

# STREET RIGHTS

newsletter of the pilch homeless persons' legal clinic  
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Cover design by Tanya Unger  
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ph. 1800 606 313

On the Sunday before Christmas, the Federal government launched its White Paper in Homelessness – **The Road Home: A national approach to reducing homelessness**. The White Paper is the most progressive step taken by an Australian government to tackle the issue of homelessness in decades. Unfortunately, the White Paper does not go far enough to promote and protect the human rights of people experiencing homelessness.

There is a lot to praise in this bold and ambitious policy document. The Federal government has committed to **halving overall homelessness** and offering accommodation to all rough sleepers who need it by 2020. A **\$6.1 billion** investment of funds, including a boost in funding for legal services for people experiencing homelessness, will underpin the roll out of the government's plan.

The government has also flagged its intention to work with the States to review certain legislation that impacts on homeless people in a negative and disproportionate way. Residential

tenancy database and voting regulations are areas specifically cited in the White Paper. Finally, the government has flagged the creation of overarching legislation that guarantees that people who are homeless are treated with dignity and respect and receive quality services. These are all promising signs.

However, there are still significant gaps in the Federal government response to homelessness. While the government's promise to review tenancy related legislation is encouraging it must take action in relation to **all** of the legislation that impacts negatively on the lives of people experiencing homelessness – including public space, social security, and equal opportunity laws.

Perhaps most disappointingly, the White Paper fails to take the most important step – to characterise homelessness as a human rights issue.

Homelessness is a profound form of social exclusion. It is also a violation of human rights and a failure of government responsibility. Any effective

national response to homelessness and social exclusion must focus on human rights. The human rights of people experiencing homelessness and the responsibility of government to address homelessness should be protected under the law.

In its submission to the White Paper, the HPLC called for any new Homelessness Act to include an enforceable right to housing. We also argued for the introduction of a Federal Charter of Rights to ensure broader human rights protection for people experiencing homelessness.

The Federal government has taken the first step towards adopting a human rights approach by committing to goals, benchmarks and performance measures to reduce homelessness. It must now take the next step and commit human rights, including the right to adequate housing, to law.

The HPLC's submission to the White Paper can be found at [http://www.pilch.org.au/white\\_paper/](http://www.pilch.org.au/white_paper/).

## What it said: The White Paper Strategy

### Turning off the tap: early intervention to prevent homelessness

- Increased support for people to maintain their tenancies
- Compulsory rent payments for public housing via Centrelink
- Strengthened tenancy laws
- A policy of 'no exits into homelessness' from statutory, custodial care, hospital, mental health and drug and alcohol services
- Additional services for up to 2,250 families at risk of homelessness
- Community Engagement Officers at Centrelink for people at risk of homelessness

### Improving and expanding services

- Development of quality standards for specialist services
- Services operating a 'no wrong doors' policy for people who are homeless and seeking help.

### Breaking the cycle: supporting people who become homeless to move quickly through the crisis system to stable housing

- Building up to 2,700 dwellings for low income households
- Build new and upgrade existing houses in remote Indigenous communities
- Provide additional assertive outreach programs to people sleeping rough
- Boosting participation in the economy and community
- Improved legal services for people who are homeless or at risk of homelessness
- Increasing voting and civic participation among people who are homeless

### Are you an involuntary or voluntary patient?

In determining your rights as a mental health patient, it is important to understand whether you are an involuntary or voluntary patient.

To be made an **involuntary** patient, a request can be made by any person as long as it is supported by a doctor's recommendation.

There are 2 types of involuntary patients:

1. Patients on a Community Treatment Order (CTO)
2. Patients on an Involuntary Treatment Order (ITO)

### Can I refuse treatment?

If you are an involuntary patient you are not entitled to refuse treatment.

### What will the police do?

The police are able to pick up people who appear to be mentally ill if they believe the person has attempted or is likely to attempt suicide, or cause serious harm to themselves or another person.

In these circumstances the police do not need a warrant.

If you are picked up because of your mental illness, the police must arrange for an examination by a doctor or mental health practitioner such as a registered nurse or psychologist.

### When will I be made involuntary?

You may only be made an involuntary patient if 5 conditions are satisfied. If you satisfy every condition but one, you cannot be made involuntary.

To be made involuntary you must:

1. Appear to be mentally ill
2. Require immediate treatment – which can only be given to you under an involuntary treatment order
3. Require involuntary treatment for your own health and safety or for protection of the public because of your mental illness
4. Have refused or be unable to consent to treatment (sometimes referred to as "lacking insight". If someone 'lacks insight', it is considered that they do not understand

their mental health diagnosis.)

5. Be unable to receive treatment in a less restrictive way.

### Is a drug or alcohol issue a mental illness?

*The Mental Health Act* provides that you should not be considered mentally ill only because of taking drugs and alcohol. However the Act also provides that serious effects of drugs or alcohol may result in mental illness.

### How can I understand my treatment?

A treatment plan must be prepared which outlines your treatment and anything else the psychiatrist considers appropriate. When your treatment plan is being prepared, your wishes should be taken into consideration and the plan should be discussed with you. The plan should also be regularly updated and revised. If you are unhappy with your treatment plan you may ask for a change to your plan by applying to the Mental Health Review Board.

### How do I get out of here?

You can appeal to the Board at any time after you are made involuntary. If you would like to make an appeal you may ask a nurse or doctor for a form which requires a brief explanation of why you are making the appeal.

The appeal may take between 1 – 2 weeks.

Generally the hearings are held fortnightly. The Board consists of a lawyer, a psychiatrist and a community representative. The purpose of the hearing is to establish whether you meet all of the criteria for involuntary treatment.

If you do not meet the criteria, the Board is required to cancel the involuntary treatment order and allow you to leave hospital. In preparing for the hearing you may wish to think about each criteria and focus on the particular point that you consider strongest.

# Q&A

Chris Povey  
PILCH Homeless Persons'  
Legal Clinic



### What inspires you to volunteer as an HPLC lawyer?

I arrived at PILCH a couple of weeks before Christmas and even though I'm still struggling with the phones and photocopier, I can confidently say the inspiring thing about the HPLC is client involvement. My past experiences at community legal services and legal aid involved assisting highly vulnerable clients with casework in a variety of jurisdictions however I think HPLC is unique in the way in which it engages with its 'stakeholders'. The regular meetings with the HPLC Consumer Advisory Group and 'on-site' clinics are great ways of understanding the numerous legal and non-legal issues facing homeless people and are a real asset when responding to policy challenges

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

I like sitting in the backyard and reading. It's not exactly social and perhaps this year I should become more of a 'yes man' and get out a bit more often... I would also like to be a good cook and a gardener with a magical touch, as yet I've had very little success in either department (but I keep plugging away).

### Assistance

If you would like legal advice or representation before the Board you can contact the HPLC on 1800 606 313. You can also contact Victoria Legal Aid on (03) 9269 0120 or the Mental Health Legal Centre on (03) 9629 4422 .

# The CAG Chronicle January 2009

## Introducing a new member of the HPLC CAG : Daren Weatherstone

My name is Daren, but I like to be called Dazzler. My experiences of homelessness started way in my teens when I was diagnosed with schizophrenia. At that stage my family could not accept the fact that they had a son or sibling with mental health problems. To this day, most of them still don't. I made a decision that I would be better off on the streets, and I took up drugs to fill my darkness. This went on for many years until I realised I needed proper medication to make me feel normal. Being on the streets was not easy. Many times I have been attacked and personally violated.

One key issue I would like to address is to make the community more aware that people who are on the streets aren't always substances users. Just because people suffer from mental health issues, does not mean they are bad people. People should not be stereotyped as they often are. This only adds to their problems and they can become isolated and begin to mistrust people.

As a member of the Consumer Advisory Group, I hope I can get the government and the general community more aware of the situation. Just because you are homeless or suffer mental health problems doesn't mean you are different to any one else. We are all human and deserve the same rights as anyone else. So the ending of my story is that I'm hopefully going to be accepted in doing my diploma in social welfare. That way I can help people like myself. I would also like to do talks to community and really fill them in on the fact that even though we go through these difficulties, there is a light at the end of the tunnel. At the end of it we are all are the same and should be treated as such.

- Daren Weatherstone

## HPLC good news stories

### Withheld belongings

Trevor moved into a room at a vehicle depot where he was working. Rent was being deducted from his pay. Trevor was told to move out on very short notice and collect his belongings a few days later. However, when he went to collect his belongings, he was not permitted to do so. The owner of the business also claimed Trevor owed him money for storage of his belongings. HPLC lawyers assisted Trevor to negotiate with the vehicle depot and make an application for damages against them. The parties eventually agreed to settle the matter, and signed a settlement agreement drafted by HPLC lawyers requiring them to pay \$3000 to Trevor provided he discontinued his application for damages.

### Unpaid rent

The Office of Housing billed Matthew \$300 in unpaid rent relating to a period when he had in fact vacated the property but had not handed back the keys. During this period, Matthew was living in another property and paying rent on it. Matthew vacated because he feared for his safety as a result of actions of his neighbors. HPLC lawyers appealed the decision to charge Matthew the additional rent. The appeal was successful and the amount owed was revoked.

\* Names have been changed

## Subscribe

Please contact 1800 606 313 or [hplc@pilch.org.au](mailto: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](http://www.pilch.org.au)