



Submission to Estimates and Financial Operations Committee

Inquiry into the financial administration of homelessness services in Western Australia

March 2022

1. Introduction

Thank you for the opportunity to make submissions to this inquiry.

Street Law is a specialised community legal centre funded to deliver outreach legal services to people experiencing homelessness, or at risk of homelessness. Street Law's unique outreach service delivery model was developed to enable greater access to legal services to people experiencing or at risk of homelessness. Street Law also provides telephone advice line support to clients and community workers. Our outreach legal clinics are delivered through staff solicitors attending outreach locations supported by volunteer secondees from our pro bono legal partners and volunteer law students. Currently we provide outreach legal services at Karnany and Mobile Midlas in Midland; Passages Youth Engagement Hub in North Perth, Ruah Centre in Northbridge, St Pat's Community Support Centre in Fremantle and Tranby (Uniting Care West) in East Perth.

The legal needs of those experiencing or at risk of experiencing homelessness are complex and inextricably connected with other social and wellbeing issues including access to stable housing and health issues including mental health and substance misuse issues. We are legal specialists who work collaboratively with social workers and youth workers to provide holistic solutions to clients that assist them in eventually exiting homelessness. Crucially, many of our clients have multiple legal issues including lack of identity documents, criminal injuries compensation, criminal issues, and other civil law issues such as family violence and fines and infringement debts. For example, we responded in the last financial year to an average of 3.5 legal issues per client. Street Law provides legal advice and undertakes ongoing representation and court/tribunal services in Magistrate's Courts across the metropolitan area. We acknowledge the assistance and contribution we receive from our pro bono partners in the provision of our services.

In addition to advice and casework we have a comprehensive community legal education (CLE) program with the aim to promote the prevention of legal issues that impact upon a person's ability to exit homelessness. Through this program legal information and education is provided to both the people experiencing or at risk of homelessness and community workers. Street Law receives funding from the State

and Commonwealth Governments. State funding is through the Department of Justice. The Public Purposes Trust fund funds both the CLE program and the Midland outreach program. Lotteries West provided funding our Youth Outreach Legal Program (Youth Crew) a collaborative holistic program delivered in partnership with youth workers at Passages Youth Engagement Hub. This financial year Community Legal WA received funding from Department of Communities for the FDV LHC program. Several community legal centres received funding through this project including Street Law.

2. The current funding and delivery of services

Homelessness has obvious economic and social costs. However, the legal dimension of these costs is often underestimated.¹ People experiencing homelessness, or at risk of homelessness face an increased risk of their health issues such as mental health and substance misuse issues being criminalized because of their visibility to Police in public spaces. Police Officers are empowered to issue Move On notices in a wide range of situations including where an officer reasonable suspects someone is doing an act using violence, or likely to do an act using violence, and 'committing any other breach of the peace.'² We regularly advise people experiencing homelessness, or at risk of homelessness who have been charged with multiple criminal offences arising from an interaction with Police involving a Move On notice being issued. Failure to comply with a Move On notice often results in the escalation of situations with additional criminal charges arising including failure to comply with the order of a public officer, obstruct public officer, disorderly behaviour in a public place. In these situations, it is common for people experiencing homelessness, or at risk of homelessness to be arrested and processed for a period in lockup. As these charges are progressed, the cost of apprehension, detention, interaction with the Court system and legal services mean this is an inefficient way to address the interwoven health, accommodation and social issues leading to and exacerbated by homelessness. The wider social costs of homelessness are particularly acute in the context of youth homelessness. An important recent study by economists across Australia found the total cost to the Australian economy of additional health and justice services to be an estimated \$747million annually which is \$626m annually more than for young unemployed youth.³

Importantly, **Priority Action 4.1** - enable connected, coordinated, and collaborative responses to homelessness that put people at the centre refers to WA Police Force's commitment to:

1. Work collaboratively with service providers to optimise opportunities for

¹ For an accessible overview of the legal dimension of the cost of homelessness see Martin, W, 2016., 'A Judge's View of Homelessness,' Shelter WA Business Breakfast, Hyatt Regency Perth 5 August 2016.

[Shelter WA Business Breakfast Martin CJ 5Aug2016.pdf \(supremecourt.wa.gov.au\)](https://www.supremecourt.wa.gov.au/shelter-wa-business-breakfast-martin-cj-5aug2016.pdf)

² *Criminal Investigation Act 2006* (WA) at s 27.

³ MacKenzie, D., Flatau P., et al. 2016, 'The Cost of Youth Homelessness in Australia,' Research Briefing, 18 April 2016. https://www.csi.edu.au/media/uploads/CYHA_FINAL_REPORT_18April2016_v0dqGpT.pdf

diversion and referral to support services.

2. Ensure our officers act with care and empathy, understanding that homelessness is not a crime.
3. Provide frontline officers with the resources and information to make referrals to support services when it is appropriate to do so

We submit that many adverse encounters people experiencing homelessness, or at risk of homelessness have with WA Police may be averted if frontline officers are trained in de-escalation strategies for mental health contexts and recognize situations where referrals to health professionals may provide a therapeutic solution to a problem. We recognize Police particularly in the context of public space often must strike a difficult balance between public safety concerns and community expectations and the dignity of people experiencing homelessness, or at risk of homelessness. However, greater awareness of crisis accommodation services, mental health services, drug and alcohol intervention services would allow officers to exercise more flexible, creative and humane solutions when making policing decisions.

The core focus of our service provision is to empower our clients through the Court process by giving them a voice but also seeking to resolve matters quickly and connecting clients with wrap-around social, wellbeing and accommodation support. This approach reduces the burden on the Court system, costs of trial and reduces the social and mental health harms that can often accompany extended legal proceedings. For example, we regularly provide legal assistance to people experiencing homelessness, or at risk of homelessness who would not otherwise receive legal assistance or representation. Parties to a criminal proceeding who seek to contest charges in the Magistrate's Court are not eligible for Legal Aid Duty Lawyer assistance and grants of aid are only available in exceptional circumstances. In addition, we provide assistance in relation to legal areas that are not covered by Legal Aid. For instance, we have provided legal representation for people experiencing homelessness, or at risk of homelessness seeking to contest a Family Violence Restraining Order being made against them. Having an experienced and compassionate legal professional to guide individuals through the Court process can significantly reduce administrative costs as disputes are resolved more quickly. Often, for a person experiencing homelessness, or at risk of homelessness being a self-represented litigant in a Court matter and grappling with mental health and other wellbeing issues can itself trigger stress, anxiety and a worsening of their mental health situation. Importantly, we build relationships of trust

over a period of time with our clients which results in our clients having greater confidence in the legal process. Importantly, some of the available diversionary programs in the Court system have significant limitations. For instance, the START Court system requires a prospective applicant to indicate a likely plea of guilty. In addition, this process requires an onerous period of supervised engagement on a weekly basis with nominated support agencies often spanning up to 6 months. This extended regular commitment is not a realistic option for many of the homeless people, or people at risk of homelessness we assist.

Case Study – ██████

██████ is a young street present person who first connected with Street Law through our Passages outreach centre. Over the years we have assisted ██████ with several complex legal issues. He is a highly vulnerable young man who suffers from mental health and drug and alcohol issues. When we last assisted ██████ he was living in his car and struggling with his mental health issues. He had recently separated from his partner and had been unable to see his young son. ██████ had tried to make contact with his former partner to make arrangements to spend time with his son. He had sent several text messages to her unfortunately this resulted in his former partner applying for (and being granted) an interim FVRO against him. While Street Law does not condone any form of family violence it was clear ██████ significant mental health issues had impacted upon his ability to communicate effectively with his former partner.

At the time ██████ sought advice from Street Law he had already attended the initial objection hearing. His former partner had instructed private lawyers and her lawyer was present at the hearing. ██████ had his grandfather with him for support. At this time ██████ had received no legal advice and both he and his grandfather were very intimidated and confused about the court process. They refused to talk to the lawyer for the other party and were adamant they wanted the matter to proceed to final hearing. ██████ support worker from Passages referred ██████ back to Street Law. At the time his case worker was very concerned about his mental health and the impact the court proceedings were having on him. ██████ had begun talking about taking his own life. Our lawyer arranged an urgent meeting with ██████ and his grandfather. Our lawyer was able to explain to ██████ that there were other options aside from taking the matter to final hearing and that even if ██████ successfully defended the application that would not

automatically mean he would be able to see his son. Over the course of several appointments, we were able to explain the options available to [REDACTED] regarding not only the Family Violence restraining order but what could be done to make formal arrangements for him to spend time with his son. [REDACTED] agreed to try and resolve the FVRO by way of a mutual undertaking. Our lawyer commenced negotiations with lawyers for the applicant.

Unfortunately, during the course of these negotiations [REDACTED] became extremely unwell and was admitted to hospital two days prior to the final hearing date. Our lawyer with the assistance of [REDACTED] case worker was able to gather the necessary medical evidence to have the hearing adjourned. We then had the matter listed for an urgent mention hearing. Street Law argued that the final hearing date be vacated and that due to our client's mental health issues the matter be listed for further mention in four weeks as we were unable to confirm a date our client would be well enough to attend court. We further submitted that our client had put a formal offer to the applicant and that we had not been advised if this offer had been accepted. Lawyers for the applicant conceded they had not received instructions from their client however, they argued the matter should be re-listed for final hearing and not further mention.

Ultimately the magistrate accepted our argument and thanked our lawyer for being so proactive in endeavoring to resolve the matter and for assisting the court to appropriately case manage the matter. Immediately prior to the next hearing date lawyers for the applicant accepted the offer of a mutual undertaking and the matter was resolved on that basis.

3. 'All Paths Lead to a Home', Western Australia's 10 Year Strategy on Homelessness

The Action Plan 2020 – 2025 supports Western Australia's 10 year strategy on homelessness and lays out a pathway towards a community that supports everyone having safe, secure and stable place to call home. It provides a foundation for how all layers of government and community services, business philanthropy and people with lived experience can partner together.

Street Law welcomes the overall commitment to ensure 'Housing First' as a structural principle for service provision. We welcome the renewed focus on changes that are not limited to community services, but include consideration of the availability of affordable housing, much needed reform to government policy, removals of barriers to entry to services including accommodation services and reducing exits into homelessness. Although these issues are raised as priorities to be addressed within the Action Plan the urgency of these issues requires an immediate response.

Priority Action 3.1 correctly identifies the need to develop tailored responses for vulnerable cohorts at risk of homelessness:

Review and update Department of Communities policies and practices for social housing applications to remove service barriers which can act as unintended drivers of homelessness, including policies and practices relating to identification requirements and communication with clients on the waitlist.

In practice, we have observed that current restrictive identification requirements for applying for public housing and priority housing act as an unfair barrier to many members of our client group trying to exit homelessness. For example, people experiencing homelessness, or at risk of homelessness born interstate and overseas are particularly disadvantaged by the current policies and procedure for identification verification. People experiencing homelessness, or at risk of homelessness who are born overseas experience significant barriers in order to satisfy the current identity requirements. Current Department of Communities policies and procedures require people born overseas who arrived in Australia to establish proof of arrival in Australia. In many cases, this practically requires obtaining an Immicard or Vevo Card. Obtaining proof of arrival in Australia can often be a long and complex process.

Case study – [REDACTED]

A middle aged female Client from a culturally and linguistically diverse background required photo ID to prove her identity to Centrelink and to be placed on the Housing Authority list. Centrelink requested she provide these identity documents by a certain deadline. The client was born overseas and arrived in Australia in 1971. The client had limited identity documents. We advised that the client's best option was to obtain an Immicard and that we could complete the application for her. As the client was a permanent resident who arrived in Australia before 1990, she was eligible to apply for an Immicard. We explained to the client that gathering documents for an Immicard is a long process as we need to obtain documents that show the client's life story since arriving in Australia. After multiple freedom of information requests and emails to different organisations we were ready to make the online Immicard application for the client. 45 days later the Department of Home Affairs let us know that the application was successful and sent us the client's new Immicard. The Immicard was delivered before the Centrelink deadline, and the client managed to get onto the housing list and received priority housing. When we informed the client of her successful application, she said: "It feels like winning the lottery."

In order to reduce barriers to exiting homelessness, a combination of easily available documents such as Medicare card and Centrelink cards must be sufficient to satisfy the identity requirement policies and procedures for people experiencing homelessness and at risk of homelessness. We are easily able to create flexible forms of ID on the spot during the course of our outreach service delivery model. For example, we have previously asked our community service agency partners for support letters confirming a client's identity and indicating how long that person has been engaging with that service. We believe greater recognition of these forms of identification in the context of public housing decision making will significantly reduce barriers to exiting homelessness.

Recommendation 1 - We recommend for people experiencing homelessness, or at risk of homelessness who are represented by specialist support services the usual identification requirement be waived and a flexible approach taken that recognizes proof of operation in the community as sufficient.

Recommendation 2 – We recommend the requirement for people experiencing homelessness, or at risk of homelessness born overseas to produce proof of arrival in Australia to access public housing assistance be waived and a flexible approach taken that recognizes proof of operation in the community as sufficient.

Recommendation 3 - We recommend explicitly stating in the Department of Communities policies and procedures for identity verification the option for street present people to satisfy the ID requirements at the time an offer for housing *is made* rather than at the point of application. A reasonable period of time needs to be provided to those experiencing or at risk of homelessness to collate their identity documents. This will allow street present people to lodge their application for housing without all the identification requirements being met and progressing on the housing list. We are often able to obtain identity documents for clients within a few weeks of first engagement depending on the complexity of the application.

The restrictive application of standards for identity requirements as an entry requirement to accommodation support also serves as a barrier to people experiencing homelessness or at risk of homelessness accessing residential drug and alcohol treatment services.

Case Study – ██████████

Through our Youth Outreach and Legal Project in conjunction with Passages Youth Engagement Hub we assisted a 22-year-old male to gain access to a residential rehabilitation provider. He was advised during the pre-intake admission process that he would need to produce photo ID before being admitted. Accessing this residential treatment was not only an important social and wellbeing need for this client, however, the rehabilitation treatment proved crucial in the context of obtaining a more lenient outcome in sentencing for his legal matters. Access to residential rehabilitation accommodation was critical for this purpose.

Identity Documents can often require significant time and determination to be obtained. In addition to being able to access necessary services the legal issues that can arise when seeking to obtain sufficient records for someone to establish their identity within community can require, depending upon the individuals needs and where they were born, application of administrative law principles, an understanding of the impact of the

various migration laws particularly those relating to deportation also an understanding and application of the relevant Freedom of Information legislations.

Street Law has been keeping a track of time for some of its identity document applications and this shows the hours of work required to source these documents.

Table 1 – Time Taken on ID Related Legal Tasks		
ID Type	Tasks included	Time Spent
3 WA BC	intake, gathering docs, filling out application and sending certificate and letter to client	2 hours
Arrival and Residency documentation and Change of Name	intake, gathering docs, FOI, research, emails, back and forth with client, letter of advice	10 hours
WA BC	Initial intake, review file, obtain detainee ID, draft BC form, Draft email to BDM	1 hour and 30 minutes
ACT BC	call to ACT BDM (35 mins),draft BC form and email to BDM (1 hour, 20 minutes)	2 hours 2 mins
WA BC	Intake, and drafting application	40 minutes
WA BC	Intake, and drafting application	40 minutes
WA BC	Intake, and drafting application	40 minutes
NSW BDM	intake. Drafting application, multiple calls and emails to NSW BDM	2 hours
Vic BDM	intake, emails with 55 central, application and email to VIC BDM+ follow up emails	25 minutes
WA BDM	intake (30 minutes), drafting application and submitting (40 minutes)	1 hour 10 minutes
WA BDM	intake (33 minutes), drafting application and submitting (40 minutes)	1 hour 13 minutes
NSW BDM	drafting application and submitting, responding to emails from BDM asking for more ID	2 hour 30 minutes

Inadequate communication and failing to tailor responses to vulnerable people experiencing homelessness or at risk of homelessness on the housing waitlist can function as an unintended barrier to exiting homelessness.

Case Study – ██████████

An Aboriginal man applied for housing while in prison. When released from prison he attended a Department of Communities Housing Office and advised them of his new contact details. Once his application had been processed Communities wrote to him to an address which was no longer current and tried to contact him via phone number that was no longer in service. Further information was required to process the application. As no response was received the application was withdrawn by Communities. Our client only became aware that the application had been withdrawn following Street Law making enquiries as to the status of his application.

In our view, this case demonstrates a critical need to communicate with housing applicants and not arbitrarily withdraw applications. This man's application was first submitted in December 2018. Street Law is now supporting him with making a priority housing application (as he is currently in prison) and seeking that it be backdated to the date of the original application in December 2018. We discuss further in the data collection section below the need to enable sharing of information between lawyers acting for a client and Government decision makers.

Recommendation 4 – For people experiencing homelessness or at risk of homelessness, communication policies and procedures be tailored in these contexts to allow for the decision maker to contact a specialized support worker or legal professional on record as authorized support persons where a client cannot be contacted before withdrawing an application.

4. Existing data systems and how data informs service delivery

Housing First in the context of data collection and assessment requires a collaborative approach between government departments and community service providers and the sharing of data in order to flexibly remove barriers for people experiencing homelessness, or at risk of homelessness. **Priority Action Point 4.4** to Improve collection, sharing and use of data, information and intelligence astutely recognizes the need to:

Develop and implement an online information platform that will support a No Wrong Door approach to service delivery by improving the visibility of services and resources available across the sector and enabling secure data sharing with consent.

The absence of a department of Communities wide secure electronic storage for identity documents for our clients is a critical barrier to individuals accessing housing. A number of clients have returned to Street Law multiple times requesting assistance with their identity documents as a result of them having been stolen while they are sleeping rough on the street. We submit that a separate electronic register of identity documents needs to be to ensure re-applications for identity documents are not required where they are lost or stolen.

Case Study – ██████████

A culturally and linguistically diverse street present young person we are currently assisting lived in Bunbury in a public housing property but had to leave due to family and domestic violence. She had previously provided identity documents to the Department of Communities Bunbury office in her previous application for public housing. However, upon leaving the Bunbury property and coming to Perth she was being asked to re-establish her identity when she decided to make a new application.

We acknowledge that a significant obstacle to more frequent sharing of information between government departments and community service providers are concerns around privacy. We submit that this issue can be addressed by recognizing and negotiating specific memoranda of understanding with key stakeholders in the community sector including community legal services such as ours. For example, in our practice we request a written authority to act from our clients that specifically requests

permission to share confidential information with government departments to progress their legal issues and accommodation. We would welcome discussions with Government departments to address any ways in which our written form can be improved to address any specific gaps in our consent form in a specific department context. It is also important to acknowledge the specific professional obligations lawyers abide by which include the obligation of client confidentiality and the *Legal Professional Conduct Rules 2010*. Staff at government departments must be given specific guidelines for sharing data with lawyers who are already under obligations of strict confidentiality and must always act in the best interests of a client. In addition, any legal practitioner may be reported to the Legal Profession Complaints Committee in relation to any conduct that falls short of these professional standards. In conclusion, the sharing of data may be improved if decisionmakers in government are more aware of the context of the strict professional obligations in which lawyers operate, and our own specialized focus on delivering services for people experiencing homelessness, or at risk of homelessness.

Recommendation 5 – In the co-design process for creating the new online ‘no wrong door’ platform, create a secure register of identity documents for people experiencing homelessness, or at risk of homelessness in relation to any identity documents they have previously lodged with a housing application and or applications for other relevant services.

Recommendation 6 – Creating a notes section in the internal Department of Communities database to note any lawyer acting on behalf of the client,

Recommendation 7 – Negotiation of memoranda of understanding regarding privacy requirements with key community service stakeholders to preemptively ensure standards of privacy are complied with across the sector.

In section 2 of this submission, we referred to the legal dimension of the cost of criminalizing homelessness specifically in the context of WA Police Officers issuing Move On notices. We submit that the impact of these notices on the people experiencing homelessness, or at risk of homelessness may be more visible in a structural context if better data is collected that allows WA Police to break down the issuance of Move On notices to reflect how many were issued to homeless or street present individuals. It would also be helpful to be able to understand more systematically how many of the

people issued Move On notices were presenting with symptoms consistent with a significant deterioration in mental health. While we are able to make some general observations drawn from the clients we represent. Collection of this information may give decision makers across government a clearer understanding of service needs in particular locations and drive change within the WA Police force to deliver on the priority action points relevant to them.

Recommendation 8– Improve the collection of data on the issuance of Move On notices by WA Police Force Officers with respect to street present and people experiencing homelessness, or at risk of homelessness.

If it would assist the Committee with further enquiries we are available to provide evidence.

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