



**Submission to the  
Scrutiny of Acts and Regulations  
Committee**

**Equal Opportunity Bill 2010**

**Council to Homeless Persons  
March 2010**

# Equal Opportunity Bill 2010

## The need to add 'homelessness' as a protected attribute

### 1. INTRODUCTION

The Council to Homeless Persons (CHP) welcomes the opportunity to make a submission to the Scrutiny of Acts and Regulations Committee (SARC) review of the Equal Opportunity Bill 2010 (the Bill).

CHP is the peak body representing individuals and organisations with an interest or stake in homelessness in Victoria. Our mission is to work towards ending homelessness through leadership in policy, advocacy and sector development.

CHP supports the objects of the Bill and its strong emphasis upon preventing and responding to systemic discrimination. However, we are concerned that, despite the recommendation of the Gardiner Review of the current *Equal Opportunity Act* (EOA), to include homelessness as an attribute, this vital reform has not been included in the Bill.

The link between discrimination and disadvantage is well accepted and has been noted in several leading policies including *A Fairer Victoria*, and the *Attorney-General's Justice Statement* (1 and 2). With such clear policy intent to tackle disadvantage and exclusion through a more robust rights framework, we are disappointed that a clear opportunity to pursue and protect the human rights of people who are homeless has not been taken up.

### 2. EXPERIENCES OF DISCRIMINATION

Research indicates that people experiencing homelessness suffer direct and indirect discrimination on a regular basis. In a 2006 study by the PILCH Homeless Persons Legal Clinic (HPLC) it was found that amongst the 183 people experiencing homelessness that were surveyed, almost 70 per cent experienced unfair treatment in the area of accommodation, on the grounds of homelessness or social status. A further, 60 per cent experienced unfair treatment on the same grounds in the area of goods and services.

Discrimination on the basis of homelessness can occur for a number of reasons. People who are homeless may be discriminated against because of factors such as:

- their appearance;
- stigmatising stereotypes;
- their source of income (such as Centrelink benefits);
- an association with or assistance by a welfare or specialist homelessness agency; or
- being unable to meet certain requirements – such as having a fixed address.

#### 2.1 Discrimination in accommodation

Respondents in the HPLC study experienced discrimination in private rental, boarding houses, transitional or crisis accommodation, hotels and public housing.



Further, in consultation undertaken in the preparation of this submission, homeless consumers told us that discrimination in accommodation is common. Members of the CHP Peer Education and Support Program reported:

*I have been refused by many real estate agents based on the fact that I was receiving parenting payments from Centrelink .I was told on several occasions by agents specifically that was the reason. I have also been refused from private landlords for the same spoken reason.*

*I was successful in filling out an application for private rental because I presented well until I filled out my income and address details, then nobody wanted me.*

*I was refused private rental because my bond cheque was from the Office of Housing.*

As noted above, discrimination often occurs when accommodation providers refuse to accept full or even partial payment of bonds and rent from welfare agencies or the Office of Housing under the Housing Establishment Fund (HEF), and/or when they find out that the applicant is on Centrelink benefits.

This discriminatory conduct serves to undermine the policy aims of the HEF, which is particularly disturbing given the heavy reliance on that scheme as a means of securing private rental or hotel accommodation where crisis accommodation in specialist homeless services is unavailable.

## **2.2 Discrimination in Employment**

Discrimination may be both a trigger for homelessness, and a barrier to ending it. This is particularly the case in the area of employment discrimination. PESP members report:

*I have experienced discrimination when I have been refused a job, I think because I couldn't iron my clothes or afford good clothing.*

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

People experiencing homelessness are often unable to meet requirements imposed to access goods and services. This results in denial of access, for even the most basic of services that the rest of the community takes for granted.

In the 2006 HPLC survey, discrimination was most often experienced from restaurants, cafés or bars, followed by banks, retail shops, hospitals and telecommunications providers.

CHP PESP members report that:

*Medicare, my psychiatrist, doctor and other services require a fixed address. If I hadn't had my sister's fixed address I would not have had access to any of these services.*

*Not having a fixed address prevented me from receiving a Medicare refund.*

*I was refused assistance at a welfare agency because I was 'out of my area'. I didn't have an area.*



Other examples noted by CHP PESP members include not being able to have a library card because your identification from Centrelink notes that you have no fixed address.

Discrimination may take the form of rude and unequal treatment. One man in the HPLC survey stated that 'after walking into a pub, I was asked if I had any money before they would serve me'. Another commented that, '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'.<sup>1</sup>

### 3. THE EFFECTS OF DISCRIMINATION

As noted by the Gardiner Review

*There is sufficient evidence to suggest that discrimination on the basis of homelessness is occurring in Victoria. The size of this problem is significant and the impact of discrimination on this large and particularly vulnerable group can be severe, further entrenching disadvantage.*<sup>2</sup>

CHP believes that discrimination poses serious consequences for an individual, but also harms the community as a whole. Negative consequences include:

- harmful mental and psychological effects;
- exacerbating exclusion and stigmatisation;
- contributing to social inequality by further disadvantaging those who are already disadvantaged;
- entrenching homelessness; and
- undercutting policy effort around social inclusion and homelessness prevention.

As noted by the Gardiner review 'the consequences of this discrimination are serious, including prolonged homelessness, poor physical and mental health and social isolation'.<sup>3</sup>

An inability to access a job, a home and services, or the experience of unequal treatment when attempting to do so further marginalises and creates barriers to reintegrating into the community. People facing discrimination on the basis of their homelessness report feeling: '... persecuted, sad, distressful, resentful, outraged, "small", humiliated, confused, stressed out and lost'.<sup>4</sup>

PESP members further report:

*So many don't understand what homelessness is and it is not my fault for being homeless. I don't deserve to be discriminated against or looked down on for something that I have not control over.*

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<sup>1</sup> PILCH Homeless Persons' Legal Clinic, *Submission to the Victorian Attorney-General's Independent Review of the Equal Opportunity Act 1995 (Vic)*, January 2008, 18.

<sup>2</sup> Department of Justice, *An Equality Act for Victoria*, 2008, 97.

<sup>3</sup> *Ibid* 26.

<sup>4</sup> PILCH Homeless Persons' Legal Clinic, *Submission to the Victorian Attorney-General's Independent Review of the Equal Opportunity Act 1995 (Vic)*, January 2008, 22.



Discrimination entrenches homelessness. For example, discrimination in the private rental market can prevent a person from breaking a cycle of homelessness. An inability to secure private rental increases the need to rely on transitional and crisis housing, which makes it more difficult to secure private rental accommodation in the future where a person's recent housing history is disjointed. It also creates further pressure on an already overstretched emergency housing sector.

Not having secure or permanent housing can impact upon an individual's ability gain employment, which will also make escaping homelessness harder. The HPLC research found that half of those surveyed reported that discrimination had prolonged their homelessness and had made it difficult to find a sustainable pathway out of disadvantage.

Discrimination may also multiply the harm caused by the homelessness. For example, when women and children are fleeing domestic violence, discrimination may further serve to force them back into unsafe situations where they are unable to secure alternative accommodation because of discriminatory treatment.

#### **4. THE NEED TO ADD 'HOMELESSNESS' AS AN ATTRIBUTE IN THE BILL**

Despite the pervasiveness and serious consequences of unfair treatment towards people who are homeless, there is currently no legislation in Victoria or in Australia that provides equality and protection from discrimination to people who are homeless.

Adequate and effective protection from discrimination would enable people experiencing homelessness to access employment, accommodation and other goods and services on an equal footing with the rest of the community with a subsequent social inclusion dividend for the community.

Including homelessness as an attribute in section 6 of the Bill would have concrete benefits for people experiencing homelessness and reinforce the policy aims of homelessness prevention and mitigation in headline policies of the state government including the upcoming Victorian Homelessness Strategy 2020. It would also be consistent with the purposes of the Bill, and the *Charter of Human Rights and Responsibilities Act 2006* (the Charter).

Including homelessness as an attribute would:

- establish a norm of non-discrimination against homeless people;
- create public awareness that homeless people should not be treated less favourably;
- give people who are homeless an avenue to seek redress when they have experienced discrimination;
- impose an obligation upon the Victorian Government to respect the right to non-discrimination on the basis of homelessness and abstain itself from discriminating against homeless people; and
- reinforce the policy aims of both the Federal and state government homelessness strategies, in particular homelessness prevention.



## CONCLUSION

Under its terms of reference, the Scrutiny of Acts and Regulations Committee is required to consider any Bill introduced into the Council or the Assembly and to report to the Parliament as to whether the Bill directly or indirectly trespasses unduly upon rights or freedoms<sup>5</sup> or is incompatible with the human rights set out in the Charter.<sup>6</sup>

For the reasons set out in this submission, CHP notes that the continued omission of 'homelessness' from the EOA (and, by extension, the Charter) will continue to trespass unduly upon the rights of people experiencing homelessness, and is inconsistent with the purpose of both the amended EOA and the Charter.

The cost of not addressing discrimination on the ground of homelessness for society, from both an economic and a human rights perspective, as well as for the individuals themselves, is more than can be afforded.

There are 23,000 homeless Victorians. We believe they deserve equal treatment before the law.

Thank you for the opportunity to make this submission, if you have any queries, please contact Michelle Burrell on 03 9419 8699 or [michelle@chp.org.au](mailto:michelle@chp.org.au).

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<sup>5</sup> Parliamentary Committees Act 2003 (Vic) s 17(a)(i).

<sup>6</sup> Parliamentary Committees Act 2003 (Vic) s 17(a)(vii).

