

Human rights and

Homelessness and housing



Australian
Human Rights
Commission

everyone, everywhere, everyday

This information sheet talks about some of the human rights issues faced by people who are homeless or at risk of becoming homeless in Australia. It also highlights how a federal Human Rights Act could help deal with these issues.

Which human rights are we talking about?

Human rights are about everyone, and they are very important for people who are homeless or are at risk of becoming homeless.

We all have the right to an adequate standard of living, including adequate food, clothing and housing. This is not a right enjoyed by people who are homeless.

People who are homeless are also likely to experience a number of other human rights breaches, including the right to:

- the highest attainable standard of physical and mental health
- be safe and free from violence
- respect for privacy, family and home
- education
- work, and fair working conditions
- be free from discrimination
- vote
- freedom of movement and freedom of association.

What are some of the human rights problems faced by people who are homeless or at risk of becoming homeless in Australia?

‘Homelessness to me was a feeling of death. There is nowhere to go, no-one to see and no-one who cares. People generally believe you are a bum and were always meant to live a homeless existence... Beside the feeling of shame and uselessness is the feeling of terror and hunger. Hunger can turn a person into a madman. The desire for food greatly exceeds the thought of right and wrong and in many cases I stole to survive.’

Formerly homeless young person, *Our Homeless Children: Report of the National Inquiry into Homeless Children by the Human Rights and Equal Opportunity Commission (1989)*, p 49.

Some of the key human rights problems faced by people who are homeless or at risk of becoming homeless in Australia include:

- Inadequate housing – 105 000 Australians were homeless at the last census. Despite some assistance, 70 percent of Australians who live in low income households find it difficult to pay their rent. 65 percent of people on low incomes are spending more than 30% of their income on rent and 350 000 households

- are forced to spend half their income on housing. At the same time, there has been a decline in public housing stock in the face of increasing demand and many people are forced to live in houses that are in poor condition and have little access to services.
- Threats to personal safety – violence is the most common reason that single women and women with children become homeless. Women are particularly vulnerable to family violence and sexual abuse, and women are often forced into harmful situations or to stay in abusive relationships because they do not have adequate shelter.
- Poor access to healthcare – physical and mental health problems are both a cause and effect of homelessness. Children who are homeless have higher rates of asthma, recurrent ear infections, vision problems, eczema and developmental delays. People who are homeless experience significantly higher rates of disability and chronic illness than the general population and rely on hospital emergency departments and clinics for health care.
- Accessible and adequate social security – to get benefits, a person must be able to prove who they are. While this is reasonable in itself, the system does not take into account that homeless people often do not have, and cannot afford to get, a birth certificate or other documents that prove their identity.
- Lack of privacy – some people experiencing homelessness are forced to carry out essential personal activities in public (such as sleeping, urinating and washing), which most people are able to do in the privacy of their own homes. This not only undermines their right to privacy, but in some places can make them liable for a criminal offence.
- Education – Children who are homeless are more likely to leave school than children who enjoy adequate housing. Two in every three young people who become homeless leave school within 12 months.

‘... kids don’t know where to go and they end up going and hanging out with gangs who feel like family to them and so you’ll back each other up, but then you just end up getting into all sorts of trouble’

Australia’s Homeless Youth, Report of the National Youth Commission Inquiry into Youth Homelessness, 2008

What are the limitations of existing human rights protections for people who are homeless or at risk of becoming homeless?

There are limited human rights protections for people experiencing homelessness at the moment.

There are some legal protections relevant to housing. For example, an eviction conducted without proper process may be challenged in a court or a residential tenancies tribunal. However, laws still allow for evictions to happen for no reason, even if the person will be made homeless. The right to adequate housing is not protected as a human right in Australia. This means that federal politicians and public servants don’t have to consider the rights of people who are homeless or at risk of becoming homeless when developing and implementing new laws and policies on issues like public housing, health and social security.

People who are homeless or at risk of becoming homeless can seek access to services provided by homeless assistance services operating under the government Supported Accommodation Assistance Programs (SAAP). While homeless services support thousands of Australians who are homeless every year, these services cannot currently meet demand – one in every two people looking for shelter is turned away. Services may also exclude particular groups of people, such as people affected by mental illness, or who use, are dependent on, or are affected by drugs or alcohol.

There is no clear obligation on the government to protect people against homelessness.

How could we improve human rights protections for people who are homeless or at risk of homelessness?

How the Victorian human rights act helped a pregnant single mother avoid eviction into homelessness

A pregnant single mother with two children was living in community housing. She was given an eviction notice, which didn't provide any reasons for the eviction, nor allow her to address the landlord's concerns. The Victorian Charter was used (the rights to privacy and protection of families and children) to negotiate with her landlord to stop her eviction and prevent her family becoming homeless.

Human Rights Law Resource Centre Bulletin, June 2008

The Australian Human Rights Commission supports a Human Rights Act for Australia.

A Human Rights Act that includes the rights to adequate housing, health, education and social security could make a difference to the lives of people who are homeless or at risk of being homeless. It could improve the policies, procedures and services that many people who are homeless or are at risk of homelessness encounter daily. It could help prevent the human rights problems and provide remedies for those human rights breaches that were not prevented.

If Australia had a Human Rights Act, it could:

- make **the federal Parliament consider how laws impact on human rights** – for example, whether a law providing for emergency housing properly protects the right to adequate housing for all people who are homeless or at risk of homelessness.
- make the **federal government respect human rights when developing policy** – for example, consider whether new approaches to social security payments will increase the rate of homelessness or prevent homelessness
- make **public servants respect human rights when making decisions and delivering services** – for example, government officials would need to take into account the difficulties faced by homeless people in providing proof of identity and the possibility that a homeless person may not have received relevant correspondence
- provide a range of **enforceable remedies** if a government department breached human rights.

Protecting and promoting the rights of people who are homeless or at risk of homelessness is not just about providing adequate housing. It is also about understanding and addressing the complex range of factors that lead to homelessness and protecting the dignity of all people, including those who are homeless.

Over the longer term, a Human Rights Act would be a powerful tool for fostering a stronger human rights culture in Australia by promoting greater understanding and respect among all Australians.

Children who are homeless have higher rates of asthma, recurrent ear infections, vision problems, eczema and developmental delays.

People who are homeless experience significantly higher rates of death, disability and chronic illness than the general population and rely on hospital emergency departments and clinics for health care.

In addition to a Human Rights Act, there is a range of other ways in which the human rights of people who are homeless or at risk of homelessness could be better promoted and protected in Australia. For example:

- enhanced protection of human rights in the Australian Constitution
- developing a national housing strategy that protects the human rights of people who are homeless and people at risk of homelessness
- national legislation that sets a minimum standard about when and how people can be evicted
- amending the *Supported Accommodation Assistance Act 1994* (Cth) and the Commonwealth State Housing Agreement to require compliance with human rights standards
- a National Human Rights Action Plan, including a focus on the right to adequate housing for all people
- a national public education program about human rights, including the rights of people who are homeless or at risk of homelessness.

These and other measures could make a positive difference to human rights protection.

Where can I find more information about homelessness and human rights?

Australian Human Rights Commission – Homelessness and Housing:
www.humanrights.gov.au/human_rights/housing/index.html#housing

Public Interest Law Clearing House – Homeless Person’s Legal Clinic:
www.pilch.org.au/hplc

Homelessness Australia:
www.homelessnessaustralia.org.au

Australian Council for Social Services:
www.acoss.org.au

Victorian Council of Social Services:
www.vcoss.org.au/documents/VCOSS%20docs/Housing/Heavenweb.pdf