

Feedback on the Second Draft Tasmanian Homelessness Charter:

Services Users and Service Provider Rights

Shelter Tasmania

January 2012

All human rights are universal, indivisible and interdependent and related. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. — Vienna Declaration and Programme of Action, World Conference on Human Rights, 1993



Shelter Tasmania is the Peak Body for Housing and Homelessness in Tasmania

Our Vision

Shelter's vision is that every person has affordable, appropriate and secure housing and our Mission is to end homelessness in Tasmania.

About Shelter 2012

Shelter Tasmania is an independent not-for-profit housing peak organisation funded by the Department of Health and Human Services. Shelter Tasmania is the key NGO body that represents the interests of low to moderate income housing consumers, housing providers and Specialist Homelessness Organisations across Tasmania.

Shelter is committed to working towards a fairer and more just housing system and ensuring the rights of tenant and people experiencing or at risk of homelessness. We provide an independent voice on housing rights and a link between governments and the community through consultation, promoting research and policy advice. We seek to improve housing access to all Tasmanians, and as a member of National Shelter we support its policy platform and recommendations to the Federal Government.

Shelter's membership consists of a wide range of organisations across Tasmania, such as: tenants groups, consumers, community housing providers, homelessness and crisis accommodation services, local government, research organisations and a range of individuals and services interested in housing and homelessness issues.

Homelessness Charter and Consumer Engagement Strategy for Tasmania

Shelter is pleased to be provided the opportunity to provide further feedback on the second Draft Tasmanian Homelessness Charter (Charter). As the peak body for Housing and Homelessness in Tasmania Shelter Tas has played a leading role in lobbying for and supporting a comprehensive plan for reducing homelessness in Tasmania. This included, amongst a range of initiatives, the need for an extensive and well planned consumer engagement across the homelessness and housing sector (Shelter Tas State Budget Submissions www.sheltertass.org.au). The Tasmanian Homelessness Plan 2010-13: *Coming in From the Cold* included the development and implementation of a Tasmania Homelessness Charter and Consumer Engagement Strategy.

Shelter, as a member of the Homelessness Reference Group and Consumer Engagement Advisory Group, is supportive of a Tasmanian Homelessness Charter and Consumer Engagement Strategy. However, after vigorously lobbying for a Consumer Engagement Strategy we are disappointed that this Strategy is being held over until 2012 as we believe it needed to be developed before the Homelessness Charter to enable consumers to participate in the consultative process.

We note that in YDA's "Homelessness Charter and Consumer Engagement Strategy – Discussion Paper" dated May 2011, there is significant reference to the importance of consumer engagement and consumer participation and the benefits this brings to planning, policy development and service delivery. In particular, on page 25 of this paper it outlines that a "Consumer Engagement Strategy seeks to improve and facilitate opportunities for people who are homeless, or who have experienced homelessness, to better engage with the service system...". Clearly the opportunity for consumer involvement in the Homelessness Charter would substantiate this statement and validate the

process. However, the paper then indicates that Consumer Engagement will be Stage Two of consultations. Since the paper was released in May 2011, the Consumer Engagement Strategy has been delayed until after the Support and Accommodation Review (SAAR) is completed in 2012. This delay, for unknown reasons, has had a twofold impact. Firstly the delay meant there was no ongoing systemic consultation with consumers on the Charter, and secondly for the SAAR.

Charter and Feedback so far

In the past Shelter has provided feedback for consideration to Youth Development Australia (YDA) through a submission paper (dated August 2011) which was inclusive of feedback from key stakeholders in the Homelessness sector. Since receiving the second draft of the Tasmanian Homelessness Charter, Shelter has continued to consult with the Homelessness Services as well as posting the Charter on the Shelter Web site for wider comment. Shelter has also met with other non-government organisations that have already provided feedback and submissions.

The response from Shelter will contain:

- Comments and further clarification on the Homelessness Charter
- Specific tracked changes to the Draft Homeless Charter

General Comments

Feedback on this version of the Tasmanian Homelessness Charter has been provided by those Shelter members who are homelessness and housing service providers. Comments from this group have suggested looking at previous submissions to seek clarification on whether the ideas and comments have been enacted. This included the scope, context and legal status of the Charter, language, rights and responsibilities and the service principles. The following comments are an indicative list of themed comments, but are not exhaustive. Shelter's staff and Executive are available to provide further comment, on request.

- How will the Charter be applicable across all services, which means not only the homelessness and housing service providers, but mainstream services and private providers?
- How is the Charter to be implemented across the services and how will this be monitored and evaluated?
- Will the Charter be espoused by Housing Tasmania?
- Will the Charter principles be compatible and cross referenced with the principles outlined in the Supported Accommodation and Assistance Review (pg 46 of the SAAR report)?
- Will the Charter be compatible with the Consumer Engagement Strategy?
- The Charter at times does not read or flow well and would require further work. Shelter also recommends that a consumer reads the Charter to provide feedback on the content and language.
- The Charter appears confused at times where it sometimes talks about 'rights', sometimes 'policies'. It requires consistent language and content.

Legal status, implications and scope of the Charter?

In Shelter's last submission we requested clarification as to how the charter "*will become law...*" and whether it is a legal document. The current draft document appears to present the Charter as rights based document by stating it is "*underpinned by a rights-based approach and is grounded in the proposition that every human being has basic inalienable human rights*". There is reference to the rights in the United Nations Conventions, the Anti-Discrimination Act 1998 and support through the Commissioner of Children and the Social Inclusion Commissioner (page 4).

In reference to the comments about the scope of the Charter being too narrow, the Charter now reflects that "*...service users have a right to expect from Tasmanian specialist homelessness services or any mainstream services providing assistance and/or support...*" (Page 5) The Charter now defines the Tasmanian Service System stating that all services and organisations should be guided by this Charter (page 6). However the last paragraph on this page highlights there are other groups a part from the services who profit from people experiencing homelessness and these are private landlord, rooming house operators, caravan parks and real estate agents. What it doesn't do is indicate the reason for placing this in the document or whether they should be guided by the service principles.

The sense that the Charter is mainly a Homelessness Service Provider Charter is still retained. The responsibilities of service providers has been taken out, however is replaced by service users can expect. On page 9, there is still a focus on service users having twelve responsibilities which reflects expectations placed on them to receive support.

Recommendation 1: That YDA state how it intends to ensure all organisations use the Charter as a guide, particularly in light of the recent SAAR report where there are recommendations for a front door or Gateway model.

Recommendation 2: That the Charter indicate how to engage 'for profit providers', for example operators of caravan parks and rooming house operators, in using the Charter and also indicate how this group will be monitored and evaluated against the Charter.

Recommendation 3: That the Charter reflects the use of a Consumer Engagement Strategy which encumbers future work in focussing on consumer or service user's involvement in the review of the Charter.

How would the Charter fit within the context of other standards and proposed changes?

The current draft document does not acknowledge or explain how this Charter will fit or complement the Tasmanian Charter of Human Rights. It also doesn't signify the current obligations Homelessness Services have to SAAP, Quality Assurance and Funding Agreement, National Quality Framework to support quality services for people experiencing homelessness and the National Community Housing Standards. Instead it states "*Services would operate... based on the Charter and any other required service standard*" (page 5).

Recommendation 4: That the Charter reflects and complements applicable Charters and quality assurance standards as stipulated by funding bodies.

Language

In the last submission, Shelter highlighted the potential primary audience for the Charter and indicated that it may include those with limited literacy skills, disabilities such as intellectual or an acquired brain injury and those with limited educational experiences.

It appears that as suggested most of the language has changed throughout the document to use more inclusive words, there also appears less use of legalistic jargon. However there are a few words which appear unusual and may require someone with a good level of comprehension. For example, on page 3, the word *'inalienable'* is used and on page 29 *'sociality'* and perhaps these could change to more general words. There are instances where the language fails to be objective and there is also a level of inconsistency in the language used throughout the document. For example, service user is the term used for people accessing services, however on occasion the Charter uses 'client'.

The Charter has been changed to reflect the appropriate term Aboriginal and Torres Strait Islander people rather than Indigenous people. However in the principle 'Non-Discrimination' there is no specific recognition to Aboriginal culture or linking with Aboriginal specific services.

Recommendation 5: That the Charter reflects consistency in its words and uses language which is supportive and understood across service providers and service users.

Recommendation 6: That the Charter changes some of its text to reflect non-judgemental language such as page 8, delete the word 'normal', which is quite idiosyncratic and varied in definition depending on one's own experiences, . On page 14, instead of stating *'...not fast food high in fats and sugar'* use a statement like *'...cater to the specific requirements of service users'*.

Recommendation 7: On page 5, dot 2 change "Operate services based upon the charter and any other required service standards" change to "Ensure that their required service standards are congruent with the terms of the Charter" or "Use the Charter alongside their required service standards to govern the operation of services".

Recommendation 8: That throughout the Charter, it reflects Aboriginal culture and services and suggest that Tasmanian Aboriginal Services are consulted about the Charter, specifically if each principle needs to recognise the Aboriginal people.

Which Services does the Charter apply to?

Shelter certainly acknowledges the document now reflects the additional services to which the Charter is intended to apply including Emergency relief services, hospitals and school. What is not clear is whether the Charter is inclusive of real estate agents, private landlords and caravan parks. As stated previously, at the bottom of page 6, there is reference to the group, but as an adjunct and with no clear reference to the other service system.

Rights and Responsibilities

In the preamble, (page 4), it states that "The Tasmanian Homelessness Charter is a rights-based charter but not a charter of rights as such", this sees a move from any obligation which could be contested through appropriate legal channels to a guiding principle based on values. To reflect this,

the document has shifted away from naming up rights and responsibilities per se, however rename the concept to what “service users can expect” and what “services users have a responsibility to”.

The document does include a list of “Responsibilities of service users” (see page 9). However, a number of these are questionable as to whether a service provider can request of the service user (refer point 11 and 12 which states “Participate to some degree in the daily life of the program they are involved with” and “cooperate with services and their staff to achieve mutually agreed life outcomes) and if the request is not upheld what this would mean for the service user. For example, will the support or a service be withdrawn to the service user? There also needs to be an outline of what process is taken in reaching point 9, “Accept and abide by final decisions arrived at through due process”. Certainly due grievance process and options to appeal would be a right to any service user and would need to be included.

Recommendation 9: That YDA investigate whether the Charter can state number 11 and 12 of *responsibilities of service users* and if so, recommend that there is some indication as to what are the consequences if the service user does not uphold these and what steps can be taken by the service user. For example, service user has access to an advocate or advocacy service.

Recommendation 10: Change point 9 to read something like “accept final decisions which have been reached through due grievance processes”.

Service Principles

Dignity and respect

This section has changed to become one of the seven Charter Service Principles and includes: any person is to be treated with the same respect of any other member of the community, in a way that upholds their dignity and in a manner which upholds a culture of respect. The suggestion that there is an overarching statement which acknowledges the “right to be treated with dignity and respect regardless of circumstances” is not stated. It is the emphasis on “regardless of circumstances” which is highlighted rather than stating “the same respect due to any other member of the community”.

Recommendation 11: That the Charter reflects an overarching statement “People experiencing or at risk of homelessness have a right to be treated with dignity and respect regardless of their circumstances”.

Health and Safety

The comment about stating access to health services as suggested by members appears to be stated under service principle 5 (page 14). The second statement that “Services should promote good health and wellbeing and advise service users appropriately if their health and wellbeing seems under threat”, appears to be two different statements. There is also a degree of ambiguity around “seems under threat” which may need clarification so services understand what this means and can develop the necessary policies and procedures.

On page 14, under positive health behaviours will be modelled by service staff there is a comment about “staff should not...drink alcohol where they could be seen by service users”. Service Providers policies may reflect that the drinking of alcohol by staff whilst on duty is an offence which warrants immediate dismissal, therefore this statement should not be included in any part of the Charter.

Recommendation 12: That the statement under service principle 5 be changed to read Services should promote good health and wellbeing to staff and service users. This is an Occupational Health and Safety requirement. The second part of the statement is covered under the service users can expect. The comment about “seems under threat” should be deleted from the statement.

Recommendation 13: On page 14 under positive healthy behaviours, delete “or drink alcohol” as under Service’s policies there would be no drinking of alcohol by workers.

Recommendation 14: On page 15 under service principle 6, there should be some recognition that Services will ensure staff and volunteers do not present or act in a threatening or coercive manner. This will demonstrate to service users that service providers are committed to providing an environment free from violence.

Equity and fairness

In the previous submission, it was suggested that access to advocacy services and the concept of self-advocacy be reflected in the document, however there is no mention of self-advocacy. As suggested, this is an important point in any Charter of Rights and as was highlighted in the previous submission “Self-advocacy has been a turning point for many socially excluded groups and helps free people accessing services from dependency on those services”. It is suggested that this be included to strengthen the document and reflect a commitment to service users.

Shelter acknowledges that people with disabilities have been recognised, however suggest that using examples (disable access to premises and access to adaptive technology to assist people with sensory disabilities) narrows the focus of people with disabilities and can potentially ostracise those with other disabilities. What is also not included in this section is those from culturally and diverse backgrounds and Aboriginal people.

Recommendation 15: That the Charter reflects the concept self-advocacy as a means of ensuring empowerment for service users and also a commitment by service providers to work towards eliminating dependency.

Recommendation 16: That the Charter reflects people with a disability in general and delete any examples as this can potentially place significance on one disability over another.

Choice and self determination

In the previous submission it was suggested that there is an acknowledgement of people’s right to ignore the advice or seek other advice, however this is not mentioned. Instead it focuses on providing information on informed decisions and choices and encourages participation in the planning, development and evaluation of services. Shelter welcomes the section on consumer involvement particularly as we have been advocating strongly for a Consumer Engagement Strategy.

However on page 28, last point in service users have a responsibility is the statement “participate to some degree in the daily life of the program they are involved with”. This point does not relate to choice or self-determination, but appears to stipulate a requirement as part of the involvement with a service provider.

Recommendation 17: That the statement “participate to some degree in the daily life of the program they are involved with” is taken out of this section and not be a service users responsibility but perhaps move to service users can expect to and read something like “Service Providers will encourage and facilitate service users participation in social programs.

Recommendation 18: That the Charter reflects a statement which acknowledges and encourages the rights of people to ignore advice given or seek other advice.

Social Inclusion

In Shelter's previous submission, there was a suggestion about including a broad statement in the section which referred to the right to participate/recognition as members of the community. Instead social inclusion has been included, an important insertion. However, service principle 19, 20 and 21, is confusing to read and at times appears to make little sense. Sentences such as "contribute to building positive human relationships", "supported to participate in 'normal' community activities" and "assisted along opportunity-rich pathways to social participation" appears critical and judgemental. There is little to indicate how to break down the barriers of social inclusion or any attempts to define social inclusion. As is demonstrated, social inclusion can greatly contribute to homelessness and as such, is an important component of any Charter.

Recommendation 19: That the Charter defines social inclusion in general and stipulate how it relates to housing and homelessness. Also indicate key approaches to ensure clear pathways to social inclusion.

Recommendation 20: That the Charter moves social inclusion to the first principle due to the importance of this concept and the flow on effect to other service principles will be more efficient.

Comments on Poster

In general the poster aims to reflect all seven themes, however by covering all the service principles it is visually overwhelming and uses excessive words. Shelter question's whether service users would spend time reading the poster. There is also no information on the poster about who service users could access to advocate on their behalf if service providers do not sanction all or part of the Charter.

Recommendation 21: That YDA consult with consumer and/or advocacy groups/peaks about the layout and content of the poster to determine whether it will be read by service users.

Recommendation 22: That the poster includes details on advocacy/legal/ peak organisations that service users can contact if they believe their rights are being impinged by housing service providers, mainstream services or private providers.

Additional developments

There have been a number of developments within the housing sector which may have an impact on a Tasmanian Homeless Charter. A draft of the Supported Accommodation and Assisted Review (SAAR) has been tabled where the recommendation is for a change in the current model at the 'front end' or entry into housing services. Currently there are three models being presented for discussion and although there is no finite decision, whatever changes occur from the review may have an impact on the Tasmanian Homelessness Charter.

There are also plans to regulate housing service providers through a national system. The National Regulatory System (NRS) will encourage community housing service providers to become registered by meeting minimum requirements and complying with national standards which adopts industry best practice. The plan is to transition to the new system at the beginning of 2013. As the requirements have not been enacted as yet, it is hard to comment on how the Tasmanian

Homelessness Charter will measure with the NRS, however there may need to be some recognition of the NRS within this document.

Recommendation 23: That the Charter reflects and complements the National Regulatory System, a national registration of housing providers managing properties or providing tenancy support.

Recommendation 24: That the Charter reflects and complements the outcome of the Supported Accommodation and Assistance review.

In conclusion, Shelter Tasmania envisaged the development of the Consumer Engagement Strategy would be developed first as a means of complementing - and as an enabling tool to consult with service users - on a Homelessness Charter and other important work such as the Support and Accommodation Review. However, despite these changes in plans Shelter continues to support the work of YDA on developing the Homelessness Charter and welcomes the opportunity to provide further ongoing feedback. Shelter also strongly recommends that there are verifying 'focus group' consultations with consumers, housing service providers, peak bodies and mainstream services before the final Charter is accepted.

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