

STREET RIGHTS

NEWSLETTER OF THE PILCH HOMELESS PERSONS' LEGAL CLINIC

Edition 33 – November 2007

NEWS AND EVENTS

Clinic Training:

Resolving Uninsured Third Party Debt and Negotiating with Insurers

28 November from 12:30 to 2:00pm, presented by Denis Nelthorpe
Clayton Utz, Level 18, 333 Collins Street, Melbourne.
Gold coin donations accepted, lunch will be provided.

This training workshop outlines a new process for negotiating on behalf of uninsured clients who are pursued by insurance companies for debts arising out of motor vehicle accidents.

RSVP is essential by 22 November to Helen Arblaster at hplc@pilch.org.au or on 9225 6651.

Congratulations: Kristen Hilton, former Clinic Coordinator and current Executive Director of PILCH, who recently received the **Community Lawyer Award** at the Law Institute of Victoria's President's Awards. Kristen was acknowledged for her work with HPLC – in particular the establishment of the Consumer Advisory Group; and her capacity to empathise which enables her to develop strong relationships of trust and confidence with consumers.

We also congratulate Clinic lawyer **Cecilia Riebl** of Blake Dawson who received the **Access to Justice Award** at the ceremony. Cecilia is a volunteer lawyer with the Homeless Persons' Legal Clinic and is also actively involved in pro bono work with PILCH and the Human Rights Law Resource Centre. Cecilia volunteers at the St Peter's Eastern Hill Clinic.



Award Winners:
Kristen Hilton &
Cecilia Riebl

Homeless Animals



Lort Smith Animal Hospital in North Melbourne has recently established an emergency boarding service for homeless animals in need. This service is for animals belonging to those sleeping rough - when a client gets emergency shelter there is now somewhere for their animal companion to board (as shelters generally do not allow animals on the premises).

Animal companionship can be very important and fear for the animal's well-being/safety can often be the reason that someone chooses not to enter emergency accommodation, where animals are generally not permitted.

The program can also provide free veterinary care, vaccinations, worming, flea treatment, coats, washes and food. Contact the Animal Management staff at Lort Smith for more information about the service and how to access it ph 9321 7260.

Quote of the Month:

Across the world, people are waiting for leaders to act, but leaders are waiting for us. Changing the world involves the infinity of tiny decisions by millions of people. We must lead from below. -- Patrice Newell, activist and Author

HPLC GOOD NEWS STORIES

* Names have been changed

Assault in Custody: Clinic lawyers assisted a client who sought advice in relation to an assault while in police custody after being arrested for being drunk in a public place. The lawyers advised the client that his options included a complaint to the Office of Police Integrity, or the Police Victoria Ethical Standards Department, or to seek assistance from the Victims of Crime Assistance Tribunal. Assistance was offered to the client to pursue any of these avenues of redress.

Debt: Julie contacted HPLC for assistance with two outstanding debts she believed she had and was unable to pay. Julie suffered from bipolar disorder and also had a gambling problem. Lawyers contacted the debtors and were informed that there were no outstanding debts in the clients name.

THE CLINIC PROVIDES FREE LEGAL ADVICE AT THESE LOCATIONS AND TIMES:

The Big Issue

148 Lonsdale Street
Melbourne 3000

Mon: 10:00am - 11:00am

Melbourne Citymission

214 Nicholson Street
Footscray 3011

Mon: 10:30am - 1:00pm

Footscray train station
Tram 82 (Droop St)

Ozanam House

179 Flemington Rd
North Melbourne 3051

Tues: 10:00am - 12:00pm

Flemington Bridge train station
Trams 55, 59, 68 (Flemington Rd)

Urban Seed (Credo Café)

174 Collins St, Melb 3000

Tues: 12:00pm - 1:00pm

Flagstaff Crisis Accommodation

9 Roden St,
West Melbourne 3003

Tues: 1:00pm - 2:30pm

North Melbourne train station
Tram 57 (Victoria St)

Salvation Army Life Centre

69 Bourke Street
Melbourne 3000

Tues: 12:30pm - 2:00pm

The Lazarus Centre

203 Flinders Lane
Melbourne 3000

By appointment - call 9639 8510

St Peter's Eastern Hill

15 Gisborne Street
East Melbourne 3002

Wed: 7:30am - 9:00am

Parliament train station
Trams 24, 42, 109 (Victoria Pde)

Hanover Southbank

52 Haig St, Southbank 3205

Wed: 1:15pm - 3:00pm

Spencer Street train station
Tram 112 (Clarendon St)

HomeGround Housing

1A/68 Oxford Street
Collingwood 3066

Thurs: 12:00pm - 2:00pm

Collingwood train station
Tram 86 (Smith St)

VACRO

116 Hardware Street
Melbourne 3000

Thurs: 1.00 - 3.00pm

Melbourne central station
Tram 19, 57 and 59 (Elizabeth St)

Koonung Mental Health Clinic

Operates fortnightly
Friday 1pm - 3pm

Level 1, 43 Carrington Rd
Box Hill 3128

Ph: (03) 9843 5800

A QUICK GUIDE TO ADMINISTRATION ORDERS

What is an Administration Order?

The Act provides that if you are:

- 18 years of age or over; and
- have a disability; and
- that disability prevents you from making reasonable/informed decisions about your financial and legal affairs;

then VCAT may appoint an Administrator to make those decisions for you. Like Guardianship Orders, they can be plenary, limited or temporary Orders (21 days).

Who can apply for an Administration Order?

Any person can apply to VCAT for an Order appointing an Administrator in the circumstances cited above.

Appointment of Administrator

VCAT will consider:

- the nature of your disability;
- its impact on your ability to manage his or her estate;
- your wishes; and
- whether your needs can be met in a less restrictive manner.

Who can be Administrator?

Any person who consents to act as Administrator provided VCAT is satisfied:

- they will act in your best interests;
- there is no conflict of interest;
- they are suitable;
- they have sufficient expertise to administer your estate.

*Often family members or State Trustees are made Administrators.

Basic Powers of an Administrator

Some of the powers of an Administrator include:

- to make gifts of your property under certain conditions;
- to invest money;
- to sign and do what is necessary to give effect to any power or duty;
- to provide for your general care and management;
- to pay money to you;
- to give property for your personal use;
- to exercise all rights that you have;
- to bring and defend legal proceedings in your name.

How much say can a represented person have?

An Administrator should consult the represented person about important decisions and should encourage a represented person to gradually be able to look after his or her own affairs.

What if I am not satisfied with the way my Administrator is handling my finances?

You can apply to revoke the Administration Order entirely and fully manage your financial affairs again. The following evidence will assist the application:

- A medical report by a physician with relevant qualifications stating that you no longer have a disability or the disability no longer impedes your ability to make reasonable decisions about your finances.
- Evidence that you can manage your budget and pay all necessary expenses (this may be done with the assistance of a financial counselor).
- Evidence of time periods in which the Administrator has allowed you to pay certain bills or expenses and you did so successfully.
- Evidence that the administrator has not paid bills on time or is not handling your finances properly is useful.

If you are unable to fully manage your own affairs but are not satisfied with your Administrator, you may nominate another person, providing you explain why your current Administrator is failing to meet their obligations towards you.

Reassessment of Orders

Administration Orders can be reassessed. The reassessment may be conducted on VCAT's own initiative or on application by any person. VCAT has the power to amend, vary, continue, replace, or revoke the Order following such a reassessment.

Who can I ask for assistance?

If you need general advice about Guardianship and Administration Orders or you want to challenge an existing or proposed Order you can contact us at the PILCH Homeless Persons' Legal Clinic. Please see the panel for HPLC locations and times.

The following organizations may also be able to assist you:

Mental Health Legal Centre
Ph. 9629 4422

Victoria Legal Aid
Ph. 9269 0120

Villamanta Legal Service
Ph. 1800 014 111

MAKING YOUR VOTE COUNT IN THE FEDERAL ELECTION: SATURDAY 24 NOVEMBER 2007

An Overview by Ollie Howard, PILCH Volunteer

As you may know, there will be a Federal Election on **Saturday, 24 November 2007**. The outcome of this election will affect everybody in Australia, and your vote, as much as anyone else's, is important. For example, your vote could impact on policies and programs in areas including homelessness, housing, health care, human rights, anti-discrimination, social security and income support. If the 80,000 homeless people who are entitled to do so enroll and exercise their right to vote, the elected government would be forced to do more about homelessness.

It is often difficult to figure out what each party plans to do in amongst the information overload in the lead up to an election. To help you with your choice, we have set out below a short overview of what each of the main political parties intends to do about the issues of homelessness, unaffordable housing and accommodation shortages.

Australian Labor Party ('ALP') Policies:

The ALP, under the leadership of Kevin Rudd, has described homelessness as a 'national crisis'. Mr Rudd has pledged \$150 million over 5 years with the aim of halving the number of people turned away from emergency accommodation on a day to day basis.

In order to do this, the ALP has committed to:

- **Establish** 600 new houses and units across the country for families and individuals who are homeless.
- **Ask** State and Territory governments to make available land for this new housing.
- **Replace** the Commonwealth State Housing Agreement with a new National Affordable Housing Agreement.
- **Ensure** that families and individuals will move straight into supported housing for the first 12 months, instead of being accommodated in a refuge.
- **Implement** plans to make housing more affordable in Australia, including:
 - First Home Saver Accounts;
 - Housing Affordability Fund;
 - National Rental Affordability Scheme; and
 - Introduce a better approach to 'land release'.

The ALP has promised that such a new approach to housing and support in Australia will better meet the needs of individuals and families.

To find out more about the ALP's policies go to <http://www.kevin07.com.au/news/cost-of-living/a-place-to-call-home-federal-labors-plan-to-build-more-homes-for-homeless-australians.html>

Coalition policies:

The Coalition has not released a homelessness specific policy and states that it is more concerned with fixing the root causes of homelessness.

The Coalition Government believes that homelessness cannot be looked at in isolation, and states that it wants to be dealing with the causes of homelessness as well as supporting the homeless. Some of the Coalition's policies include:

- Continuing its **"Tough on Drugs"** program, in particular to combat scourge of amphetamine addiction (especially Ice);
- Spending more money on early **intervention services** to help families with relationship issues and prevent family breakdown;
- Spending more money on **mental health reform** – including \$32 million for personal helpers and mentors; and
- Developing a **Women's Safety Agenda** – aimed at eliminating violence and sexual assault.

To find out more about the Coalition's policies go to <http://www.liberal.org.au/about/ourpoliciesplans.php>

Where Can I Vote?

Call 13 23 26 or visit www.aec.gov.au to find out where your closest voting centre is. Some of the centres in the CBD and inner north (open from 8:00 am to 6:00pm) include:

1. **Carlton Gardens Primary School** – 215 Rathdowne st, Carlton 3053
2. **Carlton Primary School** – Neill St Carlton, 3053
3. **North Melbourne Primary School** – 210 Errol St North Melbourne, 3051
4. **Fitzroy Primary School**, Cnr Napier and Greeves st, Fitzroy, 3065
5. **University High School**, Story St, Parkville, 3052

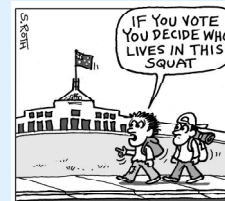
If you can't make it to a polling place on Election Day (24 November 2007), then you can vote at 'early voting centres'. These can be found at:

1. **Melbourne Central PPVC** – Victoria University, 300 Flinders St Melbourne, 3000
2. **Victorian Electoral Commission** – Level 8, 505 Little Collins St Melbourne, 3000
3. **Melbourne CBD PPVC** – Comedy Theatre, 240 Exhibition St Melbourne, 3000
4. **AEC Divisional Office** – Ground Floor Casselden Place, 2 Lonsdale St Melbourne, 3000

We also understand that polling booths will be available in prisons across Victoria.

- Remember, if you need assistance to vote, you can ask a friend, relative, worker or polling official to help you.

Don't let other people decide what is best for you! Make sure you vote on, or before, Saturday 24 November, 2007!



REFORMING THE BAIL ACT FOR THE HOMELESS

An overview by Pat Purcell, PILCH Volunteer

"I've spent at least one year in the last twelve in holding cells because I had no address to be bailed to"
– Ozanam House Resident

The Victorian Law Reform Commission's review & final Report on the *Bail Act 1977* ("the Act") has highlighted the discriminatory and unfair manner in which the Act deals with the homeless. The Report was informed by a submission from the PILCH Homeless Person's Legal Clinic made in January 2006. It also refers to a submission by Beth Midgley, a HPLC Lawyer, which looks at improving the administration of justice for homeless people in the court process.

Citing Beth Midgley's submission, the Report recognises that the homeless are a disadvantaged group in society and have a "disproportionately high rate of contact with the criminal justice system". When seeking bail, people experiencing homelessness must not only contend with the normal aspects of bail applications but also face additional hurdles as a result of their disadvantaged and marginalised position in society.

Currently, when deciding whether the person is entitled to bail the decision maker must consider the "home environment" of the accused. Although this consideration is not on its own grounds for the refusal of bail, it appears that is considered as a factor not to grant bail. This is particularly problematic for people experiencing homelessness, as they often do not have access to any accommodation during and following their bail applications or their accommodation is inappropriate. As the Magistrates' Court submission stated: "Put simply, a person without accommodation is generally a person who is at risk of failing to appear on bail."

The Report also pointed to the inadequate support structures in place for homeless people when applying for bail. The Report recommends that the Department of Justice consider allocating more crisis & longer term accommodation for accused people on bail. However it was also noted that bail applicants who lack accommodation have difficulty accessing crisis accommodation because they can only apply for a place if they can move in that day. As they have not yet been granted bail, they are not able to apply for a place.

The Report found that appropriate accommodation and support services could assist in providing many homeless people a pathway out of the criminal justice system. Although some accommodation can be accessed through programs such as the CREDIT Bail Support Program (which has 20 transitional properties around Melbourne for people on bail) there is still a shortage of accommodation, especially around inner Melbourne. Participants in a consumer survey conducted by HPLC have spoken favourably of their experience of being "bailed" to the CREDIT program and other diversionary programs, but these support programs and services are not able to cater for everyone in need.

Similarly, there is also need to provide support services for the specific needs of people experiencing homelessness. As shown in the Report, these needs are often underlying causes of their homelessness and are often manifested through mental health issues, substance abuse, family violence or a history of sexual abuse. The VLRC recommended that the support needs of homeless people be approached in a holistic way. Providing a short-term bed without appropriate support is unlikely to address the underlying causes of homelessness or offending. The VLRC recommended to the Department of Human Services that the provision of increased accommodation services and support programs (e.g. drug rehabilitation programs) would assist in overcoming the disadvantage faced by people experiencing homelessness when applying for bail.

If you have any questions regarding the HPLC's submission or would like further information, please contact us on 1800 606 313.

SUMMARY

When people are accused of committing a crime, police can:

- *charge them and keep them in custody;*
- *charge them and release them on bail; or*
- *give them a summons to appear in court on a particular day.*

If police think there is an unacceptable risk people will commit crimes or not appear in court for their hearing, they can remand them in custody. People can then apply to a court to be granted bail.

- *Currently, if the applicant does not have fixed address, they are often unlikely to be granted bail and are instead remanded in custody.*
- *Proposed amendments to the Bail Act and the provision of additional crisis, supported and longer term accommodation by the Department of Justice and The Department of Human Services, would assist homeless people to obtain bail by providing them with a place to stay once they are released.*
- *The VLRC also recommended that additional support systems be implemented so that once they are granted bail they are unlikely to re offend.*