

STREET RIGHTS

newsletter of the pilch homeless persons' legal clinic
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The National Human Rights Consultation

The HPLC is currently calling on people with experiences of homelessness to participate in the government initiated National Human Rights Consultation. The Consultation will look at ways to improve the protection of human rights in Australia.

The HPLC has organised informal workshops around Melbourne and is collecting written submissions from HPLC clients, and others with experiences of homelessness, to present to the Consultation. The central aim of these workshops is to promote the right to participate by informing individuals about human rights and the Consultation process so that they are better equipped to engage in the debate and write their own submissions in response to the Consultation.

The first of the HPLC workshops was held at Melbourne CityMission in Footscray on 12 March 2009. Around 20 people attended and the discussion surrounded three main questions:

- 1) Which human rights and responsibilities should be protected and promoted?**
- 2) Are human rights sufficiently protected and promoted?**
- 3) How could Australia better protect and promote rights?**

3) How could Australia better protect and promote rights?

The participants that attended the workshop brought their diverse life experiences to put forward ideas and opinions which will be invaluable to the Consultation process.

Housing shortages, the affordability of housing and the poor standard of available public/community housing remains a huge problem according to participants. A right to adequate housing is a basic right that allows people to live with dignity. Australia does not have a bill of rights that recognises a right to adequate housing. Participants agreed that the right to adequate housing needs to be protected in law. Participants also recognised that without the government committing resources to housing, such a right could not be realised.

Discrimination and ill-treatment from authorities were highlighted as other examples of where participants' human rights have been breached. Discrimination by police, employers, landlords or real estate agents and public transport authorities is a problem that occurs too regularly for

people experiencing homelessness, according to participants. An enforceable right to be treated equally by public and private authorities should be addressed by a bill of rights, together with a commitment from authorities to spend more money on training employees about the human rights of all people.

According to participants, the level of support that is provided by Centrelink and access to its services also needs to be improved to ensure that people can access an adequate income that allows them to maintain a reasonable standard of living.

Participants called for broader community awareness about homelessness and human rights. Creating a culture that respects human rights requires formal recognition of human rights under law and greater public spending on public education campaigns and training of government employees etc.

It is important that people experiencing, or who have experienced, homelessness engage with the process and participate in the Consultation.

Everyone has a right to have their say about human rights in Australia!



What are My Rights? Sleeping in Public Spaces

Sometimes, a person may have no choice but to sleep in a public space. While we might assume that parks, laneways and bus shelters are open to all, just how public are these spaces?

Many spaces that we think of as 'public' are actually layered with rules, regulations, laws and bylaws.

Some of these laws can change from suburb to suburb, because each local council can make laws for spaces in their council area. Some laws apply State-wide.

In general, many acts that are perfectly fine to do in a private home, such as swearing, drinking or even urinating, can be illegal if done in public.

What rights do I have if I am sleeping in a public space?

Because laws can vary so much, it depends on exactly where you're sleeping. Let's consider two examples:

- Sleeping in a City Park; and
- Sleeping at a Train Station.

Sleeping in a City Park

In the City of Melbourne, there is no law against sleeping in a park. However, if you put up a tent or a tarp to protect yourself from the weather, you could be fined \$250.

Although sleeping itself may not be banned, the City of Melbourne has a list of activities in public spaces that it does not tolerate. These activities include committing a 'nuisance' or interfering with the enjoyment of a

public space by another person. The fine for each of these \$250. As you can see, the activities are described very broadly and could be used against a person sleeping in a park.

Sleeping at a Train Station

Sleeping at a train station puts you at risk of committing wilful trespass on railway land.

If you do not leave when asked to do so, Police or Authorised Officers have the power to remove you from the land, using force if they believe it is necessary. You could be fined up to **\$2,000**.

State offences

As well as the specific laws discussed above, there are a number of State-wide 'public place' offences under the *Summary Offences Act 1966* (Vic). 'Public place' is defined broadly and includes streets, alleys, footpaths, parks, railway stations, piers, churches, state schools, markets, sporting grounds and more.

Like the City of Melbourne public space offences, many of these offences are vague and depend on the perspective of those involved.

For the general offence of trespass, you could receive a fine of up to **\$2,500 or six months' jail**, although fines are usually much less.

Ultimately, what is lawful and unlawful in a public space is confusing and often changes. The best way to protect yourself from fines or problems with Police is to remain calm, polite and comply with any reasonable request.

Q&A

Hayley Jones
Clayton Utz



What inspires you to volunteer as an HPLC lawyer?

I enjoy getting out of the office to talk to people and learn about their lives. If I can help in some small way to improve things, that gives me a good feeling. HPLC work can be challenging, but never boring.

What do you do when you're not being a lawyer?

My friends and I started a Book Club last year. We meet once a month to catch up, have a glass of wine and some food. Occasionally we even talk about a book!

Further Assistance

For assistance with fines or any public space offence, please contact the Homeless Person's Legal Clinic on freecall **1800 606 313** or visit www.pilch.org.au/hplc.

The CAG Chronicle Easter 2009

The wide variety of opportunities for members of the Consumer Advisory Group enables me to really spread my wings. In 2009 we have hit the ground running. This month, I find myself involved in the construction of a submission to the government on human rights. So, armed with skills learned and honed in previous campaigns, my colleagues and I went hunting for information to support a submission to the National Human Rights Consultation.

The HPLC's group consultations at homelessness services require group members to assist with survey and supervision work, helping the clients through the survey, and inciting them to think about their rights, what they understand about them and what the government can do about better protecting and promoting human rights for Australians.

- Diarmuid

HPLC good news stories

State Trustees: HPLC lawyers assisted Ben, a public housing tenant for many years who suffers from severe alcohol dependency and mental illness. In 2008 Ben was severely assaulted and sustained an acquired brain injury. As a result of the assault, Ben's cognitive functioning is significantly impaired and he has marked difficulty with decision making, reasoning and problem solving. These impairments affect his everyday functioning and make simple tasks very difficult.

Upon discharge from rehabilitation, an application to VCAT was made for the appointment of an administrator in respect of Ben's estate. Ben wished to contest the application and felt strongly about not wanting to be restricted under an administration order. At the VCAT hearing, HPLC Lawyers assisted Ben to express his concerns about the application and to ensure that Ben was given every opportunity to have his say. The VCAT member decided, and Ben agreed, that an order would be put in place which includes conditions that Ben receives the balance of his pension after the State Trustees have paid expenses such as rent and phone bills. As a result of the less restrictive approach by VCAT, Ben will maintain control of the balance of his finances and be able to make independent decision about how he will spend that money.

Driving Offences: HPLC Lawyers assisted Amelia who had been charged with driving an unregistered vehicle. At time of offence, Amelia was en route to a VicRoads office to renew her registration. We argued that Regulation 301(1) provided an exception such that no offence had been committed. After several court hearings were adjourned, eventually the prosecutor withdrew the charge.

* Names have been changed

Subscribe

Please contact 1800 606 313 or hplc@pilch.org.au to subscribe, or to have your say.

The HPLC provides free legal advice at these locations and times:

Melbourne Citymission
214 Nicholson Street
Footscray 3011

Mon: 10:30am - 1:00pm
Footscray train station - Tram 82 (Droop St)

Ozanam House
179 Flemington Rd
North Melbourne 3051
Tues: 10:00am - 12:00pm
Flemington Bridge train station
Trams 55, 59, 68 (Flemington Rd)

Urban Seed (Credo Café)
174 Collins St, Melbourne 3000
(Approach via Baptist Pl, off Little Collins) Tues:
12:00pm - 1:00pm

Flagstaff Crisis Accommodation
9 Roden St,
West Melbourne 3003
Tues: 1:00pm - 2:30pm
North Melbourne train station - Tram 57
(Victoria Street)

Salvation Army Life Centre
69 Bourke Street
Melbourne 3000
Tues: 12:30pm - 2:00pm

The Lazarus Centre
203 Flinders Lane
Melbourne 3000
By appointment - call 9639 8510

St Peter's Eastern Hill
15 Gisborne Street
East Melbourne 3002
Wed: 7:30am - 9:00am
Parliament train station - Trams 24, 42, 109
(Victoria Parade)

Hanover Southbank
52 Haig St, Southbank 3205
Wed: 1:15pm - 3:00pm
Southern Cross train station - Tram 112
(Clarendon Street)

HomeGround Housing
1A/68 Oxford Street
Collingwood 3066
Thurs: 12:00pm - 2:00pm
Collingwood train station - Tram 86 (Smith
Street)

VACRO
116 Hardware Street
Melbourne 3000
Thurs: 1.00 - 3.00pm
Melbourne central station - Tram 19, 57 and 59
(Elizabeth Street)

Koonung Mental Health Clinic
Friday 1pm - 3pm
Level 1, 43 Carrington Road
Box Hill 3128
Ph: (03) 9843 5800

The Big Issue
148 Lonsdale Street
Melbourne 3000
Fri: 2pm - 3pm

Loddon Mallee Housing
Services
20-30 View Street
Every second Tuesday, 2pm - 4pm

St Luke's Anglicare
175 Hargreaves Street, Bendigo
Every second Friday, 10am - 12pm

PILCH
Level 17, 461 Bourke Street
Melbourne, VIC 3000
(03) 8636 4408 or 1800 606 313
www.pilch.org.au