

Homelessness and Voting

**Submission to the
Joint Standing Committee on
Electoral Matters
Inquiry into the Conduct of the
2004 Federal Election and
Matters Related Thereto**

March 2005

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1. Executive Summary and Recommendations

1.1 Summary

This submission is made jointly by the PILCH Homeless Persons' Legal Clinic and the Council to Homeless Persons to the Joint Standing Committee on Electoral Matters Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto.

The submission examines and discusses the franchise of people experiencing homelessness. In particular, the submission considers:

- levels of electoral enrolment among people experiencing homelessness;
- levels of electoral participation among people experiencing homelessness; and
- the various barriers, disincentives and impediments to electoral enrolment and participation among people experiencing homelessness.

The submission also examines and discusses various strategies and steps, including legislative and administrative steps, to increase levels of electoral enrolment and participation among people experiencing homelessness.

A summary of findings and recommendations is set out below.

1.2 Findings

Nature and Extent of Homelessness

- On any given night, almost 100,000 people experience homelessness across Australia, including more than 20,000 in Victoria.
- There are at least 64,000 homeless people who were eligible to vote at the 2004 Federal Election.

Importance of Voting for People Experiencing Homelessness

- At least 54 per cent of homeless people would like to enrol to vote at federal elections.
- Australia is obliged, under article 25 of the *International Covenant on Civil and Political Rights*, to adopt specific measures to ensure that obstacles to voting and participation for homeless people are identified and overcome.

Electoral Enrolment

- In relation to the 2004 Federal Election:
 - at least 43,000 homeless people (67 per cent of homeless people eligible to vote) were not enrolled to vote;

- approximately 29 per cent of homeless people were enrolled to vote as Ordinary Electors; and
 - only 4 per cent of homeless people were enrolled to vote as Itinerant Electors.
- In relation to the 2002 Victorian State Election:
 - approximately 72 per cent of homeless people eligible to vote were not enrolled to vote;
 - approximately 23 per cent of homeless people were enrolled as Ordinary Electors; and
 - only 5 per cent of homeless people were enrolled as Itinerant Electors.

Enrolment Awareness

- Only 28 per cent of homeless people are aware that they may have an entitlement to vote notwithstanding that they do not have a fixed residential address, with 72 per cent believing that they are not entitled to vote without a fixed residential address.
- Only 10 per cent of homeless people are aware that, as an Itinerant Elector, they would not be fined for failing to vote. This is important in the context of 29 per cent of homeless people indicating that the possibility of being fined for failing to vote is a significant disincentive to enrolment.
- Only 12 per cent of homeless people are aware that, as an Itinerant Elector, their address would not be shown on the Electoral Roll, while only 21 per cent of homeless people are aware that they may apply for Silent Enrolment status. This is important in the context of 29 per cent of homeless people reporting an immediate past history of domestic or family violence and 14 per cent of homeless people indicating that a primary reason for their non-enrolment relates to concerns that, following enrolment, their name and address would appear on the Electoral Roll.

Itinerant Elector Enrolment

- The Itinerant Elector provisions contained at section 96 of the *Commonwealth Electoral Act 1918* (Cth) have the potential to be used to improve the franchise for people experiencing homelessness.
- However, in order to effectively and significantly improve the franchise of homeless voters, aspects of the Itinerant Elector provisions require amendment.

Barriers and Disincentives to Enrolment

- The most significant barriers and disincentives to enrolment for people experiencing homelessness include:

- concerns that voting is futile and will not make any difference (44 per cent);
- perceptions that a person requires a fixed residential address in order to enrol (29 per cent overall and 49 per cent of people interested in enrolment); and
- apprehensions that, following enrolment, a homeless person will be fined for failing to enrol and vote at previous elections (26 per cent overall and 44 per cent of people interested in enrolment) or subsequently failing to vote (29 per cent overall and 49 per cent of people interested in enrolment).

Strategies to Promote and Increase Enrolment

- Strategies to promote homeless voter enrolment include:
 - provision of information about enrolment or actual assistance to enrol at homelessness assistance services (44 per cent overall and 76 per cent of people interested in enrolment);
 - provision of information about enrolment or actual assistance to enrol at Centrelink offices (33 per cent overall and 56 per cent of people interested in enrolment); and
 - provision of information about enrolment or actual assistance to enrol by street outreach workers (21 per cent overall and 37 per cent of people interested in enrolment).

Electoral Participation

- At the 2004 Federal Election:
 - at least 49,000 homeless people were eligible to vote but did not vote (that is, approximately 76 per cent of eligible homeless people did not vote);
 - 21 per cent of homeless people voted as Ordinary Electors; and
 - only 2.8 per cent of homeless people voted as Itinerant Electors.
- At the 2002 Victorian State Election:
 - 75 per cent of eligible homeless people did not vote;
 - approximately 21 per cent of homeless people voted as Ordinary Electors; and
 - approximately 3.8 per cent of homeless people voted as Itinerant Electors.

Barriers and Disincentives to Voting

- The most significant barriers and disincentives to voting for people experiencing homelessness include:
 - concerns that voting is futile and will not make any difference (35 per cent);
 - perceptions that a person requires a fixed residential address in order to vote (24 per cent overall and 38 per cent of people interested in voting); and
 - apprehensions that, at the voting station, a homeless person will be fined for failing to enrol and vote at previous elections (27 per cent overall and 42 per cent of people interested in voting).

Strategies to Promote and Increase Electoral Participation

- Strategies to promote homeless voter participation include:
 - location of voting stations at homelessness assistance services (42 per cent overall and 61 per cent of people interested in voting);
 - provision of more accessible and extensive information about how to vote (33 per cent overall and 48 per cent of people interested in voting) and where to vote (24 per cent overall and 35 per cent of people interested in voting);
 - location of voting stations at Centrelink offices (30 per cent overall and 44 per cent of people interested in voting); and
 - transportation to voting stations (15 per cent overall and 22 per cent of people interested in voting) and assistance to actually cast a ballot (28 per cent overall and 41 per cent of people interested in voting).

1.3 Recommendations

The submission makes 21 key recommendations to improve the franchise for homeless voters.

Recommendation 1

The Australian Electoral Commission should conduct a public awareness campaign targeted at people experiencing homelessness which provides information about the importance, impact and outcomes of enrolment and voting.

Recommendation 2

Section 96(2A) of the Commonwealth Electoral Act 1918 (Cth) should be amended so that Itinerant Electors are registered to vote in the Subdivision with which they have the 'closest connection'.

Recommendation 3

Section 96(8) of the Commonwealth Electoral Act 1918 (Cth) should be amended to increase the period of time that an Itinerant Elector may have a 'real place of living' from one month to six months.

Recommendation 4

Section 96(12) of the Commonwealth Electoral Act 1918 (Cth) should be amended such that a person shall be taken to reside at a place if, and only if, the person has his or her 'real place of living' at that place and that place of living constitutes safe and secure housing within the meaning of section 4 of the Supported Accommodation and Assistance Act 1994 (Cth).

Recommendation 5

The Australian Electoral Commission should conduct or commission further research to ascertain the reasons that many homeless people are not interested in enrolling to vote and, informed by this research, develop and implement strategies to increase homeless voter enrolment.

Recommendation 6

The Australian Electoral Commission should conduct a public awareness campaign targeting people experiencing homelessness which includes information about Itinerant Elector provisions and enrolment.

Recommendation 7

The Australian Electoral Commission's public awareness campaign targeted at people experiencing homelessness should provide information about Silent Elector enrolment and publicise the fact that the address of Itinerant Electors is not shown on the Roll.

Recommendation 8

Section 104 of the Commonwealth Electoral Act 1918 (Cth) should be amended to provide that a person who is homeless may make a request that his or her address not be entered on the Roll and that such a request shall be granted where the person can provide evidence of his or her homelessness.

Recommendation 9

Section 245 of the Commonwealth Electoral Act 1918 (Cth) should be amended to provide that, without limiting the generality of what constitutes a 'valid and sufficient reason for not voting', homelessness is a valid and sufficient reason for failure to vote.

Recommendation 10

The Australian Electoral Commission's public awareness campaign targeted at people experiencing homelessness should inform people that they cannot be penalised for failing to vote if they have a 'valid and sufficient reason' and that homelessness constitutes such a reason.

Recommendation 11

The Australian Electoral Commission's public awareness campaign targeted at people experiencing homelessness should inform people that Itinerant Electors cannot be penalised for failing to vote.

Recommendation 12

The Australian Electoral Commission should provide information, education and resources to homelessness assistance services funded through the Supported Accommodation Assistance Program to equip them to inform people experiencing homelessness about the importance of voting, eligibility for enrolment and procedures for enrolment.

Recommendation 13

Homelessness assistance services should provide information about enrolment and assistance to enrol as a component of an integrated intake and assessment process.

Recommendation 14

The Australian Electoral Commission should provide information, education and resources to Centrelink to equip Centrelink staff to inform people experiencing homelessness about the importance of voting, eligibility for enrolment and procedures for enrolment.

Recommendation 15

Centrelink staff should provide information about enrolment and assistance to enrol to people experiencing homelessness as a component of an integrated intake and assessment process.

Recommendation 16

The Australian Electoral Commission should provide information, education and resources to street outreach workers to equip them to inform people experiencing homelessness about the importance of voting, eligibility for enrolment and procedures for enrolment, and to enable them to provide actual assistance with enrolment.

Recommendation 17

The Australian Electoral Commission should provide information, education and resources to homelessness assistance services funded through the Supported Accommodation Assistance Program to equip them to inform people experiencing homelessness about the process for voting, to accompany people experiencing homelessness to voting stations, and to provide people experiencing homelessness with assistance to cast their ballots.

Recommendation 18

The Australian Electoral Commission should ensure that voting stations are established at locations that are easily accessible to, and appropriate to, people experiencing homelessness.

Recommendation 19

The Australian Electoral Commission should investigate the feasibility of conducting pre-poll voting on-site at homelessness assistance services.

Recommendation 20

Part XVI of the Commonwealth Electoral Act 1918 (Cth) should be amended to provide for the deployment of mobile polling booths on-site at homelessness assistance services.

Recommendation 21

The Australian Electoral Commission should investigate the feasibility of conducting pre-poll voting on-site at Centrelink offices.

2. Introduction

2.1 Overview of Submission

This submission is made jointly by the PILCH Homeless Persons' Legal Clinic and the Council to Homeless Persons to the Joint Standing Commission on Electoral Matters Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto.

The PILCH Homeless Persons' Legal Clinic and the Council to Homeless Persons would appreciate the opportunity to supplement this submission with oral evidence at any public hearing.

The submission examines and discusses the franchise of people experiencing homelessness.

Drawing on significant quantitative research regarding homelessness and voting, undertaken by the PILCH Homeless Persons' Legal Clinic in March 2005, the submission particularly analyses:

- levels of electoral enrolment among people experiencing homelessness;
- levels of electoral participation among people experiencing homelessness; and
- the various barriers, disincentives and impediments to electoral enrolment and participation among people experiencing homelessness.

Informed by the research, the submission also makes recommendations in relation to both legislative and administrative reform with a view to increasing levels of electoral enrolment and participation among people experiencing homelessness.

2.2 PILCH Homeless Persons' Legal Clinic

The PILCH Homeless Persons' Legal Clinic provides free legal services at 9 drop-in centres to people who are homeless or at risk of homelessness. It also undertakes significant community education, public policy advocacy and law reform work. Since its establishment in 2001, the Clinic has provided legal advice to almost 1500 homeless people across Victoria.

2.3 Council to Homeless Persons

The Council to Homeless Persons is a peak body representing homeless persons' agencies in Victoria. CHP's members are service providers that deal directly with people who are homeless. This includes large organisations like the The Salvation Army, St Vincent de Paul, Hanover Welfare Services, Catholic Social Services and Jesuit Social Services, as well as many smaller community-based agencies. CHP's members provide a range of services for single people, families and young people who are homeless. The role of CHP is to represent the views of these agencies and advocate on behalf of homeless people about issues of homelessness. This involves

policy analysis and research aiming to ensure that effective strategies to alleviate and end homelessness are developed and implemented.

3. Homelessness and Voting in Australia

3.1 Nature and Extent of Homelessness in Australia

According to the Australian Bureau of Statistics, on Census night in 2001, there were 99,900 people experiencing homelessness across Australia.¹

This included over 14,000 people sleeping rough or in squats, more than 14,000 in crisis accommodation or refuges, almost 23,000 in boarding houses, and nearly 49,000 people staying temporarily with friends or relatives. A further 23,000 people across Australia were living temporarily or marginally in caravan parks.²

According to the Australian Institute of Health and Welfare, approximately 153,000 people accessed homelessness assistance services in 2003-04.³

The causes of homelessness are complex and varied. However, they are generally acknowledged to include:

- structural causes (such as poverty, unemployment and inadequate supply of affordable housing);⁴
- fiscal, social and public policy causes (such as taxation policy and expenditure on public and community housing, health care, education and vocational training);
- individual causes (such as ill health, mental illness, intellectual disability, substance and alcohol dependency, problem gambling, domestic violence, family fragmentation and severe social dysfunction); and
- cultural causes (such as the provision of culturally inappropriate housing or support services to indigenous communities).⁵

In many cases of homelessness, these causes are intersectional and related.

3.2 Number of Homeless of Voting Age in Australia

According to the Australian Bureau of Statistics, 64 per cent of people experiencing homelessness on Census night in 2001 were aged 19 or older.⁶ Census figures are not available for the percentage of homeless people aged 18 or older.

¹ Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 2.

² Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 2.

³ Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2003-04* (2005) 9.

⁴ Following the 2001 Census, the Australian Bureau of Statistics identified unemployment and inadequate income as significant structural factors contributing to and causing homelessness across Australia: Australian Bureau of Statistics, *Counting the Homeless 2001* (2003).

⁵ See generally, 'The Changing Face and Causes of Homelessness: Symposium' (2002) 15(9) *Parity*.

⁶ Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 3-4.

On this basis it can be conservatively estimated that there were at least 64,000 people experiencing homelessness who were eligible to vote at the 2004 Federal Election.

3.3 The Importance of Voting for People Experiencing Homelessness

The enfranchisement of homeless people is a key challenge for individuals, organisations and governments concerned with the alleviation and eradication of homelessness in Australia.

The importance of the voting for homeless people is recognised by international human rights law. Article 25 of the *International Covenant on Civil and Political Rights* provides that every person has the right to vote and to participate in public affairs.⁷ According to the United Nations Human Rights Committee, this right imposes an obligation on governments and agencies to adopt specific measures to ensure that obstacles to voting and participation, such as poverty, illiteracy and homelessness, are overcome.⁸ The UN Office of the High Commissioner for Human Rights has drawn a direct link between homelessness, poverty and the right to vote, stating:

Lack of political rights is both a cause and a consequence of poverty. Socially and politically excluded people are more likely to become poor, and the poor are more vulnerable to social exclusion and political marginalization...Active participation in political decision-making processes plays a role in expanding political freedoms and empowering people, which in turn contributes towards combating social exclusion and political marginalization.⁹

Having regards to this, the OHCHR has specifically identified the proportion of poor and homeless people going to the polls as a key indicator of the extent to which a state is implementing its fundamental obligations in relation to the right to vote.¹⁰

At a domestic level, the Preamble to the Commonwealth *Supported Accommodation Assistance Act 1994* (Cth) provides that it is essential that people experiencing homelessness have the opportunity to have a say in decision-making processes and policy development, while section 5(4)(d) of the Act requires that SAAP assist homeless people to participate fully in civil and political life.

The importance of homeless people having a say is also, unsurprisingly, recognised by homeless people themselves. According to the March 2005 research undertaken by the PILCH Homeless Persons' Legal Clinic, discussed further below, at least 54

⁷ Opened for signature 19 December 1966, 999 UNTS 171 (entered into force generally 23 March 1976 and for Australia 13 August 1980).

⁸ UN Human Rights Committee, *General Comment 25: Article 25*, UN Doc HRI/GEN/1/Rev.5 (2001) 157.

⁹ UN Office of the High Commissioner for Human Rights, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (2002) 48.

¹⁰ UN Office of the High Commissioner for Human Rights, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (2002) 51.

per cent of homeless people would like to enrol to vote at federal elections, notwithstanding many other significant issues and concerns regarding, food, housing, health and so on.

According to another recent survey of 226 homeless people across Victoria, the right of homeless people to have a greater say in decision-making processes and policies that affect them is 'very important' but also frequently violated. As one homeless respondent said, 'We should have the main say, because it's for us and we know what's really going on.'¹¹

3.4 The Franchise of People Experiencing Homelessness

(a) Findings and Recommendations of the Inquiry into the Conduct of the 2001 Federal Election

The franchise of homeless people was raised by a number of submissions to the Joint Standing Committee on Electoral Matters Inquiry into the Conduct of the 2001 Federal Election and Matters Related Thereto, in particular by the PILCH Homeless Persons' Legal Clinic, the *Big Issue* and the Council to Homeless Persons.

Those submissions adduced evidence that, of the estimated 88,000 homeless people who, at that time, were eligible voters in Australia, up to 80,000 homeless people could not or did not vote in the 2001 Federal Election. The submissions identified a number of impediments to homeless people registering and exercising their right to vote, including that:

- Section 99 of the *Commonwealth Electoral Act 1918* (Cth) requires that a person must have lived in an electoral Subdivision for at least one month to vote in that Subdivision as an 'Ordinary Elector'. Many homeless people move frequently from one accommodation to another or live in temporary or transient accommodation and do not satisfy this requirement.
- Section 98 of the Act requires, in effect, that a person provide a 'residential address' to be included on the Electoral Roll as an 'Ordinary Elector'. Many homeless people do not have a recognised residential address.
- Section 101 of the Act provides that it is an offence for an elector to fail to give notice of a change of address within 21 days. Section 245 provides that it is an offence for an elector to fail to vote at an election. The monetary penalties associated with these offences were perceived to be significant disincentives to homeless persons registering as electors.

The submissions did identify that section 96 of the Act entitles certain persons with no 'real place of living' to enrol as Itinerant Electors. However, they found that enrolment as an Itinerant Elector is very uncommon, is administratively burdensome and is not possible if the person has resided in an electoral Subdivision for a month or longer.

¹¹ Department of Human Services, *Charter of Rights and Enhanced Complaints Mechanism: Report on Consumer Consultations* (2004); see also Tamara Walsh and Carla Klease, 'Down and Out? Homelessness and Citizenship' (2004) 10(2) *Australian Journal of Human Rights* 77.

Having regard to these impediments, the submissions argued that enfranchisement of homeless people requires measures and reforms including:

- amendment of the Act to enable homeless people to register to vote in a Subdivision with which they have a 'close connection';
- amendment of the Act to exempt homeless persons from the monetary penalties associated with failure to notify a change of address and failure to vote;
- amendment of the Act to simplify and streamline the Itinerant Elector provisions; and
- investment by the Australian Electoral Commission of greater time and resources to educate and assist homeless persons regarding their right to vote.

The Joint Standing Committee tabled its *Report of the Inquiry into the 2001 Federal Election* in Federal Parliament on 23 June 2003.

The franchise of homeless people was considered in some detail in the Report. The Committee made several recommendations in relation to the enfranchisement of homeless people, including:

- that the Itinerant Elector provisions outlined in section 96 of the *Commonwealth Electoral Act 1918* (Cth) be amended to clearly apply to homeless people;
- that the AEC simplify its Itinerant Elector application form to assist homeless people; and
- that the AEC target homeless people in a public awareness campaign, informing them about Itinerant Elector enrolment.¹²

In response to these recommendations, the AEC undertook to include homeless people as a target group in its public awareness campaign for the next federal election. The AEC also foreshadowed that it would work with welfare agencies to ensure that enrolment forms and registration assistance are available on-site.¹³

(b) Implementation of the Recommendations of the Inquiry into the 2001 Federal Election

In the Clinic's view, implementation of the Committee's recommendations in relation to homeless voter enfranchisement has not been sufficiently adequate or timely.

To date, the Commonwealth Government has not amended, nor announced an intention to amend, section 96 of the *Commonwealth Electoral Act 1918* (Cth) to ensure that it effectively applies to and enfranchises homeless people. This is to be

¹² Joint Standing Committee on Electoral Matters, *The 2001 Federal Election: Report of the Inquiry into the Conduct of the 2001 Federal Election and Matters Related Thereto* (2003) 82-93 [Recommendation 7].

¹³ Joint Standing Committee on Electoral Matters, *The 2001 Federal Election: Report of the Inquiry into the Conduct of the 2001 Federal Election and Matters Related Thereto* (2003) 93.

contrasted with action taken by the Victorian Government to amend the *Electoral Act 2002* (Vic) to add section 3A 'Homeless Persons' to clarify that the Itinerant Elector provisions under section 22(4) of that Act apply to and include homeless persons.

Since late 2003, the AEC, in conjunction with the Victorian Electoral Commission, has undertaken a range of important activities intended to improve the franchise of the homeless. This has included conducting a series of consultations with homelessness service providers and homeless people themselves. The AEC and VEC have also conducted a joint project with researchers from the Swinburne University Institute of Social Research to conduct quantitative and qualitative research on the circumstances and reasons for the non-enrolment of so many homeless persons so that effective strategies may be developed to enhance their enfranchisement.¹⁴

Unfortunately, however, many of the AEC strategies being considered and developed to improve homeless voter education, enrolment and participation, including simplification of the Itinerant Elector Application Form, were not implemented in time for the 2004 Federal Election. In particular, the Clinic notes that, prior to the 2004 Federal Election, the AEC had not developed a 'simplified Itinerant Elector application form to assist homeless people' or directly targeted homeless people in a public awareness campaign informing them about Itinerant Elector enrolment. The continued importance of implementing these recommendations is confirmed by the Clinic's quantitative research and associated recommendations, discussed below.

The Clinic remains committed to working closely with the AEC and VEC to implement the Committee's recommendations and any further recommendations arising from the current inquiry.

(c) Impact of Proposed Amendments to the *Commonwealth Electoral Act 1918* (Cth)

In addition to inadequately implementing the Committee's recommendations regarding homeless voter enfranchisement, the Commonwealth Government has also proposed amendments to the *Commonwealth Electoral Act 1918* (Cth) which, if enacted, will have the effect of further reducing the already limited participation of financially and socially disadvantaged people, particularly homeless people, in Australian electoral processes. Of particular concern are:

- the proposal to require applicants for enrolment to provide proof of identity in order to make an application for enrolment or to update their details on the Roll;
- the proposal to require applicants to provide evidence of their address when applying for enrolment as an 'Ordinary Elector'; and
- the proposal to close the Roll to new electors on the day that an election is announced and to close the Roll for enrolled electors wishing to update their enrolment 3 days after the election is announced.

¹⁴ See 'Bringing Democracy Home' at <<http://www.sisr.net/cag/projects/bdh/welcome.htm>>.

Proposal to require proof of identification and evidence of residence to claim enrolment

Under the current provisions of the Act, a person must complete an enrolment form and have the form signed and dated by a witness. The application for enrolment is not required to be supported by any proof of identification. There is no evidence that, under these provisions, there is any widespread manipulation of the Electoral Roll or that the integrity, veracity or completeness of the Roll has been compromised.

If the proposals are enacted, persons wishing to be added to the Roll or to change their enrolment details will be required to provide proof of identity and evidence of their place of residence. Where the required identification cannot be provided, it is proposed that written references may be provided by people within a 'prescribed class' of persons.

These proof of identity requirements will significantly impair the ability to enrol to vote of financially and socially disadvantaged people, particularly people experiencing homelessness. Many financially and socially disadvantaged people do not hold a driver's licence or the alternative forms of acceptable identification. Further, many financially and socially disadvantaged people cannot access, or are unwilling to access, persons proposed to be in the 'prescribed class', including members of the police force, Justices of the Peace, doctors and lawyers.

In addition to the above, the proposed 'evidence of residence' requirements are likely to significantly disenfranchise people experiencing homelessness, particularly people staying in temporary or unconventional accommodation for periods of more than one month. Under the current provisions of the Act, it is likely that such people would be ineligible to enrol as Itinerant Electors because they have a fixed place of living for a period of more than one month. They would therefore need to enrol as Ordinary Electors. Under the proposed amendments, however, such people would not be able to enrol as Ordinary Electors because they would be unable to provide evidence of residence. This would prevent many homeless people from enrolling or updating their enrolment, thereby denying them the right to vote and compromising the accuracy and integrity of the Roll.

The negative impacts of the proposed identification and address evidence requirements will be exacerbated further if the amendment regarding the early closure of the Roll is enacted (discussed further below). This is because disadvantaged persons will have an extremely limited period of time in which to obtain the required references or other evidence to support a claim for enrolment.

In the Clinic's view, there is insufficient evidence of electoral fraud or manipulation to justify an amendment with the potential to disenfranchise homeless electors. If, however, such an amendment is considered to be necessary, it should provide that:

- the 'prescribed class' include persons who have known the applicant for a period of 6 months or longer and also persons providing homelessness assistance or related support services to the applicant;
- people can reside in one location for up to 6 months, rather than one month as is currently the case, before they become ineligible to enrol as Itinerant Electors and must enrol as Ordinary Electors; and

- homeless people who live in non-conventional or SAAP accommodation such as cars, squats, shelters or refuges for a period of longer than 6 months remain eligible to enrol as Itinerant Electors.

Proposal to close Electoral Roll early

Section 155 of the Act requires that the Electoral Roll remain open for 7 days after the election writ is issued. This is a limited timeframe within which an elector may lodge a claim updating his or her information. In the week following the announcement of the 1998 election, the AEC received a total of 351,913 enrolment forms which included new enrolments, re-enrolments and transfers of enrolments.¹⁵ While the Act requires that electors update their information on the roll within 21 days of a change of address, it is recognised that many people (homeless or not) do not discharge this requirement. It is only when a federal election is announced that most individuals notify the AEC of their changed circumstances.

The early closing of the Electoral Roll proposed by the Commonwealth will act as a practical impediment to homeless people exercising their right to vote by removing or significantly reducing the opportunities for updating address details or registration as Itinerant Electors. The premature closing of the Roll will have a disproportionate and discriminatory effect on homeless people because:

- most people experiencing homelessness do not have a consistent or stable place of residence, with most of the homeless population moving frequently from one form of temporary shelter to another. Homeless people are therefore far more likely to have incorrect details recorded against their name on the Roll, or to have been removed from the Roll due to the AEC becoming aware of inaccuracies in address or contact details;
- homeless people are often outside the main-stream media loop and may not become immediately aware that a federal election has been announced; and
- a higher proportion of the homeless population has reduced literacy and this impacts on their knowledge of current events and also their ability to complete the required AEC forms within a limited time frame.

The Australian Federation of Homelessness Organisations has previously objected to similar proposed legislative amendments, stating that the early closing of the Electoral Roll could potentially 'wipe out voting opportunities for large numbers of already disenfranchised people'.¹⁶ Further, the Clinic notes that the Report of the Joint Standing Committee on Electoral Matters into the 2001 Federal Election also found no justification for the early closure of the Roll and recommended that the existing 7 day period between the issue of the writ and the closure of the Roll be retained. The Clinic supports this view and opposes the amendments.

¹⁵ Joint Standing Committee on Electoral Matters, *Report of the Inquiry into the Conduct of the 1998 Federal Election and Matters Related Thereto* (June 2000).

¹⁶ Australian Federation of Homelessness Organisations, Media Release, 27 June 2001.

4. Research into Homelessness and Voting

4.1 Introduction

In March 2005, the PILCH Homeless Persons' Legal Clinic undertook quantitative research into homelessness and voting.

The research involved interviewing 104 homeless people about electoral enrolment and participation.

To qualify for the research, respondents needed to be:

- (a) Australian citizens;
- (b) aged 18 years or older; and
- (c) 'homeless' within the definition adopted by the Australian Bureau of Statistics. Pursuant to this definition, respondents were categorised as experiencing 'primary', 'secondary' or 'tertiary' homelessness.¹⁷ These categories are discussed further below at Part 4.4(c).

4.2 Aims of Research

The aims of the research were to:

- ascertain levels of electoral enrolment among people experiencing homelessness;
- ascertain levels of electoral participation among people experiencing homelessness;
- identify barriers, disincentives and impediments to electoral enrolment and participation among people experiencing homelessness; and
- identify strategies, including legislative and administrative strategies, to increase levels of electoral enrolment and participation among people experiencing homelessness.

4.3 Research Methodology

The interviews were conducted by pro bono lawyers from the PILCH Homeless Persons' Legal Clinic.

Interviews took the form of a structured questionnaire and a facilitated discussion. Attachment A is a copy of the structured questionnaire.

Respondents were paid \$15 each for their time, expertise and contributions.

A total of 104 people were interviewed and completed questionnaires.

The interviews were conducted at, and involved clients of, the following services and agencies:

¹⁷ Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 1-2.

Agency	Address	Date	Number Interviewed	Interviewers
The Big Issue	148 Lonsdale St Melbourne	21.3.05	10	Vanessa Baic (Clayton Utz)
Credo Café (Urban Seed)	174 Collins St Melbourne	8.3.05	10	Vanessa Baic (Clayton Utz)
Flagstaff Crisis Accommodation (Salvation Army)	9 Roden St West Melbourne	8.3.05	10	Ebony Sweetnam Geoff Earl (Minter Ellison)
Hanover Southbank	52 Haig St South Melbourne	21.3.05	11	Tom Evans Megan Utter (Phillips Fox)
HomeGround Argyle Housing	122 Chapel St St Kilda	11.3.05	10	Elizabeth Bennett Anna Brown (Allens Arthur Robinson)
The Lazarus Centre (Anglicare)	205 Flinders Lane Melbourne	10.3.05	12	Sam Ure Philip Lynch (PILCH)
The Life Centre (Salvation Army)	69 Bourke St Melbourne	10.3.05	10	Fiona Chapple Angela Harrup Siska-Novia Lund (Baker & McKenzie)
Ozanam House (St Vincent de Paul)	179 Flemington Rd North Melbourne	8.3.05	10	Noelia Boscana (Minter Ellison)
Sacred Heart Mission	87 Grey St St Kilda	21.3.05	11	Sanjula Weerasinghe Matt Drummond (Mallesons Stephen Jaques)
St Peter's Eastern Hill Breakfast Program (Anglicare)	15 Gisborne St East Melbourne	9.3.05	10	Stephanie Niall Kate Griffiths Sarah Lang Stacey Steele (Blake Dawson Waldron)

Together, these agencies provide a range of services (including crisis accommodation, food, referrals, health care, material aid and counselling) to a diverse range of people experiencing all forms of homelessness (ie, primary, secondary and tertiary).

As noted in the table in this section, interviews were conducted between 8 March and 21 March 2005 inclusive.

4.4 Demographic Profile of Respondents

Information was collected in relation to the age, gender and housing status of respondents.

(a) Age

The age profile of respondents is set out in the table below.

Age	Number of Respondents
18 – 24	11
25 – 34	31
34 – 44	43
45 – 54	15
55 – 64	3
65 or older	1
TOTAL	104

(b) Gender

A total of 90 (86.5 per cent) of respondents were male.

A total of 14 (13.5 per cent) of respondents were female.

The gender disparity is explained, in part, by the fact that two of the interview locations, namely Flagstaff Crisis Accommodation and Ozanam House, are male-only facilities and the fact that no surveys were conducted at domestic violence refuges due to security and privacy concerns.

(c) Type of Homelessness

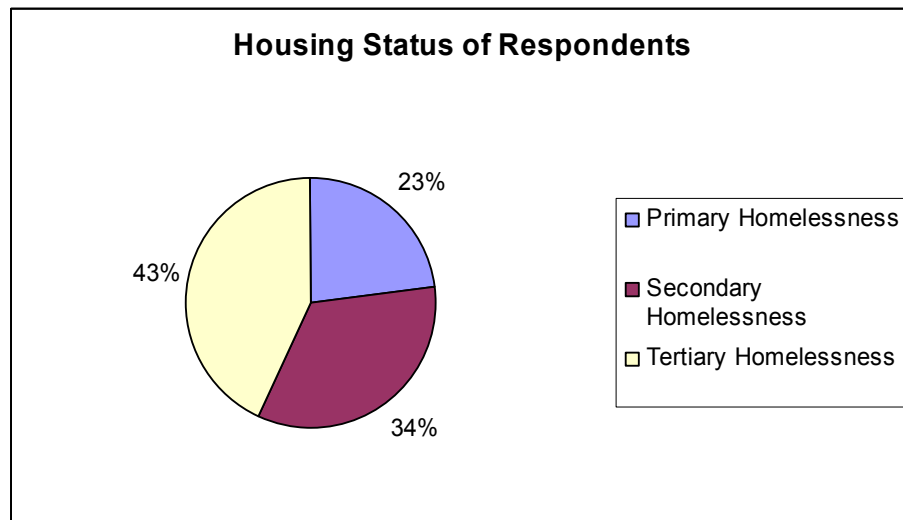
As noted above at 4.1(c), in accordance with the definition of homelessness adopted by the Australian Bureau of Statistics, respondents were categorised as experiencing 'primary', 'secondary' or 'tertiary' homelessness.¹⁸

¹⁸ Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 1-2.

'Primary homelessness' refers to those people with no form of conventional accommodation. This includes people living in the streets, squatting in derelict buildings or using cars or railway carriages for temporary shelter.

'Secondary homelessness' refers to those people who are staying in or moving frequently between temporary accommodations. This includes people staying in crisis or emergency accommodation, refuges or shelters and also includes people staying temporarily with friends or relatives because they have no accommodation of their own.

'Tertiary homelessness' refers to those people who live in boarding houses or rooming houses on a medium to long-term basis. They are categorised as homeless because such accommodation is below the minimum community standard and does not provide security of tenure.



A total of 24 respondents (23 per cent) were experiencing primary homelessness at the time of interview.

A total of 35 respondents (34 per cent) were experiencing secondary homelessness at the time of interview.

A total of 45 respondents (43 per cent) were experiencing tertiary homelessness at the time of interview.

5. Homelessness and Electoral Enrolment

5.1 Introduction

Research was conducted to ascertain levels of electoral enrolment among people experiencing homelessness. The research also aimed to identify barriers to enrolment and strategies to overcome or address those barriers.

5.2 Desire to Enrol

Respondents were asked whether they wanted to be enrolled to vote, both at federal and state elections.

A total of 56 respondents (54 per cent) indicated that they would like to be enrolled to vote, with the remaining 48 (46 per cent) indicating that they did not want to be enrolled to vote at federal elections.

The significant number of respondents who indicated that they did not want to participate in the electoral process suggests that many people experiencing homelessness also experience a deep sense of exclusion and disengagement from the civil and political life of our community. This conclusion is supported by the results of a recent citizenship survey conducted in Queensland which found that almost 50 per cent of homeless people feel excluded from the norms of citizenship, 38 per cent consider themselves to be excluded from participation in civil, political and social life, and 58 per cent consider that they enjoy fewer rights than the broader community.¹⁹

Recommendation 1

The Australian Electoral Commission should conduct a public awareness campaign targeted at people experiencing homelessness which provides information about the importance, impact and outcomes of enrolment and voting.

5.3 Levels of Enrolment

Respondents were asked whether they were actually enrolled to vote, both at the 2004 Federal Election and the 2002 Victorian State Election.

A total of 70 (67 per cent) respondents indicated that they were not enrolled to vote at the 2004 Federal Election, with the remaining 34 (33 per cent) indicating that they were enrolled.

An extrapolation from this sample would mean that at least 43,000 homeless people (that is, 67 per cent of 64,000 homeless people aged 19 or over) were not enrolled to vote at the 2004 Federal Election.

¹⁹ Tamara Walsh and Carla Klease, 'Down and Out? Homelessness and Citizenship' (2004) 10(2) *Australian Journal of Human Rights* 77, 86-7.

A total of 75 respondents (72 per cent) indicated that they were not enrolled to vote at the 2002 Victorian State Election, with the remaining 29 (28 per cent) indicating that they were enrolled to vote at the 2002 Victorian State Election.

5.4 Ordinary Elector Enrolment

At a federal level, pursuant to sections 93 and 99 of the *Commonwealth Electoral Act 1918* (Cth), any person who is an Australian citizen who has attained 18 years of age is entitled to enrol and vote at Federal Elections in the Subdivision in which they live, provided that they have resided at an address in that Subdivision for a period of at least one month. For the purpose of this submission, persons enrolled under sections 93 and 99 of the Act are referred to as 'Ordinary Electors'.

As with federal enrolment, in Victoria, pursuant to section 22(1) of the *Electoral Act 2002* (Vic), a person can enrol to vote as an Ordinary Elector only if that person 'has lived at an address in Victoria that is the person's principal place of residence for at least one month immediately before the date of the person's claim for enrolment as an elector'.

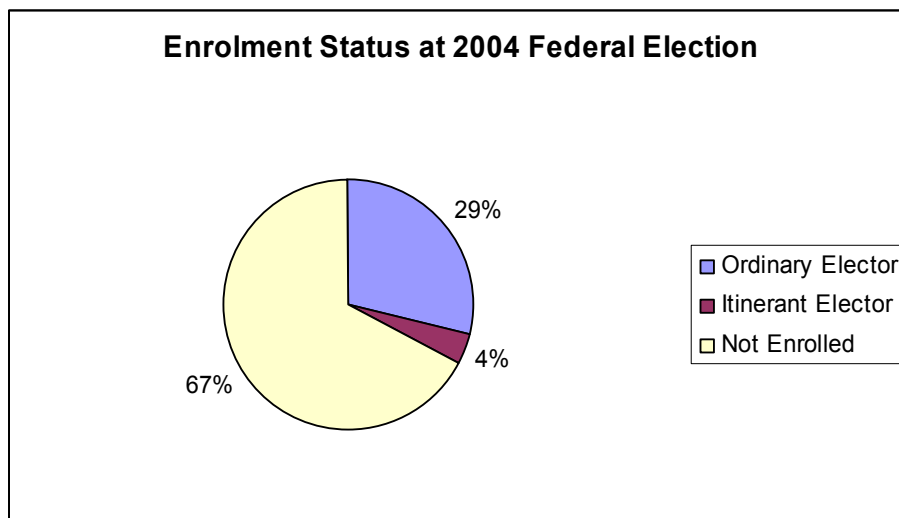
The requirement under both Commonwealth and Victorian law that a person must have a residential address and have lived at that address for at least one month before becoming entitled to enrol to vote in respect of that residence is a significant impediment to homeless people enrolling to vote as Ordinary Electors.

Respondents who indicated that they were enrolled to vote at either the 2004 Federal Election or the 2002 Victorian State Election, were asked to indicate whether they were enrolled as an Ordinary Elector.

As discussed above, a total of 34 respondents indicated that they were enrolled to vote at the Federal Election, while a total of 29 respondents indicated that they were enrolled to vote at the Victorian State Election.

At a federal level, 30 respondents (29% of total respondents and 88% of enrolled respondents) were enrolled to vote as an Ordinary Elector.

Similarly, at a state level, 24 respondents (33% of total respondents and 83% of enrolled respondents) were enrolled to vote as an Ordinary Electors.



5.5 Itinerant Elector Enrolment

Having regard to the impediments to enrolment as an Ordinary Elector for homeless people, the Committee has previously expressed the view that:

The very real issues confronting the homeless in regard to enrolment and voting would be better addressed through the more effective utilisation of existing itinerant elector provisions.²⁰

Australian citizens aged 18 or over who do not 'reside' in a Subdivision may be entitled, pursuant to section 96(1) of the *Commonwealth Electoral Act 1918* (Cth), to enrol to vote as Itinerant Electors at federal elections.

Persons enrolled to vote as Itinerant Electors at a federal level also have an entitlement, under section 22(4) of the *Electoral Act 2002* (Vic), to enrol and vote in Victorian State Elections as Itinerant Electors.

At a federal level, only 4 respondents (3.8 per cent of total respondents and 12% of enrolled respondents) were enrolled to vote as an Itinerant Electors.

Similarly, at a state level, only 5 respondents (4.8 per cent of total respondents and 17% of enrolled respondents) were enrolled as Itinerant Electors.

The low level of Itinerant Elector enrolment despite the suitability of such enrolment status for people experiencing homelessness is explained, at least in part by the facts that:

- Only 28 per cent of respondents were aware that they may have an entitlement to vote notwithstanding that they did not have a fixed residential address, with 72 per cent believing that they were not entitled to vote without a fixed residential address.

²⁰ Joint Standing Committee on Electoral Matters, *The 2001 Federal Election: Report of the Inquiry into the 2001 Federal Election and Matters Related Thereto* (2003) 87.

- Only 10 per cent of respondents were aware that, as an Itinerant Elector, they would not be fined for failing to vote. This is important in the context of 20 respondents (29 per cent of all respondents to that question) indicating that the possibility of being fined for failing to vote was a significant disincentive to enrolment.
- Only 12 per cent of respondents were aware that, as an Itinerant Elector, their address would not be shown on the Electoral Roll, while 79 per cent of respondents were not aware that they could apply for Silent Enrolment status. This is important in the context of 10 respondents (14 per cent of all respondents to that question) indicating that a primary reason for their non-enrolment related to concerns that, following enrolment, their name and address would appear on the Electoral Roll.

In addition to the above, there are a number of other deficiencies with respect to the application of section 96 of the *Commonwealth Electoral Act 1918* (Cth) to people experiencing homelessness. These deficiencies, together with recommendations for reform, are set out below.

(a) Section 96(2A)

Under section 96(2A) of the *Commonwealth Electoral Act 1918* (Cth), persons enrolled to vote as Itinerant Electors are enrolled to vote in respect of:

- (a) the Subdivision for which the applicant last had an entitlement to be enrolled;
- (b) if the person has never had such an entitlement, for a Subdivision for which any of the applicant's next of kin is enrolled;
- (c) if neither paragraph (a) nor paragraph (b) applies, for the Subdivision in which the applicant was born; or if none of paragraphs (a), (b) and (c) applies, the Subdivision with which the applicant has the closest connection.

Recommendation 2

Section 96(2A) of the Commonwealth Electoral Act 1918 (Cth) should be amended so that Itinerant Electors are registered to vote in the Subdivision with which they have the 'closest connection'.

Registration in a Subdivision in respect of which an elector has a 'close connection' is more appropriate than registration in a Subdivision for which the applicant last had an entitlement to be enrolled or has a next of kin. It is important that homeless people be able to enrol in the Subdivision in which they currently live or receive services, so as to directly choose their representatives and ensure that they are regarded as constituents. This is particularly important in the context of 43 per cent of respondents who were not enrolled indicating that they were not enrolled to vote because they did not think that voting would make any difference to their situation. This sense of disengagement is likely to be exacerbated if a person is unable to enrol or vote in an electorate that is relevant to or affects them. In this respect, the Clinic

notes that over 50 per cent of respondents who were enrolled at the 2004 Federal Election indicated that they were not enrolled in the electorate with which they had the 'closest connection'. This may explain, at least in part, the fact that many homeless people who were enrolled to vote at the 2004 Federal Election (a total of 34 respondents) did not actually vote at that election (with only 25 of the 34 enrolled voters actually casting a vote).

The Clinic notes with approval relevant provisions of the *Representation of the People Act 2000* (UK), section 6 of which provides that a homeless person may enrol to vote by making a 'a declaration of local connection' which requires that the person:

- (a) state his or her name;
- (b) provide an address to which correspondence from the registration officer may be sent, or an indication of a willingness to collect such correspondence periodically from the registration officer's office; and
- (c) in lieu of a residential address, provide the address of, or which is nearest to, a place in the UK where he or she commonly spends a substantial part of his time (whether during the day or night).

(b) Section 96(8)

Under section 96(8) of the *Commonwealth Electoral Act 1918* (Cth), a person ceases to be entitled to enrol as an Itinerant Elector if that person resides in a Subdivision for one month or longer.

Recommendation 3

Section 96(8) of the Commonwealth Electoral Act 1918 (Cth) should be amended to increase the period of time that an Itinerant Elector may have a 'real place of living' from one month to six months.

Many homeless people live in accommodation such as a friend's house, a caravan, a crisis shelter or a domestic violence refuge for up to six months. The average period of stay in crisis or emergency accommodation is six weeks. Notwithstanding the temporary and insecure nature of these accommodations, they constitute 'real places of living' within the current definition in the Act (discussed further below) and people who stay in such accommodation for more than one month are therefore ineligible to enrol as Itinerant Electors. Homeless people should be able to reside in one 'real place of living' for up to six months rather than only one month before they become ineligible to enrol as an Itinerant Elector.

(c) Section 96(12)

Pursuant to section 96(12) of the *Commonwealth Electoral Act 1918* (Cth), for the purposes of section 96, a person is taken to 'reside' at a place if that person has his or her 'real place of living' at that place. As discussed above, a person becomes

disentitled to enrol as an Itinerant Elector if that persons has a 'real place of living' for more than one month.

Under section 4 of the Act, a real place of living 'includes the place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place'. Unfortunately, this broad definition has the potential to exclude many homeless people from enrolling as Itinerant Electors in so far as it arguably includes even non-conventional accommodation (such as parks, cars, bridges or squats), so long as a person normally 'lives' at that place and does so for longer than one month. This is supported by jurisprudence which establishes that a 'real place of living' includes not only residential accommodation but may also include a non-residential place where a person 'eats, sleeps, baths and carries on the other activities of everyday life'.²¹ Furthermore, there is no requirement that a person considers a place to be 'home' in order for it to be categorised as a 'real place of living'.²²

Recommendation 4

Section 96(12) of the Commonwealth Electoral Act 1918 (Cth) should be amended such that a person shall be taken to reside at a place if, and only if, the person has his or her 'real place of living' at that place and that place of living constitutes safe and secure housing within the meaning of section 4 of the Supported Accommodation and Assistance Act 1994 (Cth).

This would ensure that homeless people who live in non-conventional accommodation such as cars, squats, shelters or refuges for a period of longer than one month (or six months if Recommendation 3 is implemented) do not become ineligible to enrol as Itinerant Electors.

The Clinic notes with approval the recent amendment of the *Electoral Act 2002 (Vic)* which now specifically provides, pursuant to section 3A, that the following persons are eligible to enrol as Itinerant Electors pursuant to section 22(4) of that Act:

- (a) a person living in-
 - (i) crisis accommodation; or
 - (ii) transitional accommodation; or
 - (iii) any other accommodation provided under the Supported Accommodation Assistance Act 1994 of the Commonwealth; or
- (b) a person who has inadequate access to safe and secure housing within the meaning of section 4 of the Supported Accommodation Assistance Act 1994 of the Commonwealth.

²¹ *Burnett Shire Council v Galley* [2000] QSC 490 (Holmes J).

²² *Tanti v Davies (No 3)* [1996] 2 Qd R 602 (Ambrose J).

5.6 Barriers and Disincentives to Enrolment

Respondents who indicated that they were not enrolled to vote, whether at the 2004 Federal Election or the 2002 Victorian State Election, were asked the reasons for their non-enrolment. Respondents were provided with a number of options in relation to reasons for non-enrolment, including that:

- they were not interested in enrolment;
- they were concerned that their vote would not make a difference;
- they thought that they were not eligible to enrol to vote without a fixed residential address;
- they considered that the process for enrolment was too difficult;
- they were not aware of or did not understand the process for enrolment;
- they were concerned about the implications or consequences of their name and address appearing on a publicly available Electoral Roll;
- they were concerned that they may be fined for subsequently failing to vote; and
- they were concerned that, following enrolment, they may be fined for failing to enrol or vote at previous elections.

Respondents were also asked whether there were any other reasons for non-enrolment and, if so, for an explanation of those reasons.

A total of 70 respondents indicated their reasons for non-enrolment.

(a) Not interested in enrolment

30 respondents (43 per cent) indicated that they were not enrolled to vote simply because they were not interested in enrolment.

Recommendation 5

The Australian Electoral Commission should conduct or commission further research to ascertain the reasons that many homeless people are not interested in enrolling to vote and, informed by this research, develop and implement strategies to increase homeless voter enrolment.

(b) Concerned that vote would not make a difference

31 respondents (44 per cent) indicated that they were not enrolled to vote due to a concern that their vote would not make any difference. Significant numbers of respondents commented that they were not interested in participating in the electoral process because they perceived that politicians had no interest in responding to or addressing homelessness.

(c) Not aware of eligibility to enrol to vote without fixed residential address

20 respondents (29 per cent) indicated that they were not enrolled to vote because they did not have a fixed residential address and thought that they were ineligible to enrol to vote without a residential address.

As discussed above, only 28 per cent of respondents overall were aware that they may have an entitlement to vote notwithstanding that they did not have a fixed residential address, with 72 per cent believing that they were not entitled to vote without a fixed residential address.

Recommendation 6

The Australian Electoral Commission should conduct a public awareness campaign targeting people experiencing homelessness which includes information about Itinerant Elector provisions and enrolment.

(d) Process for enrolment too difficult

12 respondents (17 per cent) indicated that they were not enrolled to vote because the process for obtaining enrolment was too difficult or inaccessible.

(e) Not aware of how to enrol or did not understand process for enrolment

15 respondents (21 per cent) indicated that they were not enrolled to vote because they did not know how to enrol to vote.

(f) Concerned about the implications or consequences of name and address appearing on a publicly available Electoral Roll

10 respondents (14 per cent) indicated that they were not enrolled to vote because they were concerned that, following enrolment, their name and address would appear on a publicly available Electoral Roll.

This disincentive should be understood in the context of 29 per cent of homeless people reporting an immediate past history of domestic violence or family dysfunction²³ and almost 25 per cent of clients of the PILCH Homeless Persons' Legal Clinic reporting that they are the subject of unexecuted warrants.

Pursuant to section 104(1) of the *Commonwealth Electoral Act 1918* (Cth), where a person considers that having his or her address shown on the Roll would place the personal safety of the person or of members of the person's family at risk, he or she may lodge a request, in the approved form, with the claim for enrolment (including a provisional claim for enrolment) or transfer of enrolment, that his or her address not be entered on the Roll. Under section 104(3), such a request must set out the particulars of the relevant risk and be verified by a statutory declaration.

²³ Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2003-04* (2005).

Unfortunately, however, only 21 per cent of survey respondents were aware of these Silent Elector provisions.

Recommendation 7

The Australian Electoral Commission's public awareness campaign targeted at people experiencing homelessness should provide information about Silent Elector enrolment and publicise the fact that the address of Itinerant Electors is not shown on the Roll.

Recommendation 8

Section 104 of the Commonwealth Electoral Act 1918 (Cth) should be amended to provide that a person who is homeless may make a request that his or her address not be entered on the Roll and that such a request shall be granted where the person can provide evidence of his or her homelessness.

(g) Concerned about being fined

20 respondents (29 per cent) indicated that they were not enrolled to vote because they were concerned about being fined for subsequently failing to vote, with a further 18 respondents (26 per cent) indicating that they were concerned about being fined for failing to enrol or vote at previous elections.

Pursuant to section 245 of the *Commonwealth Electoral Act 1918* (Cth) and Division 7 of the *Electoral and Referendum Regulations*, all electors must vote at each election and electors who fail to vote in an election are guilty of an offence and may be served a penalty and summonsed to court if the penalty is not paid or withdrawn.

Section 245(4) of the Act provides that a person should not be sent a penalty notice for failing to vote if the Divisional Returning Officer is satisfied that the person had a 'valid and sufficient reason for failing to vote'.

Sections 245(8) and 245(15)(B) provides that if an elector provides a valid and sufficient reason for failing to vote following the issuance of a penalty notice, the penalty may be waived and proceedings are prohibited.

Section 245(14) provides that, without limiting the generality of the term, 'valid and sufficient excuse for failure to vote' includes 'religious duties'.

Section 245(17) provides that Itinerant Electors are exempt from the requirement to vote and the penalties for failure to vote under section 245. Unfortunately, only 12 per cent of respondents were aware that Itinerant Electors cannot be fined for failing to vote.

The threat of being fined for past or future failure to vote (and probably also for past or future failure to notify change of address pursuant to section 101 of the Act) is a significant disincentive to many homeless people enrolling to vote.

Recommendation 9

Section 245 of the Commonwealth Electoral Act 1918 (Cth) should be amended to provide that, without limiting the generality of what constitutes a 'valid and sufficient reason for not voting', homelessness is a valid and sufficient reason for failure to vote.

Recommendation 10

The Australian Electoral Commission's public awareness campaign targeted at people experiencing homelessness should inform people that they cannot be penalised for failing to vote if they have a 'valid and sufficient reason' and that homelessness constitutes such a reason.

Recommendation 11

The Australian Electoral Commission's public awareness campaign targeted at people experiencing homelessness should inform people that Itinerant Electors cannot be penalised for failing to vote.

5.7 Strategies to Promote and Increase Enrolment

Respondents who responded that they were not enrolled to vote, whether at the 2004 Federal Election or the 2002 Victorian State Election, were asked what steps could have been taken to make them more likely to enrol to vote. Respondents were provided with a number of options in relation to strategies to promote and increase electoral enrolment, including that:

- information about how to enrol be provided at homelessness assistance services or welfare agencies;
- information about how to enrol be provided at Centrelink;
- information about how to enrol be provided by way of outreach;
- actual assistance to enrol be provided at homelessness assistance services or welfare agencies;
- actual assistance to enrol be provided at Centrelink; and
- actual assistance to enrol be provided by way of outreach.

Respondents were also asked whether there were any other strategies or steps to promote and increase homeless voter electoral enrolment and, if so, for an explanation of those strategies or steps.

A total of 70 respondents provided information about strategies to promote homeless voter enrolment.

(a) Information about how to enrol or actual assistance to enrol provided at homelessness assistance services or welfare agencies

31 respondents (44 per cent) indicated that they were more likely to enrol to vote if information about how to enrol was provided at homelessness assistance services and welfare agencies. A further 24 respondents (34 per cent) indicated that they were more likely to enrol to vote if actual assistance to enrol was provided at homelessness assistance services and welfare agencies.

In order to enfranchise homeless voters, enrolment information and assistance needs to be offered in the places where they are likely to seek assistance for primary needs such as accommodation, food and material aid.²⁴ The provision of information about enrolment and voting at homelessness assistance services and welfare agencies, together with the provision of actual assistance to complete enrolment, has the potential to significantly increase the involvement of people experiencing homelessness in the electoral process. In this respect, the Clinic notes that, according to the Australian Institute of Health and Welfare, in 2003-04, homelessness assistance services funded through the Commonwealth-State Supported Accommodation Assistance Program provided services to an estimated 152,900 people experiencing homelessness.²⁵ Of these clients, 88.8 per cent were aged 18 or over.²⁶

Recommendation 12

The Australian Electoral Commission should provide information, education and resources to homelessness assistance services funded through the Supported Accommodation Assistance Program to equip them to inform people experiencing homelessness about the importance of voting, eligibility for enrolment and procedures for enrolment.

Recommendation 13

Homelessness assistance services should provide information about enrolment and assistance to enrol as a component of an integrated intake and assessment process.

The Clinic notes with approval section 18 of the Model State Homeless Voter Registration Act, which has been adopted in whole or in part by the US states of Arizona, Colorado, Illinois, Indiana, Iowa, Kansas, Maine, Nebraska, Oregon and West Virginia. Section 18 relevantly provides:

²⁴ See also Senate Legal and Constitutional References Committee, *Legal Aid and Access to Justice* (2004) 151.

²⁵ Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2003-04* (2005) 9.

²⁶ Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2003-04* (2005) 21.

Any shelter or soup kitchen that has more than 50 registered voters using its services may apply to the city/county registrar to have voter education conducted at its location each year. The voter education should cover the voting procedures that will take place on Election Day and shall also cover the importance of voting in an election.

According to the National Coalition for the Homeless in the United States, homeless voter education founded on this provision has increased voting by people who are experiencing homelessness by generating interest and emphasising the importance in individuals exercising their right to vote.²⁷

(b) Information about how to enrol or actual assistance to enrol provided at Centrelink

23 respondents (33 per cent) indicated that they were more likely to enrol to vote if information about how to enrol was provided at Centrelink offices. A further 21 respondents (29 per cent) indicated that they were more likely to enrol to vote if actual assistance to enrol was provided at Centrelink offices.

According to the Australian Institute of Health and Welfare, in 2003-04, approximately 86 per cent of people experiencing homelessness accessed social security payments through Centrelink.²⁸ The provision of information about enrolment and voting at Centrelink offices, together with the provision of actual assistance with enrolment, therefore has the potential to significantly enfranchise people experiencing homelessness.

The Clinic notes with approval relevant provisions of the *National Voter Registration Act 1992* (US) (also known as the 'Motor-Voter' law), which governs voter registration for United States federal elections. Relevantly, that Act requires states to make the voter registration process for federal elections more accessible to citizens by facilitating the registration process. The 'motor voter' option provided to citizens enables them to register to vote when they apply for or renew their driver's licenses at state Departments of Motor Vehicles. The Act also requires that states designate as voter registration agencies all state offices that provide either public assistance or state-funded programs primarily engaged in providing services to people with disabilities. This includes homeless shelters, drop in centres, food pantries, soup kitchens, day care centres, child welfare agencies and community health centres. In addition to the above, section 7B of the Act encourages 'all non governmental entities' to register their clients to vote. This targeting of key venues has the effect of encouraging a greater response in homeless people's registration.

²⁷ See <<http://www.nationalhomeless.org/civilrights/voting.html>>.

²⁸ Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2003-04* (2005) 63, 66.

Recommendation 14

The Australian Electoral Commission should provide information, education and resources to Centrelink to equip Centrelink staff to inform people experiencing homelessness about the importance of voting, eligibility for enrolment and procedures for enrolment.

Recommendation 15

Centrelink staff should provide information about enrolment and assistance to enrol to people experiencing homelessness as a component of an integrated intake and assessment process.

(c) Information about how to enrol or actual assistance to enrol provided by outreach

15 respondents (21 per cent) indicated that they were more likely to enrol to vote if information about how to enrol was provided by street outreach workers. A further 9 respondents (13 per cent) indicated that they were more likely to enrol to vote if actual assistance to enrol was provided by street outreach workers.

Many homeless people (particularly people with special, multiple or complex needs) are unable to access homelessness assistance services or welfare agencies due to lack of supply²⁹ and issues of exclusion.³⁰ For these people, many of whom comprise the group of people experiencing 'primary homelessness' (ie, rough sleepers), engagement with street outreach workers is the principle means of accessing services.

Recommendation 16

The Australian Electoral Commission should provide information, education and resources to street outreach workers to equip them to inform people experiencing homelessness about the importance of voting, eligibility for enrolment and procedures for enrolment, and to enable them to provide actual assistance with enrolment.

²⁹ The Australian Institute of Health and Welfare estimates that at least 700 homeless people are unable to access SAAP services on any given day due to lack of capacity and resources: Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2002-03* (2004).

³⁰ See, for example, NSW Ombudsman, *Assisting Homeless People: The Need to Improve their Access to Accommodation and Support Services* (2004).

6. Homelessness and Electoral Participation

6.1 Introduction

Research was conducted to ascertain levels of electoral participation among people experiencing homelessness. The research also aimed to identify barriers to participation and strategies to overcome or address those barriers.

6.2 Levels of Participation

Respondents were asked whether they voted, both at the 2004 Federal Election and the 2002 Victorian State Election.

A total of 79 respondents (76 per cent) indicated that they did not vote at the 2004 Federal Election, with the remaining 25 respondents (24 per cent) indicating that they did vote. An extrapolation from this sample would mean that at least 49,000 homeless people (that is, 76 per cent of 64,000 homeless people eligible to vote) did not vote at the 2004 Federal Election.

A total of 78 respondents (75 per cent) indicated that they did not vote at the 2002 Victorian State Election.

6.3 Ordinary Elector Participation

Respondents who indicated that they voted at either the 2004 Federal Election or the 2002 Victorian State Election, were asked to indicate whether they voted as an Ordinary Elector.

At a federal level, only 22 respondents (21 per cent) voted as an Ordinary Elector.

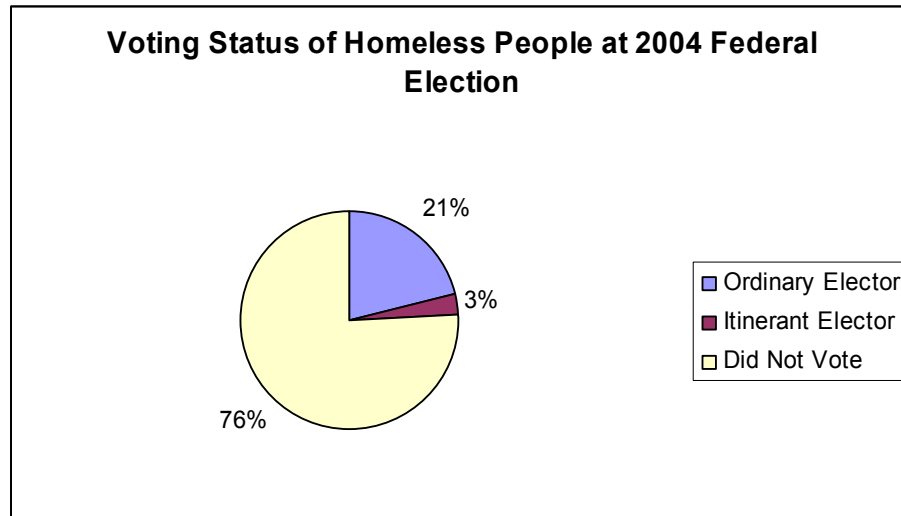
Similarly, at a state level, only 22 respondents (21 per cent) voted as an Ordinary Elector.

As discussed above, the requirement under both Commonwealth and Victorian law that a person must have a residential address and have lived at that address for at least one month before becoming entitled to enrol to vote in respect of that residence is a significant impediment to homeless people enrolling to vote as Ordinary Electors.

6.4 Itinerant Elector Participation

At a federal level, only 3 respondents (2.8 per cent) indicated that they voted as an Itinerant Elector.

Similarly, at a state level, only 4 respondents (3.8 per cent) indicated that they voted as an Itinerant Elector.



6.5 Barriers and Disincentives to Electoral Participation

Respondents who indicated that they did not vote, whether at the 2004 Federal Election or the 2002 Victorian State Election, were asked the reasons for their non-participation.

Respondents were provided with a number of options in relation to reasons for non-participation, including that:

- they were not interested in voting;
- they were concerned that their vote would not make a difference;
- they thought that they were not eligible to vote without a fixed residential address;
- they considered that the process for voting was too difficult;
- they were not aware of how to vote;
- they were not aware of where to vote;
- they considered that voting stations were inaccessible or were not conveniently located; and
- they were concerned that they may be fined for failing to enrol or vote at previous election.

Respondents were also asked whether there were any other reasons for non-participation and, if so, for an explanation of those reasons.

A total of 79 respondents indicated their reasons for not voting.

(a) Not interested in voting

29 respondents (37 per cent) indicated that they did not vote simply because they were not interested in participating in the electoral process.

(b) Concerned that vote would not make a difference

28 respondents (35 per cent) indicated that they did not vote because they were concerned that their vote would not make a difference to the electoral outcome or to their circumstances and wellbeing.

(c) Not aware of eligibility to vote without fixed residential address

19 respondents (24 per cent) indicated that they did not vote because they did not have a fixed residential address and were not aware that they were entitled to vote without a fixed residential address.

(d) Process for voting too difficult

14 respondents (18 per cent) indicated that they did not vote because they considered that the process for voting was too difficult.

(e) Not aware of how to vote

13 respondents (16 per cent) indicated that they did not vote because they were not aware or did not understand how to vote.

(f) Not aware of where to vote

11 respondents (14 per cent) indicated that they did not vote because they did not know where to cast their vote.

(g) Voting stations not accessible or conveniently located

10 respondents (13 per cent) indicated that they did not vote because voting stations were either inaccessible or were not conveniently located.

Given the pressing issues confronting many homeless people, they are unlikely to vote unless voting stations are appropriately located and easily accessible.

(h) Concerned about being fined

21 respondents (27 per cent) indicated that they did not vote because they were concerned that they may be fined for failing to enrol or to vote at previous elections.

6.6 Strategies to Promote and Increase Electoral Participation

Respondents who indicated that did not vote, whether at the 2004 Federal Election or the 2002 Victorian State Election, were asked what steps could have been taken to make them more likely to vote. Respondents were provided with a number of options in relation to strategies to promote and increase electoral participation, including that:

- better or more accessible information about how to vote be disseminated;
- better or more accessible information about where to vote be disseminated;
- transportation to voting stations be provided;
- voting stations be located at homelessness assistance services or welfare agencies;
- voting stations be located at Centrelink offices; and
- additional assistance to vote be provided.

Respondents were also asked whether there were any other strategies or steps to promote and increase homeless voter electoral participation and, if so, for an explanation of those strategies or steps.

A total of 79 respondents provided information about strategies to promote homeless voter participation.

(a) Better or more accessible information about how to vote

26 respondents (33 per cent) indicated that they would be more likely to vote if they were provided with more extensive and accessible information about how to vote, including the importance and process of voting.

(b) Better or more accessible information about where to vote

19 respondents (24 per cent) indicated that they would be more likely to vote if they were provided with more extensive and accessible information about where to vote.

(c) Transportation to voting stations provided

12 respondents (15 per cent) indicated that they would be more likely to vote if they were provided with transportation to a voting station.

(d) Additional assistance to vote provided

22 respondents (28 per cent) indicated that they would be more likely to vote if they were provided with some form of assistance to actually cast their vote. This is important in the context of an estimated 80 per cent of homeless people experiencing some form of illness or disability.³¹

³¹ Peter Ellingsen, '80% of Homeless Have Mental Disorder', *The Age* (Melbourne), 19 December 2004.

Recommendation 17

The Australian Electoral Commission should provide information, education and resources to homelessness assistance services funded through the Supported Accommodation Assistance Program to equip them to inform people experiencing homelessness about the process for voting, to accompany people experiencing homelessness to voting stations, and to provide people experiencing homelessness with assistance to cast their ballots.

(e) Voting stations located at homelessness assistance services or welfare agencies

33 respondents (42 per cent) indicated that they would be more likely to vote if voting stations were located at homelessness assistance services or welfare agencies.

As discussed above at Part 5.7(a), in order to enfranchise homeless voters, enrolment and voting information and assistance needs to be offered in the places where they are likely to seek help for primary needs such as accommodation, food and material aid.

Recommendation 18

The Australian Electoral Commission should ensure that voting stations are established at locations that are easily accessible to, and appropriate to, people experiencing homelessness.

Recommendation 19

The Australian Electoral Commission should investigate the feasibility of conducting pre-poll voting on-site at homelessness assistance services.

Recommendation 20

Part XVI of the Commonwealth Electoral Act 1918 (Cth) should be amended to provide for the deployment of mobile polling booths on-site at homelessness assistance services.

(f) Voting stations located at Centrelink

24 respondents (30 per cent) indicated that they would be more likely to vote if voting stations were located at Centrelink offices.

As discussed above at Part 5.7(b), the provision of electoral assistance at Centrelink offices has the potential to significantly enfranchise people experiencing homelessness. This is particularly the case given that approximately 86 per cent of

people experiencing homelessness access social security payments through Centrelink.³²

Recommendation 21

The Australian Electoral Commission should investigate the feasibility of conducting pre-poll voting on-site at Centrelink offices.

(g) Other

A significant number of respondents additionally commented that they would be much more likely to participate in the electoral process if they perceived that politicians were 'honest' or 'told the truth' or if they considered that candidates were committed to assisting or addressing the needs of people experiencing homelessness.

³² Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2003-04* (2005) 63, 66.

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8. Attachment A – Research Questionnaire

9. Attachment B – Consent Form

10. Attachment C – Spreadsheet of Aggregated Research Data
