the clothes. Last to be served [in] coffee shops. Person in suit served straight away. Not allowed in some places - say formal clothing - change it for me let in people with same clothes.'* (A Bush, The Big Issue)

*'With the financial difficulties related to my situation these institutions will not look twice at a person like me, and these facts contribute to another trap-door opening.'* (C Johnston, HomeGround)

*'In shops if you are not dressed neatly or in a suit they take longer to get to you then you get a bum steer, they just want to get rid of you.'* (D. Haydon, St Peter's Eastern Hill)

*'I have been charged more, short changed, and sold sub standard goods based on my appearance alone. I have been denied the chance to prove I have the skills, thereby being denied the job.'* (Paul W, St Peter's Eastern Hill)

*'After walking into a pub, I was asked if I had any money before they would serve me.'* (Steve, Christ Church, Geelong)

*'People on the street are last in the queue for medical services due to the way they look.'* (John, Christ Church, Geelong)

*'No bank account means no Social Security payments means no bank account'* (Kwin, Credo Café)

*'(1) I have been asked to empty pockets & show bag etc on a number of occasions because of the way I look (poor) (2) When I complain about excess fees at the Comm Bank the guy laughed at me when I said I was on a pension & couldn't afford all the fees. I cried.'* (Tricia, Credo Café)

*'Once in a clothes shop a man suggested that I ought to go to a cheaper outlet. A taxi driver would not take me even though I was first in line'* (Anonymous, Hanover



#### 4.4 Consequences of discrimination

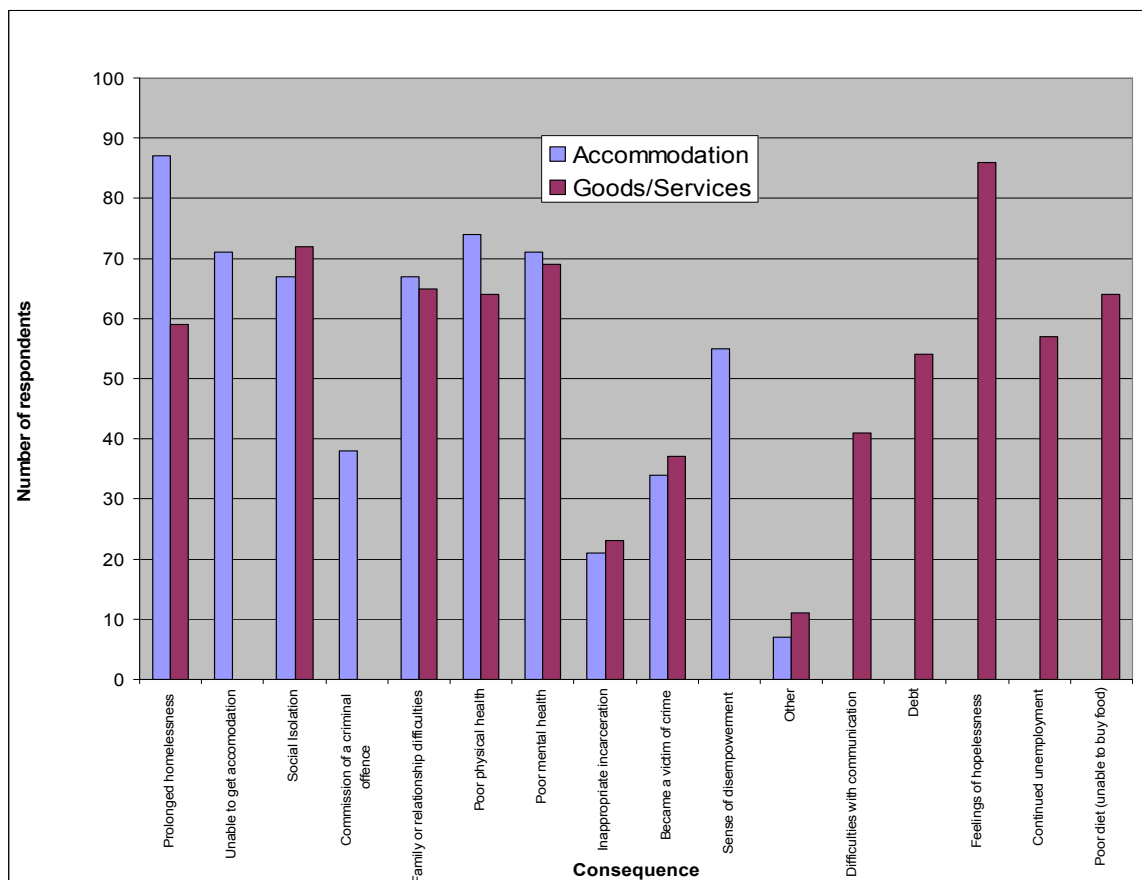
*'Life was worse. I didn't feel hopeful of a future let alone a life. Most of the time you just wish you were dead.'* (Anonymous)

*'With the problems I have [indicated] I felt the only way to get a roof over my head was to go back to jail or a mental institution'* (R Doyle, HomeGround).

In each of Parts C and E of the Survey, respondents were asked to indicate what, if any, were the consequences of the discrimination which they experienced in relation to both accommodation and the provision of goods and services.

As demonstrated by Figure 4, below, the most frequent consequence of discrimination in accommodation was prolonged homelessness (48%, or 87 respondents), which was also a significant consequence of discrimination in the provision of goods and services (32%, or 59 respondents). Poor physical health was also a frequent consequence for each form of discrimination (40%, or 74 respondents for accommodation; 35% or 64 respondents for goods and services). Poor mental health, social isolation and family or relationship difficulties were each indicated as a consequence of discrimination in 37% to 40% of cases (67 to 74 respondents) for each form of discrimination.

**Figure 4: Consequences of discrimination in accommodation and goods/services**



Individual responses included the following:

*'I felt terrible. I felt not wanted and couldn't understand it. I thought it was unreasonable. I wasn't going to do anything bad to anybody'* (R Green, St Mary's House of Welcome)

*'Pissed off because nothing was being done to get me out of being homeless.'* (A Ridding, The Big Issue)

*'Angry and I used my anger inappropriately against those who didn't deserve it.'* (Kwin, Credo Café)

*'It makes you feel like a nobody and your life is not really worth something. Even though you try and change your life it seems to go back to where it all started at beginning.'* (Sheree, Credo Café)

*'I grew up with it and got used to it'* (Ryan, Credo Café)

*'Severe depression, major anxiety disorder, worsened now on permanent medication, feelings of not being part of society, feelings of being outcast, shame.'* (Nina, Credo Café)

*'I felt very angry, almost as if they were against me. I lost the plot after a while and started stealing'* (Anonymous, Hanover Southbank)

*'Most of the time I want to kill myself. I just felt what is the use, nobody cares.'* (R Doyle, HomeGround)

*'Depressed, lonely, unsupported. Very unhappy. Fucking furious.'* (H Zarman, HomeGround)

*'You get to the stage of what the hell, I'll just go do some crime to get 3 squares and a bed. I have tried to kill myself.'* (R Doyle, HomeGround)

*'Being discriminated against makes you feel hopeless, like no one cares what happens to you.'* (Peter, Outpost)

*'Pissed off, persecuted, sad, distressful, resentful, outraged, 'small', humiliated, confused, stressed out & lost.'* (Tanya, Consumer Advisory Group)

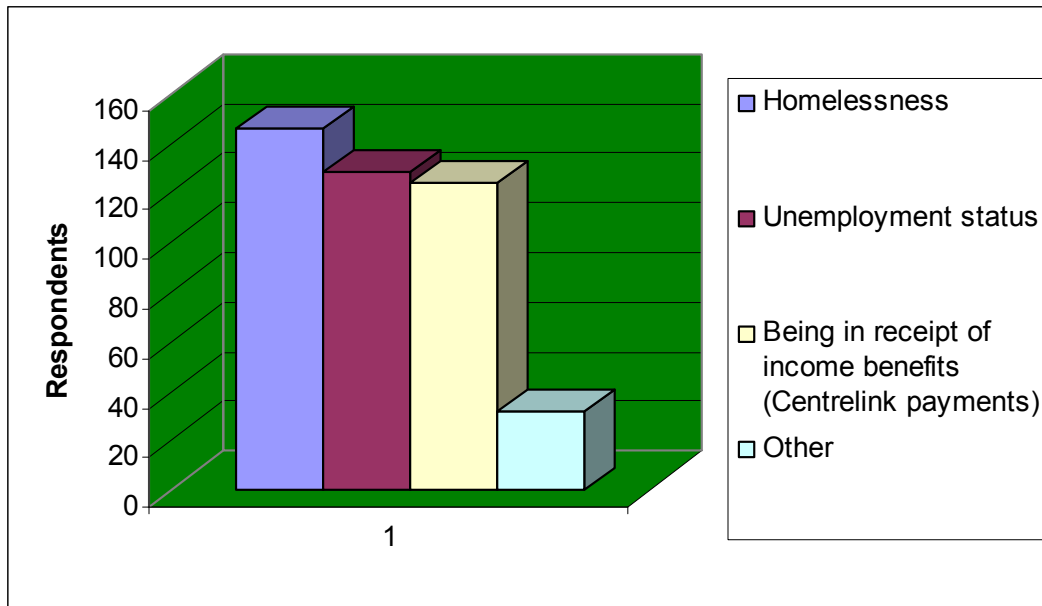
#### 4.5 Feedback on the Guidelines and the consultation process

*'I believe with the proper guidelines and the right people to implement them a lot more people will find it easier to access services and support networks that will help them get the help they need getting off the street and into stable accommodation.'* (G Petersen, The Lazarus centre)

Part F of the survey asked respondents whether they thought Guidelines were a good idea and sought feedback on the consultation process. An overwhelming majority, 77% (140) of respondents thought that guidelines on discrimination on the grounds of homelessness and social status were a good idea. One respondent stated *'It seems like homelessness etc should be included in discrimination laws. It seems to be missing from the list of anti-discrimination laws. It's logical that it be included.'* (Tricia, Credo Café)

As demonstrated by Figure 5, below, the majority of respondents indicated that the Guidelines should protect against discrimination on the basis of homelessness, unemployment status and being in receipt of income benefits. Some respondents suggested that the protected grounds should extend to include a persons' mental health status, level of education and drug and alcohol addictions. Centrelink was commonly referred to as an entity to which the Guidelines should extend.

**Figure 5: Grounds of discrimination the Guidelines should protect**



Respondents were asked to explain why they thought the introduction of Guidelines was a good idea, and whether they had any other comments or feedback in relation to the Guidelines. In general, respondents were supportive of the Guidelines and were optimistic about the potential for the Guidelines to reduce the occurrence of discrimination.

However, some respondents were more pessimistic about the ability to prevent such discrimination without law reform, while others considered that the presence of Guidelines would do little to change the inherent prejudices and stereotypes which underpin the discriminatory behaviour. As one respondent noted *'In a sense sometimes the guidelines could be helpful, but on the other hand they might be overlooked.'* (Brenda, St Mary's House of Welcome).

Individual responses included the following:

*'All human beings should have equal rights. My human status should be enough to ensure my human rights.'* (Anonymous, No fixed address)

*'Just because we don't have safe & stable accommodation does not mean we are destined to live like this forever.'* (Steve, Christ Church)

*'It is a good idea because the homeless are unaware of how to access the Ombudsman etc to better their situation.'* (David, Outpost)

*'It is a good idea although it seems like a hopeless course'* (Ryan, Credo Café)

*'It seems to happen that often that I've almost accepted that this treatment is an acceptable way of treating marginalised people, eg homeless people/unemployed or disabled people.'* (S Wernyll, HomeGround)

*'Just because we are homeless does not mean we are not real. We have rights as we have responsibilities. We do wrong we go to jail but we can be done wrong by. Where is the justice?'* (P Jackson, The Big Issue)

## 5. Conclusions

The consumer consultations indicate that discrimination on the grounds of homelessness and social status is frequent and widespread in Victoria.

The majority of homeless people, or people at risk of homelessness, routinely experience discrimination at the hands of accommodation and goods and services providers. As a result, consumers are often unable to obtain secure accommodation and are denied access to fundamental services such as social security, banks and health services. Disturbingly, many consumers are simply unaware that such treatment or service might constitute a form of discrimination, or have simply become accustomed to a lesser standard of service and treatment such that it no longer occurs to them that they are being treated unfavourably.

The experience of homelessness produces a specific and pervasive set of discriminations, including stigmatisation, socio-economic marginalisation, violations of rights, negative stereotyping, lack of mobility and the denial of autonomy or authority. Moreover, the severe consequences of such discrimination, including prolonged homelessness, poor physical and mental health, social isolation, feelings of hopelessness, continued unemployment and family and relationship difficulties, exacerbates the underlying causes of marginalisation and disadvantage and tends to prolong a person's experience of homelessness. The result is that the community's most vulnerable are often denied access to the very services for which they are most in need.

Consumers are overwhelmingly in favour of introducing the Guidelines. Many were optimistic that the introduction of Guidelines will have a positive impact and may reduce the incidence of discrimination on the basis of homelessness or social status. However, this enthusiasm was tempered with a degree of cynicism on behalf of many respondents who considered that the problem is simply too large, and the offending behavior too ingrained, to be overcome. The challenge is to ensure that the Guidelines are a step in the right direction.

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