

# Women's Homelessness Prevention Project – keeping women and children housed

Twelve month project report

September 2015



## Acknowledgements

Justice Connect Homeless Law takes the opportunity to express our sincere thanks to the Lord Mayor's Charitable Foundation for generously funding the Women's Homelessness Prevention Project.

We would also like to thank our key project partners, the City of Melbourne and Herbert Smith Freehills, for their assistance in delivering the project.



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# 1. Executive summary: eight observations on keeping women housed

Justice Connect Homeless Law's Women's Homelessness Prevention Project (**WHPP**) is a holistic, integrated model of providing legal services that focusses on preventing homelessness through addressing both legal and non-legal issues. It keeps women and children in housing through a combination of legal representation and social work support.

The WHPP's co-ordination and development work commenced in September 2013 and weekly clinics at a library in the Melbourne CBD commenced in April 2014. Women facing homelessness receive legal advice and ongoing representation from pro bono lawyers, as well as intensive social work support for up to three months from a dedicated social worker employed by Justice Connect Homeless Law.

In its first 12 months of operation, the WHPP's integrated model has proven highly effective in preventing homelessness amongst women and children: 62 women, with 102 children in their care, have been provided with legal representation and social work support and 81% of finalised matters have resulted in women maintaining safe housing or resolving a tenancy legal issue (eg a housing debt) that was a barrier to accessing safe housing.

In addition to preventing homelessness for individual women and their families, the WHPP gathers data and insights about the factors pushing women into homelessness, and presents recommendations for systemic change informed by our direct casework and the experiences of our clients.

Homeless Law has captured and communicated data and insights from the WHPP through a detailed submission, *Home Safe*, to the Royal Commission into Family Violence (**RCFV**),<sup>1</sup> and through co-ordinating a joint submission on family violence, housing and homelessness that was endorsed by 129 organisations from the housing, homelessness, family violence, health, local government and legal sectors (**Joint Submission**).<sup>2</sup> The 12 key recommendations from *Home Safe* and the one-page Joint Submission are attached at **Annexure 1** and **Annexure 2**. The WHPP and its findings have also been featured in *The Age*, 'Women's clinic stops homeless cycle before it starts'; highlighted as part of Melbourne Vital Signs 2014 published by the University of Melbourne and the Lord Mayor's Charitable Foundation;<sup>3</sup> discussed on 3RRR radio;<sup>4</sup> shortlisted as a finalist in the 2014 Victorian Health Promotion Foundation Awards; featured in four journal articles;<sup>5</sup> and discussed in six bi-monthly newsletters to our friends and colleagues in the legal, community and family violence sectors.

This report collates the data and insights from the WHPP's first 12 months of operation. Based on that evidence, we make eight key observations about the legal and non-legal factors putting women at risk of homelessness and, importantly, share our findings about how unnecessary evictions into homelessness can be prevented for Victorian women and children.

## 1 Integrated legal services play a crucial role in preventing evictions into homelessness

The WHPP's combination of ongoing legal representation and social work support is preventing homelessness amongst women and children in their care.

- 62 WHPP clients with a combined total of 102 children in their care have received a combination of legal representation and social work support.
- Of the 51 cases that have finalised, 43 clients (81%) with a total of 68 children in their care have either maintained safe and stable housing or addressed a tenancy legal issue (eg a housing debt or compensation claim) that was a barrier to accessing safe housing.

<sup>1</sup> Justice Connect Homeless Law, *Home Safe: Submission to the Royal Commission into Family Violence* (May 2015) (**RCFV submission**).

<sup>2</sup> *Family violence, homelessness and affordable housing – a joint submission from 129 organisations* (29 May 2015) (available at: <https://www.justiceconnect.org.au/our-programs/homeless-law/law-and-policy-reform/preventing-evictions-and-sustaining-tenancies/family-violence-homelessness-and-affordable-housing>) (**RCFV joint submission**).

<sup>3</sup> Lord Mayor's Charitable Foundation, *Melbourne Vital Signs 2014* (available at: <http://www.lmcf.org.au/vitalsigns>).

<sup>4</sup> Michelle Bennett interview with Patrick Warner, 'Family violence and homelessness' 3RRR (14 July 2015) (available at: <http://www.rrr.org.au/whats-going-on/news/family-violence-and-homelessness/>) (**3RRR interview**).

<sup>5</sup> Patrick Warner, 'Modelling Legal Services to Help Prevent Homelessness' in 'Homelessness and the Law: Access to Justice' *Parity* (October 2014); Patrick Warner, 'Melbourne: The World's Most Liveable City – Unless You Are a Victim of Family Violence' *Parity* (May 2015); Antoinette Russo, 'Private Rental and Housing Stress: A Game of Snakes and Ladders' *Parity* (June 2015); Patrick Warner 'Keeping Women Housed' (March 2015), *Law Institute Journal* 77.

- The WHPP social worker has made 78 referrals for 55 women to a range of services, including housing access points, mental health professionals, financial counsellors, drug and alcohol counsellors, doctors, material aid providers, family violence counsellors, Centrelink and others.

In relation to the WHPP, clients said:

*'The WHPP gave me free legal support and advice not otherwise available anywhere as far as I can see. The social worker helped me expedite the search for new accommodation'.*

*'All the [lawyers] were fantastic and the social worker was exceptional, I don't know what I would have done without her. Now I have brand new safe, secure housing, I'm extremely grateful'.*

*'The service I received was excellent. This is a service I'm proud Victoria has'.*

*'Out of 100 I would give the WHPP 100! They really understood and didn't try to pass me off as just another number'.*

The WHPP's results in its first 12 months of operation show that integrated models which target both legal and non-legal needs play a crucial role in preventing evictions and must be contemplated as part of strategies focussed on early intervention and homelessness prevention.

## 2 Family violence is a key driver of homelessness amongst women

Family violence is the most common cause of homelessness in Victoria: 25,104 people who sought assistance from specialist homelessness services in Victoria in 2013–14 cited domestic or family violence as the main reason they needed assistance; and 22,231 were women.<sup>6</sup> This is consistent with the findings of the WHPP:

- 95% of WHPP clients report an experience of family violence in the past 10 years.
- 35% of WHPP clients have obtained an interim or final family violence intervention order in the past two years.
- 50% of clients report experiencing family violence in the past two years, with most incidents occurring in the past six months.
- 71% of clients who report an experience of family violence are at risk of eviction due to rent arrears.

Through the WHPP, we see that women and children affected by family violence are at an increased risk of homelessness, including because:

- They are forced to leave their home due to violence;
- They stay in their housing, but with significantly reduced household incomes after the violent family member leaves or is excluded; and/or
- Long-term impacts of family violence, such as mental illness, financial hardship or isolation from family and friends, make their lives precarious.

In these ways, family violence can present both immediate and long-term risks of homelessness for women and children in their care.

## 3 There are multiple links between family violence and Victoria's shortage of affordable housing

In Victoria there are currently 34,464 people on the state-wide public housing wait list, including 9,789 who are eligible for 'early housing' due to urgent needs including unsafe housing as a result of family violence.<sup>7</sup> Additionally, 92 people are turned away from homelessness services each day because of overwhelming demand.

Through our work, Homeless Law sees that shortage of affordable housing in Victoria:

- Deters victims of family violence from leaving violent relationships;
- Increases the risk of victims becoming homeless when they do leave; and

<sup>6</sup> 99,892 people sought assistance from specialist homelessness services in Victoria 2013–14. 28% of these people cited domestic or family violence as the main reason they needed assistance: 25,104 people in total; 2,892 male; 22,213 female. See Australian Institute of Health and Welfare, *Specialist Homelessness Services: 2013–2014* (2014) (AIHW Report), 'Table VIC2.14: Clients, by main reasons for seeking assistance, 2013–14, adjusted for non-response'.

<sup>7</sup> Department of Health and Human Services, *Public Housing Waiting and Transfer List June 2015* (Public Housing Waitlist).

- Can make perpetrators more isolated and increase the risk of repeated or escalated violence.

One WHPP client who took part in a consultation about her experience of family violence commented that:

*'There was one time I was pregnant with my [child] and he punched me in the stomach ... there have been times when we were on the verge of splitting up – that I have actually looked into moving out on my own and I haven't had the money to do it ... I had to stay in that situation because I didn't have the money to get up and leave ...'.<sup>8</sup>*

Another participant in the consultation who needed to leave a private rental property because her violent ex-partner had discovered her location said:

*'... they made it clear that if you leave this property you need to pay ... I don't have the money to pay ... so my feeling is like I'm going to stay in this property until December, feeling unsafe feeling all tortured emotionally and psychologically that anything could happen to us'.<sup>9</sup>*

#### 4 Private rental properties are difficult to obtain and sustain

The private rental market is increasingly unaffordable and difficult to access for low income Victorians. A recent snapshot of private rental properties showed that less than 0.1% of rental properties in metropolitan Melbourne are affordable for single parents relying on the single parenting pension.<sup>10</sup>

In addition, for many WHPP clients, private tenancies can be precarious and difficult to maintain.

- 84% of WHPP clients are reliant on Centrelink payments as their primary source of income.
- 50% of WHPP clients are living in private rental properties in metropolitan Melbourne.
- 74% of these WHPP clients in private rental – who had 69 children in their care – were at risk of eviction due to rent arrears.

It doesn't take much to fall behind in your rent when you're living so close to the line. Common reasons our clients fall into arrears include inability to work because of personal illness or illnesses affecting their children; unexpected medical or child care bills; unexpected school expenses; issues with Centrelink and prioritising payment of utilities or other debts.

#### 5 Evictions for rent arrears can and should be prevented

The most common reason we see women facing eviction into homelessness is rental arrears. In most cases, a temporary or unexpected situation has caused the client to fall behind in the rent and that has placed her at risk of eviction.

- 68% of all WHPP clients are at risk of eviction due to rent arrears.
- The average amount of arrears owed by WHPP clients at the initial appointment is \$2177.
- Of the cases finalised so far, eviction into homelessness was prevented for 82% of WHPP clients at risk of eviction due to arrears.
- Financial brokerage was used to prevent homelessness for one-third of WHPP clients at risk of eviction for rent arrears.
- The average amount of financial brokerage used to prevent homelessness was \$560 per client.

Based on this work, Homeless Law sees that it is currently too easy for tenants in Victoria to be evicted for rent arrears. Without legal representation, it is highly likely that these women and their children would have been evicted, but a combination of legal representation, financial brokerage, and social work assistance can often prevent these unnecessary evictions from occurring.

#### 6 Housing debts linked to family violence prevent victims accessing safe housing

Women living in rented premises who have been subjected to family violence are facing compensation claims for damage caused by perpetrators, and can face difficulties terminating tenancy agreements that are no longer manageable due to family violence.

- The WHPP has successfully assisted three women to defend compensation claims for damage that was caused by violent ex-partners or family members.
- In two cases, the compensation claim was withdrawn in full, and in another it was reduced by almost 90%.

<sup>8</sup> Homeless Law Family Violence Consultation, participant interview (interview conducted on 7 April 2015). All quotes and case studies used in this submission have been de-identified and names have been changed.

<sup>9</sup> Ibid.

<sup>10</sup> Anglicare Australia, Anglicare Australia Rental Affordability Snapshot (2015) 88 (**Anglicare snapshot**).

- The WHPP has also assisted five women to negotiate early termination or variation of a tenancy agreement that had become unsustainable due to family violence and in four of these cases the negotiations resulted in a reduction in the client's financial liability.

These debts – or the fear of these debts – can deter women from leaving violent relationships and can prevent women accessing safe housing because they cannot be allocated a public housing property with an outstanding debt and/or they are on a residential tenancy database or 'black list' used by real estate agents in the private rental market.

## 7 Victoria's Charter of Human Rights helps to prevent homelessness

For vulnerable social housing tenants, the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (**Charter**) provides a crucial layer of protection that can be used to ensure eviction into homelessness is only used as a measure of last resort. Homeless Law has relied on the Charter in advocacy and negotiations to prevent three WHPP clients being evicted from social housing into homelessness.

In addition, the Charter provides a helpful framework for social landlords making difficult decisions. It encourages consideration of a tenant's individual circumstances, including their family, any health problems and their risk of homelessness, and allows these considerations to be balanced against the competing obligations of the landlord. It encourages proper consideration of alternatives to eviction and it has an important role to play in preventing unnecessary evictions into homelessness for women and children.

## 8 Focusing on eviction prevention makes social and financial sense

Key data regarding the costs of homelessness includes:

- A 2013 Australian Housing and Urban Research Institute (**AHURI**) study that identified that people experiencing homelessness had higher interaction with health, justice and welfare systems than people with stable housing and estimated that an individual experiencing homelessness represents an annual cost to government services that is \$29,450 higher than for the rest of the Australian population. Of this increased cost, \$14,507 related to health services, \$5,906 related to justice services, and \$6,620 related to receipt of welfare payments.<sup>11</sup>
- A 2006 Victorian Government paper, which identified a potential cost of over \$34,000 per year to support a tenant evicted from public housing through homelessness services. This was compared to approximately \$4,300 in service costs per year for a household in public housing.<sup>12</sup>
- A 2011 AHURI study, which identified the long term impact of homelessness on children. The study noted: '*[we] know that children who become homeless, whether through domestic violence or other events, frequently suffer the trauma of disrupted schooling and friendships and that homeless families almost always experience financial disadvantage*'.<sup>13</sup>

In a 12 month period, the WHPP has directly prevented the eviction of 35 women and their families into homelessness. Using the AHURI figures, this would mean a cost saving of \$1,030,750. Twelve of these women were in public housing, so their costs of support if evicted would have been approximately \$408,000. These figures do not capture the costs in relation to the 68 children in these women's care who have also avoided homelessness.

The WHPP costs approximately \$220,000 per year to run. The above figures indicate that the WHPP's focus on intervening early to prevent women and children entering homelessness delivers significant personal, social and financial benefits. It is delivering real results for women and children, as well as alleviating pressure on the homelessness, health and justice sectors through its preventative focus.

<sup>11</sup> Kaylene Zaretsky et al, *The cost of homelessness and the net benefit of homelessness programs: a national study*, AHURI Final Report No 205 (2013) (**AHURI 2013 report**).

<sup>12</sup> Department of Human Services, *Support for High Risk Tenancies Strategic Project* (October 2006) cited in Department of Human Services, *Human Services: The case for change* (December 2011) (**DHS 2006 report**).

<sup>13</sup> Angela Spinney et al, *Homelessness prevention for women and children who have experienced domestic and family violence: innovations in policy and practice*, AHURI Final Report No 196 (2011) (**AHURI 2011 report**).

The WHPP keeps women and children in housing through a combination of legal representation and social work support.

## In its first 12 months...

### The WHPP assisted

**62**

women with 102 children in their care.

**95%**

of clients report an experience of family violence in the past 10 years.

**90%**

of clients suffer from mental illness.

**84%**

of clients rely on Centrelink as primary source of income.

**50%**

of clients live in private rental, 48% in social housing.

### How the WHPP helped



51 cases finalised in 12 months, 43 successful outcomes.



35 women with 45 children in their care directly avoided eviction into homelessness.



9 women with 21 children in their care resolved debt or other barrier preventing their access to housing.



WHPP social worker made 78 referrals to non-legal services for 55 women.



### Benefits of the WHPP model

- The WHPP costs approximately \$220,000 per annum to run.
- It costs government approximately \$29,450 more to support a person experiencing homelessness than someone in stable housing (AHURI, Dec 2013).
- The WHPP directly prevented 35 evictions, which represents a saving of \$1,030,750.

## 2. Housing, homelessness, family violence and legal need

The links between family violence, affordable housing and homelessness are increasingly well understood:

- Family violence is the most common cause of homelessness in Victoria. 99,892 people sought assistance from specialist homelessness services in Victoria in 2013–14 and 28% of these people cited domestic or family violence as the main reason they needed assistance: 25,104 people in total; 2,892 male; 22,213 female.<sup>14</sup>
- Almost half of the women seeking assistance from specialist homelessness services in Victoria in 2013–14 cited family violence as one of the reasons they needed assistance.<sup>15</sup>
- Of the approximately 22,789 Victorians experiencing homelessness, almost half are women and one-sixth are children under the age of 12.<sup>16</sup>
- In Victoria there are currently 34,464 people on the state-wide public housing wait list, including 9,789 who are eligible for ‘early housing’ due to urgent needs including unsafe housing as a result of family violence.<sup>17</sup>
- A recent snapshot of private rental properties showed that less than 0.1% of rental properties in Metropolitan Melbourne are affordable for single parents relying on the single parenting pension,<sup>18</sup> and only 0.8% of rental properties are affordable for these families in coastal or regional Victoria.<sup>19</sup>
- Specialist homelessness services in Victoria currently turn away 92 people each day because of overwhelming demand.<sup>20</sup>

It is in this context that Homeless Law’s Women’s Homelessness Prevention Project was set up to keep women and children in housing through a combination of legal representation and social work support. Detailed information about the design and development of the WHPP is set out in the Six Month Project Report.<sup>21</sup>

The aims of the WHPP are to:

- sustain tenancies and prevent homelessness for vulnerable women and their children;
- test and evaluate an integrated model of service provision incorporating legal and non-legal advice, information, referral and casework/support; and
- develop an evidence base in relation to sustaining the tenancies of women at risk of homelessness.

It is a holistic, integrated model of providing legal services that focusses on preventing homelessness through addressing both legal and non-legal issues. We assist women living in private, community and public housing whose housing is at risk.

The WHPP model recognises that people experiencing multiple forms of disadvantage are more likely to experience additional legal issues, and that it is common for both legal and non-legal issues to be underpinning the risk of eviction.<sup>22</sup> The WHPP model acknowledges that legal issues don’t exist in a vacuum and that by working to resolve both legal and non-legal issues, homelessness is more likely to be prevented.

<sup>14</sup> See AIHW Report, above n 6.

<sup>15</sup> Ibid.

<sup>16</sup> Australian Bureau of Statistics, *Census of Population and Housing: Estimating Homelessness 2011* (12 November 2012) 12 (available at: [http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/EB59F237159F7102CA257AB100170B61/\\$File/20490\\_2011.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/EB59F237159F7102CA257AB100170B61/$File/20490_2011.pdf)) (**Census 2011**).

<sup>17</sup> See Public Housing Waitlist, above n 7.

<sup>18</sup> See Anglicare Snapshot, above n 10, 88.

<sup>19</sup> Ibid 89.

<sup>20</sup> See AIHW Report, above n 6.

<sup>21</sup> See Justice Connect Homeless Law, *Women’s Homelessness Prevention Project: Six Month Project Report* (September 2014) (available at: <http://www.justiceconnect.org.au/sites/default/files/Homeless%20Law%20-%20Women%27s%20Homelessness%20Prevention%20Project%20progress%20report.pdf>).

<sup>22</sup> See Suzie Forell, Emily McCarron and Louis Schetzer, ‘No Home, No Justice? The Legal Needs of Homeless People in NSW’ (Access to Justice and Legal Needs Monograph Series Vol 2, Law and Justice Foundation, July 2005); Christine Coumarelos and Julie People, ‘Home is Where the Heart of Legal Need Is’ (Working Paper No 23, Law and Justice Foundation, April 2013) 1, regarding the need for legal services to be more integrated and holistic to address barriers clients face to accessing legal services and resolving legal issues.

### 3. The integrated model in practice

Key aspects of the WHPP model are:

- **Holistic, integrated service:** women who are at risk of eviction or experiencing another barrier to accessing safe and stable housing are provided with both legal representation and intensive social work support from an in-house social worker.
- **Preventative focus:** through our relationships with family violence services, the courts and VCAT, Homeless Law aims to attract early referrals, before legal issues have escalated to crisis point.
- **Mainstream location with access to a children's librarian:** Homeless Law identified that many of this client group did not associate with the concept of 'homelessness' and have not previously been engaged with homelessness services. We also understood that caring obligations prevented women attending appointments to seek assistance. Accordingly, we located our weekly clinic at a city library where a children's librarian can look after clients' children.

At the initial WHPP appointment, a lawyer takes instructions from the client about the legal issues that are putting the client at risk of homelessness (for example, eviction notices for falling behind in rent or breaches of other tenancy obligations), and the social worker assesses any non-legal issues the client may also be experiencing.

Homeless Law lawyers then continue to assist clients to work towards preventing their eviction and stabilising their tenancy, including through providing advice, negotiating with the landlord and representing the client at VCAT if necessary. Simultaneously, the WHPP social worker provides clients with intensive support for up to three months with a focus on transitioning clients to any long-term support services they may benefit from (for example, health services, financial counselling, family violence counselling, housing support, education and employment).

If the legal issue cannot be resolved through negotiations, the Homeless Law lawyers will advocate for and represent the tenant in any subsequent VCAT proceedings. Of the 62 WHPP clients assisted so far, 45 women (73%) have been represented at a VCAT hearing in relation to their tenancy issue, with five women requiring representation at more than one VCAT hearing.

The WHPP social worker can continue to assist clients once the legal issue has been finalised, and for several WHPP clients, this has proven to be a crucial aspect of ensuring the tenancy remains stable after the initial legal intervention has been finalised.

Where WHPP clients present with additional non-tenancy related legal issues, the lawyers will refer that client to appropriate legal services. This can include internal referrals to Homeless Law where the matter relates to infringements, credit and debt, guardianship and administration, or additional tenancy issues that are within the scope of assistance, as well as to other external legal services, such as where the matter relates to family or criminal law.<sup>23</sup>

The following case study highlights the effectiveness of the WHPP's combination of legal representation and social work support, and its capacity to not only prevent avoidable evictions, but to also help vulnerable women better access non-legal services that will help to prevent the risk of homelessness reoccurring.

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<sup>23</sup> Note that since September 2015, with generous funding from the Portland House Foundation, Homeless Law has employed an in-house criminal lawyer who is able to assist Homeless Law clients with summary criminal matters with a view to meeting more of our clients' legal and non-legal needs within one service.

**Alison:**

***Vulnerable mother with mental illness avoids eviction for rent arrears***

Alison is a mother of two, and her children have mild intellectual disabilities and attend a special school. Alison had experienced family violence right throughout her life, including from her mother as a child, as well as from various partners as an adult. Alison takes medication for depression and anxiety, and is reliant on Centrelink as well as some casual cleaning work for her income.

Alison had been living in her private rental property for over four years, but recently her eldest child had begun refusing to attend school. This stress led to a deterioration in Alison's mental health, and meant she missed days at work. The reduced income led to rent arrears accruing at the property. Alison contacted Homeless Law when she received a notice to vacate due to rent arrears.

Alison met with the Homeless Law lawyers and social worker at her initial client appointment. The lawyers began negotiating with the landlord for Alison to enter an arrears repayment plan and the WHPP social worker provided Alison with a range of referrals to non-legal services, including financial counselling, a school liaison worker, and affordable health-care for dental work.

As the legal matter proceeded to VCAT, the lawyers provided representation and the WHPP social worker provided ongoing emotional support throughout the process. The client was able to enter an agreement to repay the arrears at an affordable rate. With new links to services that can assist her in future times of hardship through the WHPP social worker, Alison is confident she will be able to avoid further arrears accruing in the future.

## 4. Legal and non-legal issues putting women at risk of homelessness

In 12 months of operation, 62 women with 102 children in their care have received legal representation and social work support through the WHPP.

This section of the report details the profile of the WHPP client group, including demographic information, as well as the type of legal issues that are putting them at risk of homelessness.

### 4.1 Multiple forms of disadvantage: housing, income, family violence, health problems and caring roles

WHPP clients are often dealing with multiple and complex personal issues that combine to contribute to their housing instability and risk of homelessness. The WHPP gathers data about these issues in order to better understand the range of factors contributing to homelessness amongst women.

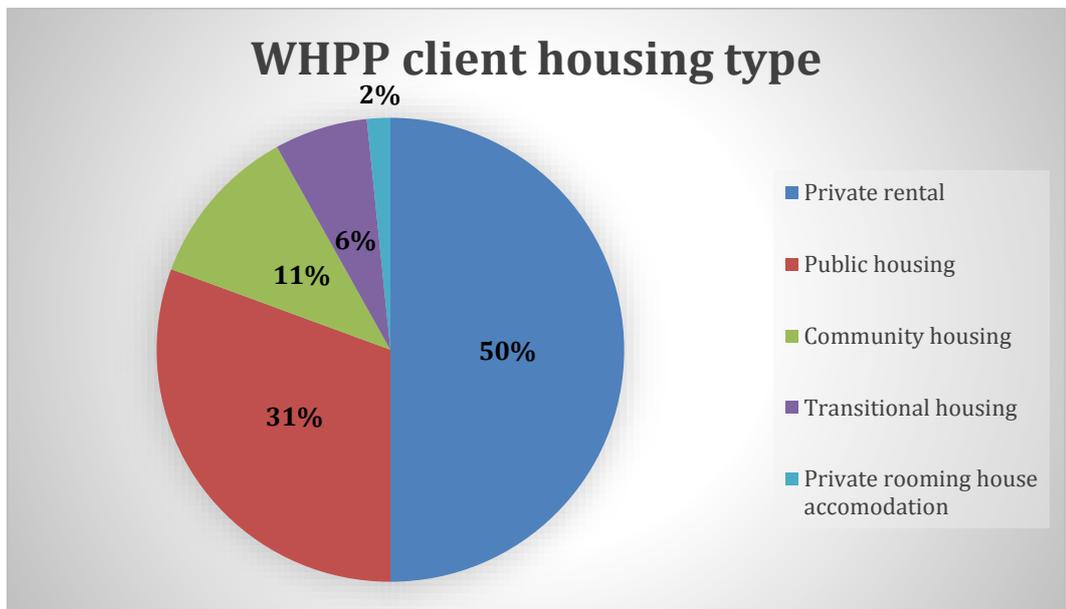
For many women, the risks associated with an episode of homelessness are greatly heightened due to the negative impacts this can have on children in their care. In total, 45 women (83%) assisted in the WHPP's first 12 months had children living with them when they presented for assistance, with the average number of children being 1.6, and the highest number of children in any one woman's care being six.

The WHPP assists women from a range of different backgrounds and cultures. In total, 41 (66%) of WHPP clients identified as Anglo Australian, two women identified as Aboriginal or Torres Strait Islander, and a further two women as Maori. The remaining 17

clients were born in a wide range of countries including two women from New Zealand, two from the United Kingdom, and women from India, Turkey, Mexico, Seychelles, Argentina, Somalia, Guinea, Sudan, Yugoslavia, Philippines, Poland and Ethiopia.

The WHPP assists women across all types of rental housing, with the breakdown of housing being as follows:

- 31 in private rental (50%)
- 19 in public housing (31%)
- Seven in community housing (11%)
- Four in transitional housing (6%)
- One in private rooming house accommodation



Four women were in custody when their initial appointment with the WHPP took place by phone. Three of these women had public housing tenancies whilst the fourth had a community housing tenancy.

All WHPP clients are experiencing financial stress, with 52 women (84%) reliant on Centrelink as their primary source of income. The breakdown of Centrelink payment type for these clients is as follows:

- 15 women receive a Parenting Payment
- 15 women receive a Disability Support Pension
- 17 women receive a Newstart Allowance
- Three women receive a Carer Payment
- One woman receives a Youth Allowance
- One woman receives a Family Tax Benefit (i.e. unemployed and not eligible for any other payment type)

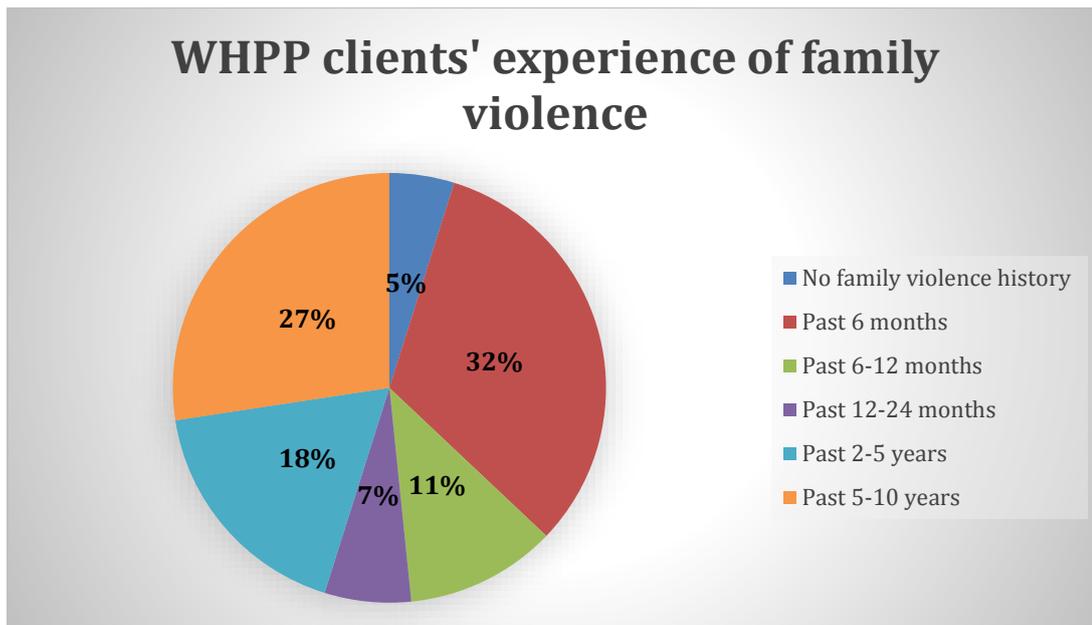
Of the remaining 10 women, two were employed full-time, two were employed part-time, two women were unemployed and in the process of applying for Centrelink benefits, and four women were incarcerated with no income.

An experience of family violence is the most common shared feature amongst the WHPP client group, with 95% of WHPP clients having experienced an incident of family violence at least once in the past 10 years, and 22 women (35%) having obtained either an interim or final family violence intervention order at some point in the past two years.

The breakdown of how recently family violence was experienced by the WHPP client group is as follows:

- 20 women in the past 6 months (32%)
- Seven women in the past 6-12 months (11%)
- Four women in the past 12-24 months (6%)
- 11 women in the past 2-5 years (18%)
- 17 women in the past 5-10 years (27%)

Of the 59 clients who reported a history of family violence, 42 women with a combined total of 60 children in their care were at risk of eviction due to rent arrears, and thirteen of these women had experienced violence in the past six months.



Many WHPP clients are also dealing with multiple and complex personal issues, including mental illness and substance abuse, that contribute to their housing instability and risk of homelessness. In total, 56 women (90%) reported suffering from a mental illness, with 50 women (81%) indicating that they suffered from anxiety and/or depression. A further seven women suffer from post-traumatic stress disorder (PTSD), and another five have confirmed diagnoses of bipolar disorder. All seven women with confirmed cases of PTSD reported a history of family violence, with five reporting they had experienced family violence in the past six months.

In total, 28 women (45%) reported very recent or current substance addiction issues, with six women reporting addiction to amphetamines, five reporting addiction to cannabis, four reporting alcohol abuse issues, and three women reporting current opiate use. A further two women were undertaking either a methadone or suboxone treatment program, and four women reported problems with gambling.

In addition, a total of 12 women (19%) reported having a disability, with five women reporting a physical disability, three an intellectual disability, and one woman an acquired brain injury. A further four women reported that one or more of their children had a behavioural issue that impacted significantly on the family.

## 4.2 Legal issues presenting a risk of homelessness: 68% facing eviction for rent arrears

The overwhelming majority of WHPP clients are at risk of homelessness due to rent arrears accruing at their property.

In total, of the 62 WHPP clients to date, 42 (68%) women's primary issue is eviction due to rent arrears. The majority of these women have sought assistance when legal proceedings for eviction are already on foot, with the breakdown as follows:

- 15 women had an upcoming VCAT possession order hearing
- 10 women had missed a VCAT possession order hearing, but a warrant of possession had not been purchased
- Seven women had missed a VCAT hearing and a warrant had been purchased
- Nine women had received a notice to vacate for rent arrears with no VCAT hearing scheduled yet
- One woman was expecting to receive a notice to vacate a day or so after she called Homeless Law

Of the 42 women at risk of homelessness due to rent arrears, 24 are living in private rental, 11 are living in public housing, four are living in community housing, two are living in transitional housing, and one woman was living in a private rooming house.

The average amount of arrears owed amongst this group of 42 women at the time of their first appointment was \$2177, with the lowest amount owed being \$70, and the highest amount owed being \$7,700.

A further 10 clients were at risk of eviction for reasons other than rent arrears, with the breakdown as follows:

- **Conduct or compliance** – four clients required assistance in relation to compliance order applications or breach of duty notices.
- **'No reason' notices or end of fixed term lease** – three clients required assistance in relation to notices to vacate for end of lease or no specified reason.
- **Abandonment** – one client required assistance in relation to an abandonment application that had been made against her at VCAT.
- **'Creation' of a new tenancy** – two clients required assistance in relation to creation of tenancy applications, one of which was in the context of an intervention order excluding a co-tenant from the premises.

In addition to preventing evictions, the WHPP also assists women to resolve housing related debts and compensation claims that have been made against them, as well as to terminate existing tenancy agreements at properties where they are no longer able to reside. The breakdown of these non-eviction matters is as follows:

- **Debts and compensation** – six clients required assistance in relation to compensation claims that had been made against them by existing or previous landlords. Four women required assistance for upcoming VCAT hearings, and two women required help with previous compensation orders that were made at VCAT when they couldn't attend a hearing. Of the six women requiring assistance in relation to compensation claims, four reported that the damage was caused by a violent ex-partner or family member, and three of these matters have been finalised with successful outcomes. Of the six women in total, three were compensation claims made against women in public housing that were lodged by the Director of Housing; the other half related to women in private rental properties and had been lodged by private landlords.
- **Ending a tenancy agreement** – five clients required assistance to terminate an existing tenancy agreement that they could not continue due to family violence. In four of these cases, the women were still living in the rented premises with a combined total of seven children in their care. In the other case, the client had already moved out of the rented premises with one child in her care. All five of these cases were finalised with a successful outcome.

### 4.3 Multiple legal issues

Client data collected from the WHPP's first 12 months is consistent with legal needs research that has found individuals experiencing one or more forms of disadvantage are more likely to also be experiencing multiple legal issues.<sup>24</sup> Wherever possible, the Homeless Law lawyers assisted these women with referrals to external organisations, and where the additional legal issue related to one of Homeless Law's practice areas, an internal referral was made for additional assistance through Homeless Law.

In total, 33 WHPP clients (53%) were also experiencing at least one additional legal issue, and a further seven women (11%) reported experiencing multiple additional legal issues. In total, the combined 62 WHPP clients reported 46 additional legal issues they were experiencing.

The most common additional legal issues reported related to family law, including child custody proceedings, assistance with obtaining or varying family violence intervention orders, and divorce, with 12 women requiring assistance with this matter type. A further 10 women reported having issues with fines and infringements, eight women had a credit and debt issue, seven had a criminal law issue, two had a child protection issue and four women had a tenancy issue not related to eviction or homelessness.

Of these 33 women with one or more additional legal issue, six were already engaged with external lawyers and were receiving assistance. The WHPP was able to refer nine women with family law issues to external organisations for assistance, including seven women to the Women's Legal Service Victoria, and four women with infringements and criminal law issues to Victoria Legal Aid (VLA).

A further four women with credit and debt issues were referred for assistance, with three of these women being referred internally through Homeless Law. Similarly, four women with additional tenancy issues (i.e. requests for repairs or compensation claims against landlords) were referred for assistance, with three women being referred internally to Homeless Law, and another woman being referred to the Tenants Union of Victoria for assistance.

As the following case study illustrates, WHPP clients' complex personal circumstances and frequent exposure to family violence mean they are often dealing with multiple and complex legal issues at the same time as they are at risk of homelessness.

<sup>24</sup> Christine Coumarelos, Deborah Macourt, Julie People, Hugh M McDonald, Zhigang Wei, Reiny Iriana & Stephanie Ramsey, Law and Justice Foundation of NSW, *Legal Australia-Wide Survey: legal need in Australia* (2012) (LAW Survey).

**Donna:  
Victim of recent violence assisted to terminate lease early**

Donna is a 42 year old woman who recently arrived in Australia, having fled her marriage of over 15 years due to ongoing psychological abuse from her husband.

Donna arrived with 3 children who were also traumatised as a result of the violence the family had escaped from. She worked full time in order to support her private rental tenancy, but required urgent assistance to terminate the lease early as she had become aware that her husband now knew her address and was intending to come and see her. Donna's real estate agent had initially told Donna she was not able to leave unless she could pay a large sum of money upfront, which made her feel trapped and unsafe. There was four months left on the existing fixed term lease.

At the initial client appointment, the WHPP social worker provided considerable support to Donna with her anxiety, trauma and fear as she repeated her history of family violence. Together a number of safety strategies were planned, including becoming a silent voter, getting a PO Box for mail, and advice about social media and her children.

The Homeless Law lawyers successfully negotiated with Donna's real estate agent for her to leave the property with two months' notice, without any significant financial penalties arising. The WHPP social worker also accompanied Donna to attend a Magistrates' Court hearing to obtain an IVO against the husband, which included developing a safety plan for attending court on the day.

Donna now lives in a new private rental property where she feels safe.

## 5. Outcomes: preventing homelessness and addressing barriers to accessing safe housing

In 12 months of operation, the WHPP has assisted 62 women with a combined total of 102 children in their care.

So far, 51 of these matters have been finalised and 43 women with a combined total of 85 children in their care were able to either avoid eviction into homelessness, or resolve a debt or other compensation claim that was a barrier to their ability to access housing. This means 81% of finalised matters were successfully resolved.

These 43 successful outcomes relate to the following matter types:

- 27 clients at risk of eviction for rent arrears;
- Seven clients at risk of eviction for non-arrears matters, including compliance orders and breach of duty notices;
- Four clients facing compensation claims from a previous landlord;
- Five clients seeking to terminate tenancies affected by family violence.

This section discusses the outcomes achieved in the WHPP's first 12 months in greater detail, and highlights some of the key themes of assistance provided to WHPP clients.

### 5.1 Preventing avoidable rent arrears evictions for victims of family violence

The most common factor placing WHPP clients at risk of eviction into homelessness is rent arrears, and almost all WHPP clients at risk of eviction for arrears have experienced family violence. Across the entire WHPP client group, 42 clients (68%) are at risk of homelessness due to rent arrears, and 92% of these women report an experience of family violence in the past 10 years.

For some clients, a recent experience of violence and ensuing relationship breakdown can be the immediate cause of rent arrears accruing and eviction proceedings commencing. For others, the experience of violence may be less recent, but the impacts are still sharply felt, often in the form of associated mental illness or substance abuse issues that a client has developed in order to cope

with trauma. When left unaddressed, these factors can combine with a range of other forms of disadvantage to cause rent arrears to accrue, causing the risk of eviction into homelessness to become more acute.

It is Homeless Law and the WHPP's experience that the vast majority of rent arrears evictions can either be avoided, or delayed in order to allow vulnerable tenants additional time to locate alternative accommodation. In many instances, financial brokerage plays a key role in preventing a client and her children from being evicted due to arrears. Similarly, non-legal assistance from the WHPP social worker is often crucial in assisting women in this situation to access additional financial support from external agencies, or source alternative accommodation where an existing tenancy is unsustainable.

The following table sets out data in relation to how recently WHPP clients with a family violence history have experienced violence, along with how frequently women in each category are at risk of eviction for rent arrears, and how many children are in their care.

Experience of family violence	Past 6 months	Past 6-12 months	Past 12-24 months	Past 2-5 years	Past 5-10 years	Total
	20	7	4	11	17	59
At risk of eviction due to rent arrears	13	4	4	11	10	42
Combined total of children in care	17	8	6	19	12	62

**Table: History of family violence for WHPP client group**

In total, 33 of the WHPP's 51 confirmed outcomes so far relate to clients at risk of eviction for rent arrears, and 27 women (82%) with a combined total of 42 children in their care have been able to avoid homelessness. Of this number, 25 women were able to maintain their existing tenancy, and two were able to obtain additional time at VCAT in order to relocate to more affordable housing.

Financial brokerage funding was used in nine cases (41%) where women at risk of eviction for rent arrears were able to maintain their existing tenancy, with the average amount of brokerage per client being \$560. Financial brokerage is often sourced by the WHPP social worker from appropriate external organisations, such as homelessness access points. Homeless Law has also been generously supported with brokerage provided by the City of Melbourne, the REA Group and Launch Housing, Herbert Smith Freehills and St John's Uniting Church Elsternwick (donations from the annual Social Justice Lunch).

For one vulnerable client with two children in her care who had fallen into arrears, the WHPP social worker sourced a combination of \$1800 from external organisations and the WHPP's own resources. This allowed the lawyers to negotiate with the private landlord to create a legal agreement not to purchase a warrant of possession despite the existence of a VCAT possession order.

For another WHPP client who had fled a violent relationship with three children into a new private rental property, the WHPP social worker sourced \$350 from an external agency to go towards arrears that had accrued, and this assisted the lawyers to successfully argue against a possession order being made at VCAT and gave the client an opportunity to repay the remaining arrears at an affordable rate.

The following table describes the stage at which these and other rent arrears evictions were resolved, as well as the frequency and number of children in the relevant client group's care.

Stage at which matter resolved	Number of clients in group	Children in client group's care
No VCAT hearing occurred	6	8 children
VCAT hearing occurred, but possession order application was adjourned	14	20 children
VCAT hearing – possession order made but payment plan entered	5	9 children

In addition to the 25 women who were able to maintain an existing tenancy, a further two women were assisted to transition into new stable housing without a period of homelessness occurring.

In one of these cases, the Homeless Law lawyers successfully obtained an additional 21 days prior to eviction at VCAT, which allowed the client and her two children to move into a transitional housing property in the interim. A sum of \$500 financial brokerage was used to facilitate this arrangement by consent with the previous landlord. Whilst the lawyers were unable to obtain any additional time at VCAT for the second client, financial brokerage of \$350 assisted her and her three children to obtain a new private rental property prior to execution of the warrant of possession.

Of the six women who were unable to avoid homelessness due to rent arrears, five were represented by Homeless Law lawyers at a VCAT possession order hearing, and in four instances were granted additional time by the VCAT member in order to locate alternative accommodation. The periods of extra time granted for these four clients varied between 10 to 30 days.

In one matter, VCAT awarded no additional time for a client to relocate, and in another matter, the client withdrew her instructions to proceed prior to hearing as she had begun couch-surfing at a friend's house. As a result, the Homeless Law lawyers were unable to make any application for postponement of issue of the warrant.

The following case study highlights the way in which many victims of family violence who decide to flee violent relationships are placed at an increased risk of homelessness. It also demonstrates the effectiveness of the WHPP model and the important role financial brokerage often plays in preventing unnecessary evictions into homelessness.

**Paula:**

### ***Single mum with health problems supported to stay in housing***

Paula is a 32 year old separated mother with care of three young children who works part time. Paula was made homeless at age 17 when she was forced to flee violence in the family home from her father. She became pregnant and was married at age 19. Paula's marriage had recently broken down and her husband also became violent, which led to Paula fleeing her husband's parents' home where she'd been staying and entering her first private rental property with the three children.

Soon after moving in, Paula began to accrue rental arrears as a result of confusion over the frequency of her rent payments. This confusion was exacerbated by her serious depression and anxiety issues and lack of any support or counselling to assist after the violence and breakdown of her marriage. In addition, Paula became very ill requiring surgery, and then suffered complications which led to her exhausting all sick leave from work.

When Paula presented to Homeless Law she was anxious she'd lose her job, her housing and her children as a result of the financial issues. Her lawyers quickly negotiated a repayment plan with the real estate agent whilst the WHPP social worker organised an emergency meeting with her local housing access point.

Through a private rental brokerage program, Paula received a \$900 payment to help save her tenancy, and the WHPP social worker also referred her to a financial counsellor to assist with future budgeting. The WHPP social worker also helped Paula obtain food vouchers, warm clothing for her children, and assistance with school related costs. She was also advised to seek a mental health care plan through her GP which is currently in place.

Paula has remained in the property and is now on a two year lease. She has also paid back all arrears owing and is obtaining support for her mental and physical health issues. She has also managed to keep her employment throughout this process.

## **5.2 Addressing housing debts for victims of family violence**

Many WHPP clients are facing compensation claims and other debts arising from tenancies affected by family violence, including where a perpetrator of violence has damaged the premises, and a victim is then held liable for the repair costs.

If left unresolved, these liabilities can create additional barriers for accessing future housing. For example, a tenant with an existing debt to the Director of Housing may not be eligible for public housing until the debt can be repaid. Similarly, individuals applying for private rental properties may experience difficulties if there is a listing in the residential tenancies database indicating that they have an outstanding debt to a previous landlord.

In Homeless Law and the WHPP's experience, legal representation leads to better outcomes for women in this situation, as lawyers are often able to advocate for claims against public housing tenants to be withdrawn, and for private landlords' claims to

be appropriately apportioned to reflect co-tenants' differing liability. Many WHPP clients in this situation have also benefitted from the WHPP social worker's assistance in relation to non-legal issues arising from their experience of family violence.

Four finalised WHPP matters involved clients who were assisted to defend compensation claims, and three of these matters related to damage caused by a previous violent family member at the premises. The following outcomes were achieved:

1. A claim of \$900 against a public housing tenant where the damage was caused by her adult son was withdrawn in full upon provision of a copy of an intervention order and support letter to the relevant housing officer;
2. A previous VCAT compensation order of \$1600 against a public housing tenant was lifted where the damage had been caused by a violent ex-partner. This allowed the tenant's urgent application for transfer to be processed without delay;
3. A claim of over \$7900 against a private tenant who had fled the premises due to escalating violence at the hands of an ex-partner was reduced to \$930.

In all three instances, the Homeless Law lawyers used the client's signed authority to request family violence related documents from Victoria Police and the Magistrates' Court. In the public housing matters (1) and (2) above, this evidence was then used to advocate for the Director of Housing to withdraw compensation claims against tenants, based on the publicly available policy which provides that claims won't be made where a household is affected by family violence. In relation to the private tenancy, this evidence was tendered at the VCAT hearing, which led to the matter resolving by consent with a significant reduction in liability for the client, who was then able to make gradual repayments to the landlord at a rate that was affordable for her.

These clients also received significant non-legal assistance from the WHPP social worker. For example, in relation to matter (2) above, the WHPP social worker provided emotional support at the client's initial WHPP interview, and assisted throughout the process by providing care for her two young children at the VCAT hearing, assisting her to work with the Homeless Law lawyers to complete and lodge an urgent public housing transfer application, and linking her with health services.

The following case study discusses the outcome of matter number (3) in more detail, and highlights the effectiveness of the WHPP's holistic model in assisting clients to address their immediate legal issue, as well as providing assistance and referrals for non-legal issues that can help to prevent the risk of homelessness re-occurring.

**Elaine:**

*Young mother avoids liability for debt of violent ex-partner and co-tenant*

Elaine is a 21 year old woman with an 11 month old baby. In late 2013 she entered a 12 month fixed term lease with her ex-partner who is the father of her child. Elaine's ex-partner used family violence against her, which escalated when he became addicted to ice and his behaviour became increasingly erratic.

There were numerous instances where Elaine was forced to call police to the property due to threatening and abusive behaviour, and in some of these instances damage was caused at the property. After six months at this premises, a serious incident took place which led Elaine to flee the property back into the family home. After fleeing, Elaine's ex-partner remained in the premises and continued to accrue rent arrears.

After a few months, the landlord applied to VCAT for a possession order and compensation of \$8000 for damage caused at the premises, as well as rent arrears that had accumulated. The claim was made against both Elaine and her ex-partner as co-tenants. Elaine hadn't spoken to her ex-partner in months, and was told by the real estate agent that he had not left a forwarding address and hadn't contacted them for months.

Elaine contacted Homeless Law and was given an appointment through the WHPP. The lawyers obtained police reports to demonstrate that most of the damage had been caused by Elaine's ex-partner, as well as other evidence to prove Elaine fled the property months before the VCAT possession order was made. The WHPP social worker provided Elaine with emotional support and facilitated a warm referral to a specialist youth service to help her transition into new stable housing.

The lawyers represented Elaine at the VCAT compensation hearing, and the original claim of \$8000 was reduced to \$4000, with Elaine only being liable to pay \$900 of this amount.

## 5.3 Assisting victims to end tenancies affected by family violence

The WHPP has assisted five women seeking to terminate existing private rental tenancy agreements that had become unsustainable or unsafe due to family violence. Of these five women, four were residing in the rented premises where they felt unsafe at the time they contacted Homeless Law, and the fifth was residing in crisis accommodation.

For all five clients, the Homeless Law lawyers were able to provide clear legal advice about their rights and obligations as tenants, and were able to negotiate with the landlord on their behalf and attend VCAT hearings where necessary.

Of the four women still living in the rented premises when the WHPP became involved, the following results were recorded:

1. A client in private rental with over four months remaining on a fixed term lease was assisted to negotiate an early lease exit in two months with no additional costs being imposed;
2. A client in private rental facing eviction for rent arrears after having excluded her ex-partner was assisted to defend the eviction proceedings. This enabled the client to repay the outstanding arrears prior to ending the tenancy with the consent of the landlord and ex-partner, which the lawyers helped to obtain;
3. A client in private rental who recently removed an ex-partner using an intervention order was assisted to obtain his consent to terminate the lease, as well as an agreement that he would be held solely responsible for damage caused at the premises as a result of family violence. The bond was then distributed to the parties in accordance with this agreement;
4. A public housing tenant was assisted to make an application to VCAT under section 233A of the *Residential Tenancies Act 1997 (Vic) (RTA)* for a new tenancy agreement to be created at the premises in her name only, due to the exclusion of the previous co-tenant as a result of family violence.

For the client who had already fled her rented premises into refuge accommodation, the Homeless Law lawyers provided her with detailed advice about her liability for unpaid rent and damage at the property. This assisted her to reach an agreement with the landlord whereby the outstanding debt could be repaid at an affordable rate.

The WHPP social worker also provided all five clients with significant non-legal support. In relation to matter (1), the client had received threatening messages from an ex-partner she had fled from her home country to escape. The WHPP social worker accompanied this client to the Magistrates' Court to obtain an intervention order against him on the basis of these communications and previous violence, which made the client feel safer as she could report any further threatening communications directly to police. Despite her initial safety concerns, this client was too afraid to leave her existing lease early due to the financial implications. The Homeless Law lawyers were able to effectively negotiate with the landlord to avoid significant additional costs, and the client was able to move to new and safer accommodation more quickly.

As the following case study illustrates, the WHPP social worker plays a key role in supporting women through the legal processes that are often intimidating and emotionally taxing, particularly for women who have recently experienced family violence.

## Jacinta:

### *Victim of family violence in public housing removes perpetrator from lease*

Jacinta had been living as the sole tenant in a public housing property for several years before her ex-partner was also added to the lease in 2011. As a result of DHHS' rebate policy, the increase in household income when this ex-partner moved in led to an increase in the rent being charged at the premises.

After an initial period of stability, Jacinta's ex-partner began using family violence against her. As the violence escalated, Jacinta sought assistance and was able to obtain an interim family violence intervention order (FVIVO) excluding her ex-partner from the property. Jacinta's ex-partner was disputing the FVIVO, and insisting he wanted to return to the premises where he was a tenant. During the time he was excluded, Jacinta's ex-partner was not contributing to the rent, and this led to rent arrears at the premises accruing.

Jacinta sought assistance from Homeless Law as she was very concerned about the arrears that were accruing, and the risk of losing her public housing. Homeless Law wrote to the Office of Housing and referred to their arrears policy that provides a discretion not to initiate legal proceedings for arrears where a household is affected by family violence. The lawyers also foreshadowed an application under section 233A of the Residential Tenancies Act for creation of a new tenancy agreement once the IVO proceedings had been finalised.

In late 2014, Jacinta obtained a final IVO in relation to her ex-partner and co-tenant. The lawyers were then able to assist her to make a section 233A application which was unopposed by the OOH. The WHPP social worker provided daily support to the client in the lead-up to the VCAT hearing, as her mental health deteriorated due to stress about the outcome. The WHPP social worker also helped to facilitate the use of a remote witness room at the VCAT hearing to reduce the client's anxiety.

Ultimately, the application succeeded and this resulted in a new tenancy agreement being created in the client's name only at the premises, as well as the clearing of all arrears that had arisen since the exclusion of her ex-partner. Jacinta has been able to move on with her life and is contemplating a return to study in 2016.

## 5.4 Using the Charter to prevent evictions from community housing

For social housing tenants at risk of eviction, the Charter provides an additional layer of legal protection by encouraging consideration of the tenant's individual circumstances, including their family, any health problems and their risk of homelessness. The Charter allows these considerations to be balanced against the competing obligations of social landlords. In this way, the Charter encourages proper consideration of alternatives to eviction.

Homeless Law frequently engages in Charter-based negotiation with social landlords with a view to preventing the eviction of vulnerable tenants into homelessness. This is often on the basis that, in taking steps to evict the tenant, the landlord has not given proper consideration to, or acted compatibly with, the tenant's rights under the Charter.

With 48% of WHPP clients living in social housing, Charter-based advocacy can be an important tool to prevent the eviction of vulnerable tenants.

In 12 months of operation, the WHPP has prevented the eviction of three women by advocating for their rights under the Charter. All three clients had tenancy agreements with community housing providers, and in all three cases, the Charter-negotiations resulted in the tenant either maintaining their tenancy or otherwise avoiding eviction into homelessness.

One WHPP client had been living in a community housing property for a number of years and was suffering severe mental health issues including a disorder that resulted in significant amounts of personal items being stored at the premises. The client had already had a possession order made against her for breach of a previous compliance order and the landlord was about to purchase a warrant of possession when the client contacted Homeless Law for assistance. The Homeless Law lawyers entered urgent negotiations with the landlord, and by raising relevant considerations under the Charter, succeeded in brokering a legal agreement whereby some of the client's personal items would be gradually removed from the premises without any eviction occurring.

Another WHPP client was living in transitional housing and had received a notice to vacate due to the end of her short fixed term lease. The relationship between the client and the landlord had broken down due to complaints from a neighbour, and when the client contacted Homeless Law there was a VCAT possession order hearing scheduled in five days' time. The Homeless Law lawyers negotiated urgently with the landlord including by raising relevant considerations under the Charter. The WHPP social worker began working with the client to identify alternative affordable private rental properties. As a result of these negotiations, the landlord agreed to adjourn the upcoming VCAT hearing by 30 days. This allowed the client to locate a suitable private rental property in regional Victoria that she relocated to. The WHPP social worker helped the client find this suitable accommodation, and was also able to source a \$300 contribution towards bond at the new property to help facilitate the relocation.

As the case study below illustrates, effective Charter-advocacy can prevent eviction of vulnerable tenants into homelessness, and avoid the break-up of family units.

**Maureen:**

### ***Vulnerable community housing tenant avoids exiting prison into homelessness***

Maureen is an older woman who was living in a community housing property with her two children and a grandchild when she was incarcerated due to outstanding infringements.

This led to Maureen losing two part time cleaning jobs, and rent arrears accrued. The landlord commenced eviction proceedings, and advised one of Maureen's children to attend VCAT to represent the client as she was incarcerated. Maureen was unaware of the VCAT hearing, and was concerned that the possession order would result in her grandchildren being placed in state care.

When Maureen was referred to Homeless Law by the prison support worker, the landlord had purchased a warrant and was taking steps to remove the family from the premises. The Homeless Law lawyers urgently applied for review of the VCAT hearing, and entered negotiations with the landlord to enter an arrears repayment agreement that would allow Maureen to avoid her eviction. These negotiations included advocacy around Maureen and her family's rights under the Charter.

These negotiations were ultimately successful, and at the subsequent VCAT review hearing, an order by consent was made for Maureen to repay the arrears at an affordable rate. Maureen was given significant guidance and practical support by the WHPP social worker during this difficult period, particularly when she was considering relinquishing her tenancy as it was all becoming too hard.

Maureen is now living back in her community housing property, and has been referred to Victoria Legal Aid for help with outstanding infringements.

## **6. Holistic services: addressing non-legal issues**

The non-legal assistance provided by the WHPP social worker is a crucial aspect of the WHPP's holistic model. After 12 months of operation, the outcomes achieved through the WHPP suggest that eviction prevention models that combine ongoing legal representation with social work support could be expanded to prevent more vulnerable women being unnecessarily evicted into homelessness.

This section of the report outlines the work of the WHPP social worker in more detail, and provides information about the different types of non-legal assistance provided to clients in the first 12 months of the WHPP.

### **6.1 Providing assistance from the outset**

The WHPP social worker's assistance begins at the initial client interview which she attends along with the pro bono lawyers. In a context where 95% of all WHPP clients have a history of family violence, which for over 30% of women includes an incident in the past 6 months, the WHPP social worker provides clients with crucial emotional support to tell their stories at the initial interview stage.

For many women this process can trigger anxiety, distress and discomfort, and the WHPP social worker's training and experience dealing with traumatised victims of violence provides additional comfort to the clients. This also assists the Homeless Law lawyers to obtain a better understanding of their client's circumstances, which in turn leads to more effective legal advocacy. The WHPP social worker has been crucial to building the capacity and understanding of pro bono lawyers in relation to clients in crisis who have experienced trauma and the complex housing, homelessness and services sector.

The social worker works in a framework of trauma informed care, which involves a carefully undertaken and detailed psycho-social assessment that can then be used to support clients to access longer-term services and supports. Importantly, women do not have to re-tell distressing details of their story to a range of new services and workers.

Depending on the areas of non-legal need and their urgency as identified with the client during the initial interview stage, the WHPP social worker often continues to assist women with a wide variety of non-legal casework support for up to three months after the initial appointment.

## 6.2 Linking clients with appropriate services and supports

The WHPP social worker has over 10 years' experience working in housing and homelessness. Her extensive knowledge, networks and expertise have been crucial to obtaining positive and sustainable outcomes for WHPP clients.

In total, the WHPP social worker has provided 55 clients (89%) with referrals to non-legal services for assistance. These referrals have been to a range of different organisations and for a range of different needs, including the following:

- 23 referrals to initial assessment and planning (IAP) homelessness access points for assistance with accessing crisis accommodation, transitional housing and financial assistance to help sustain existing tenancies and transition into new housing.
- 15 referrals to mental health care professionals including psychological services through mental health care plans, youth counselling, and assisting women to re-engage with previous mental health supports.
- 15 referrals to other professionals including child services, physiotherapists, chiropractors and family violence specific counsellors.
- 12 referrals to a general practitioner for a range of issues including medication review, referrals to specialists, medical support letters, activation of a mental health care plan and advice in relation to children's health and behaviour.
- 11 referrals to financial counsellors to assist women with setting up automatic bill paying systems and making a budget to manage household income.
- Two referrals to alcohol and other drug counsellors (AOD).

To place these referrals in context, of the 23 referrals to IAP services, 15 were in relation to women who required financial assistance. Of these 15 referrals, six resulted in women successfully obtaining financial brokerage to assist with maintaining an existing tenancy, or the costs associated with commencing a new tenancy.

In total, seven of the 23 referrals to an IAP resulted in the client being allocated a support worker. Allocation of a specific housing support worker is often particularly important for WHPP clients with multiple and complex needs, as these clients benefit from having ongoing case-work assistance with case planning, building trusting relationships, and working on long term housing goals some of which are only accessible if a client has a support service working with them.

The 11 referrals to financial counsellors were also important given that multiple WHPP clients reported anxiety about managing money, which was often due to past partners having managed all financial matters, and frequently preventing the women from accessing money and understanding the household's financial situation.

The following case study highlights the way in which the WHPP social worker is able to collaborate with the Homeless Law lawyers in circumstances where an existing tenancy cannot be sustained, in order to quickly identify alternative housing options for the client, which in some cases can prevent a period of homelessness from occurring.

Amy:

### ***Brokerage buys time to secure transitional housing***

Amy is a single mother with two children living in a private rental property. She suffered very severe family violence as a child as well as an adult. The father of Amy's children had been sent to prison months earlier, which caused a significant decrease in household income. Amy became reliant on her single parent pension to support two young children, and make repayments towards old debts. Rent arrears soon accrued, right when Amy's children were having behavioural issues at school.

Amy was referred to Homeless Law by a homelessness service that had placed Amy and her children in crisis accommodation after they were evicted from the private rental property by police. The Homeless Law lawyer quickly ascertained that this eviction hadn't been properly executed, and obtained an urgent VCAT order granting her access to the property. At the same time, the WHPP social worker provided Amy with emotional support and helped her to accept that the tenancy had become financially unsustainable and she would need to apply for social housing.

The Homeless Law lawyer represented Amy at a further VCAT hearing, and was able to use financial brokerage to negotiate with Amy's landlord for her to remain in the premises an extra three weeks whilst new accommodation was located. Amy then worked intensively with the WHPP social worker and other housing support workers, and was successfully placed in a transitional housing property near to where her children attend school. The Homeless Law lawyers are continuing to assist Amy in relation to her debt issues.

## **6.3 Working to build clients' skills, confidence and knowledge**

The WHPP social worker also provides significant levels of direct assistance to clients, including the following:

- 37 sessions explaining housing options and eligibility for social housing in Victoria.
- 32 episodes of skill building, including explaining how to find more affordable private rental, how to use filters in internet searching for rental properties, tips on maximising the chance of obtaining private rental properties, and searching for properties online with clients. Skill building also crossed into managing budgets and spending, as well as knowing what resources are available so that rent can always be prioritised.
- 15 grants of brokerage through the WHPP to assist clients with other costs, including taxis to attend court, a vacuum cleaner, food vouchers, myki credit, and a diary to manage multiple appointments with various support workers.
- 13 grants of financial brokerage through the WHPP to pay towards clients' rent arrears or start-up costs in new tenancies.
- 10 support letters for women with VCAT hearings.
- Eight attendances at VCAT to support women through the process and provide evidence about involvement with the client.
- Six grants of financial brokerage through the WHPP to pay for clients' removalist costs.
- Two attendances at Magistrates' Court venues to support a client seeking a family violence intervention order.

In a context where 42 WHPP clients (68%) are at risk of eviction due to rent arrears, the WHPP social worker's capacity to obtain private rental brokerage support led directly to nine tenancies being saved, and a further two women being able to transition into new long term housing prior to eviction.

For example, one WHPP client who had sustained a workplace injury that resulted in arrears accruing on her public housing tenancy, was assisted by the WHPP social worker securing \$700 in financial brokerage to prevent her and her three children being evicted into homelessness. This client was also linked to a financial counsellor and provided food vouchers and a referral to her GP for a mental health care plan to deal with her depression and anxiety, which had remained untreated after many years of abuse from her ex-husband.

The WHPP social worker's non-legal assistance to women who are incarcerated is also crucial, given the additional barriers these women face. For example, one WHPP client who was incarcerated presented with an arrears eviction matter and compensation claim that had been lodged against her. Whilst these issues were being resolved by the legal team, the client also received support from the social worker to assist with her son commencing high school. The social worker liaised intensively with the school and the

carer of her son to ensure that he was able to begin school with uniform, books, and a laptop. Financial brokerage was also sourced to assist with school camps later in the year.

The WHPP's support for women attending VCAT venues is also another key advantage of WHPP's holistic model. For one traumatised WHPP client who had experienced extreme family violence and presented with her public housing at risk due to damage and arrears arising from the abusive partner, the WHPP social worker supported this woman to access VCAT safely and to use the remote witness facility to provide evidence. This client also received daily support when her mental health deteriorated due to stress before the VCAT hearing, and once it was resolved, was put in touch with Women's Information and Referral Exchange (**WIRE**), where she has taken part in paid reference groups and is now involved in social programs and is considering a return to study.

Through the provision of direct assistance as well as facilitated warm referrals to appropriate external organisations and services, the WHPP's social worker improves outcomes for clients by helping them to address non-legal issues that can often result in further risks to stable housing in the future. This holistic model of assistance is a key feature of the WHPP, and is a significant contributing factor in many of the outcomes discussed above.

## 7. New relationships: multi-sector partners supporting early referrals

The complexity of the service landscape in the homelessness and legal sectors can make it difficult for organisations to navigate referral pathways for their clients. This is particularly true for tenants at risk of eviction, who often require urgent legal and non-legal interventions to avoid a period of homelessness. As the research discussed above in part 2 highlights, these individuals are also more vulnerable to experiencing multiple legal issues, and face significant barriers to accessing legal assistance to resolve them.

Accordingly, the WHPP recognises the importance of engagement with a variety of legal and non-legal sector stakeholders who are also in contact with women at risk of homelessness. This engagement builds relationships and increases awareness of the WHPP and the assistance we can provide to women at risk of homelessness. WHPP staff regularly engage with a variety of external organisations including community legal centres, Court and Tribunal staff, Victoria Police, VLA, homelessness access point staff, community housing providers, community health centres, women's community organisations, financial counsellors, and a range of others.

In the first twelve months of the WHPP, some of the key stakeholder engagement activities have included:

- Participating in a bi-monthly tenancy working group hosted by the Federation of Community Legal Centres (**FCLC**), attended by a range other CLC employees and staff from VLA, which provides an opportunity for lawyers and advocates to raise awareness about common issues they are seeing, and promote awareness of each other's activities;
- Attending quarterly VCAT Residential Tenancies User Group meetings along with a diverse range of other organisations, which provides a forum to raise issues that Homeless Law and WHPP clients are experiencing when dealing with VCAT;
- Meeting with VCAT's family violence support worker to establish clear referral pathways of VCAT users to the WHPP. This has proven to be an important connection, with the VCAT family violence worker successfully referring six women to the WHPP for assistance in the project's first 12 months;
- Attending a family violence support workers' meeting group organised by the FCLC, which allowed WHPP staff to speak about their work to a group of CLC workers assisting women to obtain family violence intervention orders;
- Meeting with Women's Legal Service Victoria's 'Stepping Stones'<sup>25</sup> project officers, who work to assist women experiencing financial disadvantage as a result of family violence, to discuss mutual client referrals;
- Attending a team meeting at Safe Steps, Victoria's main family violence crisis assistance service, to present information about the WHPP's work and to assist workers to identify clients who could be referred to the WHPP;
- Attending a team meeting at key project partner the City of Melbourne, to discuss the work of the WHPP and some of the outcomes achieved;

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<sup>25</sup> Like the WHPP, the Women's Legal Service Victoria's 'Stepping Stones' project uses a holistic legal assistance model, pairing a lawyer and financial counsellor to assist women experiencing financial hardship as a result of family violence. More information is available on the project website here: <http://www.womenslegal.org.au/stepping-stones.html>

- Providing eviction training at an event organised by the Western Legal Assistance Forum that was attended by over 40 CLC and VLA employees, which included information on the work of the WHPP and Homeless Law in this area;
- Providing tenancy law training and referral information as part of the Aboriginal Family Violence Prevention Legal Service's (FVPLS) training day, with a focus on assisting staff to identify the types of legal issues that the WHPP and Homeless Law can assist their client group with;
- Providing tenancy law training at the Victorian Aboriginal Legal Service, with a focus on use of the Charter in tenancy law, and the types of matters that lawyers can refer their clients to the WHPP and Homeless Law for assistance with;
- Attending an information stall at the annual 'Where the Heart Is' festival in Fitzroy, which enabled the WHPP to promote its services to the large number of individuals present, as well as a range of other organisations in attendance, including The Big Issue, Royal District Nursing Service, Living Big and others;
- Meeting with representatives from the Women's Information and Referral Exchange (WIRE) to discuss the WHPP's work, which led to a WHPP client taking part in a paid research session about her experience of family violence.

The WHPP's close relationship with the VCAT family violence support worker has proven an important linkage, with a number of highly vulnerable tenants benefitting from the holistic model designed to address legal and non-legal issues. The VCAT family violence worker provided the following feedback about the WHPP in its first 12 months of operation:

*'The unique pairing of a legal and social work response is what distinguishes the Women's Homelessness Prevention Project and makes this an invaluable service for vulnerable clients at risk of homelessness. Through the Women's Homelessness Prevention Project involvement, the VCAT process is made accessible and enables a constructive experience for women, from which there have been many successful tenancy outcomes. In light of the correlation between family violence and homelessness it is imperative that such a service exists and continues to receive funding' – VCAT family violence support worker.*

Information postcards for the WHPP and Homeless Law's general service are distributed at all training events and team meetings attended by WHPP staff to encourage referrals to the service.



**The WHPP postcard. Contact information and a project description appears on the underside**

In addition, following the training session conducted with the FVPLS team, WHPP staff have attended further community outreach events with FVPLS to better engage with Aboriginal and Torres Strait Islander women, and ensure that individuals at risk of homelessness are aware of the assistance available through the WHPP and Homeless Law's general service.

Homeless Law continues to work closely with legal and non-legal partners to make sure the WHPP is attracting early referrals that give women the best chances of avoiding eviction into homelessness.

## 8. Systemic reform: building awareness and generating change

Through our direct casework with women experiencing or at risk of homelessness, Homeless Law is gathering data and insights about the factors pushing women into homelessness. Through this evidence base, we are well-placed to identify changes to laws, policies and practices that will help prevent the unnecessary evictions of women and children. We have been collating and communicating the findings from the WHPP with a view to informing changes that will prevent avoidable experiences of homelessness for Victorian women and children.

This section highlights some of the ways the WHPP has been able to use this evidence base to advocate for systemic change.

### 8.1 Building awareness of women's homelessness

Although community awareness of homelessness amongst women is increasing, including as a result of the current political focus on family violence and its implications for victims, it is still common for the general community and decision-makers to understand homelessness as something that predominantly affects older men. The image of an older man with complex circumstances sleeping rough remains a persistent stereotype of who experiences homelessness and why.

In Homeless Law's experience, while organisations working within the housing and homelessness sectors are well aware of the prevalence of homelessness amongst women and the causes of this prevalence, in the broader community it is not yet widely understood.

This low level of community awareness may be attributable to the fact that women are often less visible in their experience of homelessness than men, predominantly because they're less likely to sleep rough and more likely to stay in refuges, with friends or family or sleep in cars. As research by AHURI found:

*'Domestic and family violence are a major reason why women and children need to leave their homes in Australia. When they do so, they almost inevitably become poorer and their housing conditions deteriorate as they struggle to access private rental accommodation or public housing where, in both cases, demand is far greater than available supply'.<sup>26</sup>*

In a context where 95% of WHPP clients report an experience of family violence in the past 10 years, the WHPP aims to raise awareness about homelessness amongst women, and the role that family violence can play in causing homelessness or otherwise placing women's housing at risk.

Some examples of this aspect of Homeless Law's work include:

- Article profiling the WHPP in *The Age*, ['Women's clinic stops homeless cycle before it starts'](#) (November 2014);

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<sup>26</sup> See AHURI 2011 report, above n 13.



Photograph from *The Age*, 30 November 2014 'Women's Clinic Stops Homeless Cycle Before it Starts'. Photo: Wayne Taylor

- Article in the Law Institute Journal promoting the WHPP's pro bono model, '[Pro Bono: Keeping Women Housed](#)';
- WHPP social worker's address at St John's Uniting Church Elsternwick 'Annual Social Justice Lunch', on the topic of '*Preventing Violence against Women*' – which was attended by over 100 members of the community;
- Articles in the Council to Homeless Persons' national homelessness magazine, *Parity*: June 2015 edition '*Dear Landlord: Private Rental and Homelessness*', article titled '*Private rental housing stress – a game of snakes and ladders*'; May 2015 edition '*It Has To Stop: Homelessness Violence*', article titled '*Melbourne: The world's most liveable city – unless you're a victim of family violence*'; and October 2014 edition '*Homelessness and the Law: Access to Justice*', article titled '*Modelling Legal Services to Help Prevent Homelessness*';<sup>27</sup>
- Article on *Mamamia*, '[The prospect of being without a home is frightening – especially when children are involved](#)' (*Mamamia* has 1.7 million readers and the article was shared over 450 times);
- Article in the *Melbourne Times*, '[Help for homeless women who escape domestic violence](#)';
- *Home Safe: Submission to the Royal Commission into Family Violence* (May 2015);
- *Family violence, homelessness and affordable housing – a joint submission from 129 organisations* (29 May 2015);
- Article in *The Age* reporting on the joint submission on housing affordability and family violence to the Royal Commission into Family Violence, '[Housing Costs Trapping Women in Domestic Violence](#)' (May 2015).

The WHPP also circulates bi-monthly newsletters that are distributed to a wide variety of agencies and individuals working in both legal and non-legal contexts. These newsletters are specifically targeted towards organisations assisting women with non-legal issues that can lead to periods of homelessness (e.g. family violence support services, financial counsellors, homelessness access points, community health professionals and more). The newsletters highlight the WHPP's work and provide information to assist with referring women to the WHPP for legal representation. They feature de-identified stories of WHPP clients, focusing on the legal and non-legal assistance they have received through the project.

The aims of the newsletters are both to increase awareness about the WHPP and its work with a view to attracting client referrals, and to build awareness of key legal issues affecting women experiencing or at risk of homelessness (i.e. it has both a casework and advocacy focus). In the last 12 months, Homeless Law has published the following newsletters:

- Introduction to the WHPP, including the integrated model of legal representation and social work support and the focus on preventing the eviction of women and children into homelessness.

<sup>27</sup> *Parity* magazine is the Council to Homeless Persons' national publication, examining homelessness from personal, local, social, national and global perspectives. Copies of *Parity* magazine are available to purchase via the Council to Homeless Persons' website: <http://chp.org.au/services/parity-magazine/>

- Profiling two stories of homelessness prevention.
- What's the cost of homelessness? Rent arrears putting families at risk of homelessness.
- Five ways family violence puts women at risk of homelessness.
- Dollar value: the role of financial brokerage in preventing homelessness.
- Call for organisations to endorse the joint submission on family violence, housing and homelessness to the Royal Commission into Family Violence.
- Home Safe: Breaking the Links Between Family Violence and Homelessness.

The WHPP's work in assisting women at risk of homelessness and raising awareness of the broader issue of homelessness amongst women was recognised at the VicHealth awards 2014, where the WHPP was nominated as a finalist in the category 'Improving mental wellbeing'.

## 8.2 Highlighting the links between family violence and homelessness

Although the WHPP is not targeted specifically at women who have experienced family violence, 95% of the women we have assisted – all of whom are homeless or at risk of homelessness – have experienced family violence.

Through the WHPP, we see that women and children affected by family violence are at an increased risk of homelessness, including because:

- They are forced to leave their home due to violence;
- They stay in their housing, but with significantly reduced household incomes after the violent family member leaves or is excluded; and/or
- Long-term impacts of family violence, such as mental illness, financial hardship or isolation from family and friends, make their lives precarious.

In these ways, family violence can present both immediate and long-term risks of homelessness for women and children in their care.

Through the direct provision of legal representation and social work support through the WHPP, Homeless Law has been able to identify the legal and policy factors that contribute to unacceptably high rates of homelessness amongst women and children who have experienced family violence.

Homeless Law contributed this evidence and insight to the Royal Commission into Family Violence (**RCFV**) in a detailed submission, *Home Safe*.

The submission contains 12 case studies from the WHPP and was informed by three detailed consultations with former WHPP clients who had experienced family violence and found themselves at risk of homelessness.

In *Home Safe*, Homeless Law makes 12 recommendations to break the current links between family violence and homelessness, including:

- Changes in law, policy and practice to **prevent unnecessary evictions into homelessness**, coupled with stronger, better resourced programs targeted at eviction prevention and rapid re-housing.
- **Growth in the supply of affordable housing** to create housing options for victims seeking to leave violent relationships, reduce the risk of homelessness, and generate housing pathways for perpetrators of family violence to minimise the risk of further violence.
- Amendments to the *Residential Tenancies Act 1997* (Vic) to reduce barriers to accessing housing for victims of violence, including in relation to **tenancy 'black lists' and housing debts** incurred as a result of violence.
- Promoting the use of **'creation applications'** under the RTA for victims of family violence to sustain their housing after the exclusion of a perpetrator via a final intervention order. Only 22 of these applications were lodged with VCAT in 2013-2014, despite 35,000 family violence intervention orders being made during the same period.
- Improving the **appropriateness and transparency of policies** guiding social housing providers' responses to family violence.
- Introducing **targeted family violence training** for key decision-makers working with victims of family violence, including social and private landlords, Magistrates and VCAT members.<sup>28</sup>

<sup>28</sup> See RCFV submission, above n 1.

Following this submission, Homeless Law's manager and principal lawyer Lucy Adams and the WHPP social worker Antoinette Russo were invited to provide evidence at the RCFV's public hearing session on 21 July 2015. This was an important opportunity for Homeless Law to provide further detail to the RCFV about the links between family violence and homelessness that have been observed through the WHPP's work, with Lucy Adams commenting that *'family violence can place women at risk of homelessness in a number of ways...in the immediate term when they're fleeing a violent relationship...where they remain in the property but in a financially precarious situation due to reduced income...and where there are longer term impacts associated with family violence including mental health, child care and financial issues'*.<sup>29</sup>

Homeless Law lawyer and WHPP coordinator Patrick Warner also spoke recently with Michelle Bennett on RRR radio about Homeless Law's submission to the RCFV, and some of the key learnings from the WHPP's first 12 months of operation.<sup>30</sup>

Homeless Law worked closely with the Council to Homeless Persons to coordinate a one-page joint submission to the RCFV, which was endorsed by 129 organisations from the housing, homelessness, health, family violence, local government, and legal sectors. This submission focused on the links between family violence and affordable housing supply, and called for an investment by government in affordable housing stock and programs targeted at breaking the links between family violence and homelessness.

In his opening address to the RCFV session dedicated to the links between family violence and homelessness, counsel assisting the commission Mark Moshinsky QC, commented that *"a significant proportion of those seeking homelessness assistance are doing so because of family violence"* and in direct reference to the joint submission, further observed that *"there is a high degree of consensus about what needs to be done"*.<sup>31</sup> This submission was also featured in *The Age* on 22 May 2015 in an article titled *'Housing Costs Trapping Women in Domestic Violence'*.<sup>32</sup>

As these examples indicate, the evidence and learnings gained from the WHPP have placed Homeless Law in a strong position to comment on the links between family violence and homelessness and to present constructive, evidence-based recommendations for reform.

### 8.3 Preventing avoidable evictions for rent arrears

One of the clearest trends observed by the WHPP to date is that evictions of vulnerable people into homelessness for rental arrears happen too easily.

Sixty-eight percent of WHPP clients (42 women) were facing eviction for falling behind in their rent, with the average amount of arrears being \$2177.

In Victoria, VCAT can consider adjourning a landlord's rent arrears eviction application if the financial loss to the landlord can be avoided (for example through a lump sum payment and an ongoing payment plan to address the arrears).<sup>33</sup> When making a possession order, VCAT members can also postpone the eviction by up to 30 days if they are satisfied that the tenant would suffer hardship without the postponement and that this hardship would be greater than the landlord's hardship.<sup>34</sup> However, where tenants do not attend the VCAT hearing or are not represented and are unable to present a case for remaining in the property or having additional time, the VCAT member will ordinarily make an order for their removal from the premises and allow the warrant to be purchased immediately. Of the WHPP arrears matters finalised in the first 12 months, 82% of clients have been able to avoid homelessness, either through maintaining their existing tenancy, or obtaining further time by attending VCAT and then being assisted through the WHPP social worker to find alternative housing. A third of these clients who avoided homelessness were assisted with brokerage, with an average financial contribution of \$560.

The fact that over 80% of the evictions were avoided confirms that access to appropriate legal representation and non-legal support, along with financial brokerage to assist with arrears payments, can prevent victims of family violence from being evicted into homelessness.

Homeless Law is confident, however, that the majority of WHPP clients would have been evicted if not for the provision of legal representation and social work support, particularly given that 40% of the women facing eviction for arrears had already had a possession order made at VCAT, including seven where a warrant had been purchased and the locks were going to be imminently changed. The fact that these matters had proceeded to this point prompts us to reflect on the legal and procedural safeguards that are in place to prevent unnecessary evictions into homelessness.

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<sup>29</sup> A full copy of the transcript of proceedings for the Royal Commission into Family Violence for 21 July 2015 is available online at: [http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Transcripts/Transcript-RCFV\\_Day-007\\_21-Jul-2015\\_Public.pdf](http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Transcripts/Transcript-RCFV_Day-007_21-Jul-2015_Public.pdf) (RCFV transcript)

<sup>30</sup> The audio recording of this interview from is available online at: <http://ondemand.rrr.org.au/player/128/20150714100524>

<sup>31</sup> See RCFV transcript, above n 31.

<sup>32</sup> Bianca Hall, 'Housing costs trapping women in domestic violence' *The Age* (22 May 2015) (available at: <http://www.theage.com.au/victoria/housing-costs-trapping-women-in-domestic-violence-20150521-gh6gmi.html>).

<sup>33</sup> *Residential Tenancies Act 1997* (Vic) s 331.

<sup>34</sup> *Residential Tenancies Act 1997* (Vic) s 352.

The WHPP's results suggest that the majority of evictions for rent arrears are avoidable, and that systemic reform is required to address the rate and ease with which evictions for rent arrears are taking place in Victoria. Homeless Law used these findings to inform our recommendations to the RCFV, which aim to reduce the risk that women who have experienced family violence will be evicted for falling behind in the rent:

- Law reform to give VCAT jurisdiction to consider the human rights compatibility of eviction decisions by social landlords;
- The introduction of a 'reasonableness' requirement for all evictions under the Residential Tenancies Act, to give VCAT members discretion to avoid eviction where they are not satisfied it is reasonable in the circumstances;
- Development of a pre-eviction checklist for landlords to satisfy before applying to VCAT for a possession order;
- A voluntary 'Code of Conduct for Private Landlords and Real Estate Agents who Support Victims of Family Violence', to equip signatories to avoid eviction of victims of family violence into homelessness including through early referrals to appropriate support services;
- Supporting programs focussed on homelessness prevention, including the Social Housing Advocacy and Support Program (SHASP) and targeted and integrated legal representation for women facing eviction, increasing private rental brokerage schemes and establishing a rapid re-housing program to assist women and children escaping family violence to be quickly re-housed with appropriate supports in place.<sup>35</sup>

In addition to the personal and social benefits of intervening early to prevent evictions into homelessness, Homeless Law has also considered the financial benefits of eviction prevention. By way of example, key data regarding the costs of homelessness includes:

- A 2013 AHURI study that identified that people experiencing homelessness had a higher interaction with health, justice and welfare systems than people with stable housing and estimated that an individual experiencing homelessness represents an annual cost to government services that is \$29,450 higher than for the rest of the Australian population. Of this increased cost, \$14,507 related to health services, \$5,906 related to justice services, and \$6,620 related to receipt of welfare payments.<sup>36</sup>
- A 2006 Victorian Government paper, which identified a potential cost of over \$34,000 per year to support a tenant evicted from public housing through homelessness services. This was compared to approximately \$4,300 in service costs per year for a household in public housing.<sup>37</sup>
- A 2011 AHURI study, which identified the long term impact of homelessness on children. The study noted: '*[we] know that children who become homeless, whether through domestic violence or other events, frequently suffer the trauma of disrupted schooling and friendships and that homeless families almost always experience financial disadvantage*'.<sup>38</sup>

In a 12 month period, the WHPP directly prevented the eviction of 35 women and their families into homelessness. Using the AHURI figures, this would mean a cost saving of \$1,030,750. Twelve of these women were in public housing, so their costs of support if evicted would have been approximately \$408,000. These figures do not capture the costs in relation to the 68 children in these women's care who have also avoided homelessness.

By comparison, the WHPP costs approximately \$220,000 per year to run, which includes a lawyer, a social worker and organisational infrastructure. Homeless Law is able to leverage the pro bono services of our project partner, Herbert Smith Freehills, who provide approximately 40 lawyers to the WHPP, which enables Homeless Law to significantly multiply the impact of its funding.

Recognising the benefit of this model and the relatively modest funding required to deliver these services, Homeless Law seeks to highlight the benefits of initiatives that work to prevent victims of family violence entering homelessness.<sup>39</sup> Through the WHPP we are reiterating that these models, which focus on prevention and addressing the underlying risks to a person's housing, should be prioritised and expanded as part of Victoria's efforts to respond effectively to family violence.

## 8.4 Preventing victims of family violence being liable for damage caused by perpetrators

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<sup>35</sup> See RCFV submission, above n 1.

<sup>36</sup> See AHURI 2013 report, above n 11.

<sup>37</sup> See DHS 2006 report, above n 12.

<sup>38</sup> See AHURI 2011 report, above n 13.

<sup>39</sup> See, eg. Justice Connect Homeless Law, WHPP Newsletter, 'What's the cost of homelessness' (December 2014), which was distributed to over 170 sector stakeholders.

The WHPP assists women who have experienced family violence and are facing compensation claims in relation to damage or other debts caused by the perpetrator of violence. It is common for these compensation claims to arise in one of the following two ways:

1. A landlord claims compensation against a woman in relation to damage caused by a previous partner and perpetrator of family violence, who may have been a co-tenant or just a visitor at the premises; or
2. The landlord claims compensation for rent arrears that accrued after a victim of family violence fled the premises and a perpetrator remained in possession.

These debts to landlords can act to prevent people being allocated a public housing property, as well as to block others from obtaining a private rental property due to their details being listed on a tenancy database (or 'blacklist').

Except in limited circumstances, the RTA makes no distinction between co-tenants to a lease agreement, and as a result, many victims of family violence find themselves facing claims for damage caused by a violent ex-partner. For women in private rental accommodation, it is almost impossible to avoid liability caused by a perpetrator unless that person was also a co-tenant at the property, and even when the perpetrator is a co-tenant, apportionment can be a difficult and complicated process.

For women in public housing, the relevant Department of Health and Human Services (DHHS) policy statement provides that claims for damage caused by family violence won't be pursued against a victim, regardless of whether the perpetrator is a co-tenant.<sup>40</sup> However, in the WHPP's experience application of the policy in a victim's favour often requires a significant amount of advocacy on behalf of a client, which can also be complicated in instances where a formal claim at VCAT has already been lodged. In addition, the current DHHS policy statement on maintenance claims against a tenant confuses damage caused by family violence with criminal actions of a third party, despite it often being the case that perpetrators who damage rented premises will not be formally charged by police.

In relation to the relevant DHHS policy, WHPP staff met with senior DHHS staff to raise concerns about the lack of any reference to 'family violence' in the newly created policy statement on maintenance claims against tenants. By providing DHHS with detailed information about WHPP clients who had been able to avoid liability for damage caused by perpetrators as a result of family violence under the previous policy framework, DHHS agreed to amend the new policy statement to include a reference to family violence.

Homeless Law's submission to the RCFV also contains three important recommendations designed to prevent victims of violence being forced to pay for damage caused by perpetrators:

1. Changes to the existing legal framework under the RTA to allow for clearer apportionment of liability between co-tenants where a tenancy is affected by family violence;
2. Further amendment of DHHS' existing policy to clearly indicate that a perpetrator of family violence need not be criminally charged in order for a victim, who is also a tenant, to avoid having compensation claims for damage made against her;
3. Improved training of VCAT and DHHS Housing staff to ensure that wherever possible, relevant laws and policies are applied to avoid victims of family violence from being held liable for damage caused by perpetrators.

In addition, WHPP staff collaborated with a major family violence crisis service to co-author a letter to DHHS calling for amendments to existing policies that would allow victims of violence who are forced to temporarily flee public housing (e.g. into crisis and refuge accommodation or a temporary stay with family) to access a reduced rate of rent for up to six months.

These law reform activities highlight the ways in which Homeless Law has been able to use the evidence base from the WHPP to raise awareness amongst key decision makers about victims of family violence being held liable for debts caused by perpetrators, and to successfully advocate for change.

## 8.5 Using the Charter to prevent eviction of vulnerable tenants into homelessness

Of the 62 clients assisted in the WHPP's first twelve months of operation, 48% were living in social housing.

In addition to the rights and responsibilities prescribed for all residential landlords in the RTA, social housing landlords must also comply with section 38 of the Charter when making decisions about evictions. Section 38 requires them to:

- Act in a way that is compatible with human rights; and
- When making a decision, give proper consideration to relevant Charter rights.<sup>41</sup>

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<sup>40</sup> Department of Health and Human Services, *Policy Statement: Tenant Property Damages* (available at: <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies-guidelines-and-legislation/maintenance-manual/5-tenant-property-damage>).

<sup>41</sup> *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 38.

The decision to take steps to evict the tenant (for example, by issuing a notice to vacate, applying to VCAT for a possession order or purchasing a warrant), potentially engages the following Charter rights:

- Section 13(a) – A person has the right ‘not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with’;
- Section 17(1) – ‘Families are the fundamental group unit of society and are entitled to be protected by society and the State’; and/or
- Section 17(2) – ‘Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child’.

As the results discussed in part 5.4 above indicate, Homeless Law lawyers have been able to successfully engage in Charter-advocacy to prevent the eviction of three highly vulnerable clients. In each case, the lawyers formally raised the social housing provider’s obligations under the Charter, and then advocated that eviction of the client into homelessness was a disproportionate response, and that there were alternative courses of action open to the landlords that were more compatible with the client’s human rights.

These and other cases have assisted Homeless Law to build awareness of the importance of the Charter in the context of housing and homelessness, as well as to advocate for changes to improve the Charter’s effectiveness.

Homeless Law recently made a detailed written submission to the eight year Charter review,<sup>42</sup> *Charting a Stronger Course*, calling for the following four key measures to improve the Charter’s current operation, and to enhance its effectiveness:

1. Amending the Charter to clarify that community housing providers are functional public authorities and are required to comply with the obligations the Charter creates;
2. Introducing legislative amendments to give VCAT the power to determine social housing providers’ compliance with the Charter in tenancy proceedings;
3. Improving education, resources and training around the role of the Charter for frontline staff in public authorities, and for courts, tribunals and members of the community;
4. Inclusion of economic and social rights as protected Charter rights, so that these can be considered by Parliament when making laws, by public authorities when making decisions, and by courts when interpreting laws.

Homeless Law’s recent submission to the RCFV also called for legislative amendments to give VCAT the power to determine Charter compliance in tenancy matters, as a way of ensuring evictions into homelessness are only occurring as a last resort.<sup>43</sup>

With the aim of generating wider discussion and awareness about the role of Victoria’s Charter in a housing and homelessness context, Homeless Law organised a successful event, ‘Human Rights and Housing’. The event was attended by over 120 people from the legal, housing and government sectors and featured a panel discussion with four legal and non-legal experts focussing on the use of the Charter in the recent Supreme Court decision of [Burgess v Director of Housing \[2014\] VSC 648 \(Burgess\)](#), which Homeless Law ran.

The plaintiff in the *Burgess* case, Ms Ebony Burgess, had lived in public housing with her son for a number of years, and had struggled with substance abuse issues that ultimately led to her incarceration for a range of drug trafficking offences. When the Director of Housing obtained a VCAT possession order to evict her soon after she was released from custody, Homeless Law pro bono lawyers successfully applied to the Supreme Court for judicial review of the Director’s decisions, including on the basis that Ms Burgess’ human rights had been infringed because the Director had not properly considered the impact of eviction on her and her family. Ultimately, this application succeeded in preventing Ms Burgess and her teenage son from being evicted into homelessness.

The ‘Human Rights and Housing’ event raised awareness of the role of the Charter in the context of housing and homelessness, and guest speaker Michael Brett Young also provided audience members with information about making submissions to the government’s eight year Charter review process.

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<sup>42</sup> Justice Connect Homeless Law, *Charting a Stronger Course: Submission to the Eight Year Charter Review* (June 2015) (available at: <https://www.justiceconnect.org.au/our-programs/homeless-law/law-and-policy-reform/preventing-evictions-and-sustaining-tenancies/charting-stronger-course-homeless-law-submission-eight-year-charter-review>).

<sup>43</sup> RCFV submission, above n 1, 16–19.

# Human Rights and Housing

The impact of *Burgess v Director of Housing*

## Every day community legal centres, housing and homelessness agencies and Victoria Legal Aid see individuals and families whose housing is at risk.

For many Victorians and their families, eviction can trigger a period of homelessness that may take years to recover from.

The impacts of eviction are particularly severe for public housing tenants, where low incomes, limited rental histories and an acute shortage of affordable housing make homelessness even more likely.

In this landscape, a recent decision of the Victorian Supreme Court has the potential to greatly improve the consistency and fairness of outcomes for those facing eviction.

The court in *Burgess & Anor v Director of Housing & Anor* [2014] VSC 648 (*Burgess*) found that the Director of Housing had failed to properly consider the human rights of Ms Burgess and her son before taking steps to evict them.

### The Panel

**Lelgh Howard**, Senior pro bono lawyer in *Burgess*.  
**Daniel Aghlon**, Counsel for the plaintiffs in *Burgess*.  
**Elaine Cruse**, Outreach Support and Advocacy Worker, Flat Out  
**Damian Stock**, Senior Lawyer, social inclusion team, Victoria Legal Aid.

Lawyers and housing, homelessness and community workers will benefit from practical ideas about using Victoria's Human Rights Charter to make sure evictions of vulnerable tenants only ever occur as a last resort.

Please join us on 20 May to hear from a panel of experts on the impact of *Burgess* and its potential to improve outcomes for vulnerable tenants.

When: 20 May 2015  
5.30pm – 7.00pm

Where: Clayton Utz  
Level 18, 333 Collins  
Street Melbourne

**Guest speaker:** Michael Brett Young, who has been appointed to lead the Charter review process.

After the conclusion of the panel discussion, Michael will provide an update on the Charter review process that the Victorian Government is currently undertaking, as well as how people can get involved and make submissions.

Places are limited.  
Please register by 18 May at  
[justiceconnect.org.au/burgess](http://justiceconnect.org.au/burgess)



Homeless Law's event flyer for the 'Human Rights and Housing' panel discussion that took place on 18 May 2015

## 8.6 Improving access to justice for incarcerated tenants

The links between homelessness and imprisonment are well recognised, including a study of NSW and Victorian prisoners which showed that former prisoners were more than twice as likely to return to prison within nine months of release if they are homeless.<sup>44</sup>

Of the 62 clients assisted during the WHPP's first 12 months, four were incarcerated when they first spoke to Homeless Law lawyers.

All four WHPP clients who were incarcerated had existing tenancy agreements with social housing providers, and were at risk of losing these tenancies while in jail. In some cases, this meant the client would soon be exiting prison into the homelessness system due to a lack of alternative accommodation options. As the following case study of an incarcerated WHPP client highlights, the loss of housing for women with children can carry the additional risk of losing custody of their children who continue to reside at a rented premises after incarceration.

<sup>44</sup> See, eg. Eileen Baldry, Desmond McDonnell, Peter Maplestone and Manu Peeters, 'Ex-Prisoners, Homelessness and the State in Australia', *The Australian and New Zealand Journal of Criminology* 39 (2006) 20, 24. See also Victorian Auditor-General, *Problem-Solving Approaches to Justice: Victorian Auditor-General's Report* (April 2011) 2010–11:28, 1 which indicates that levels of arrest and imprisonment are much higher among people experiencing homelessness and those in debt than the general population.

Lily:

***Incarcerated mother retains public housing tenancy***

Lily is a single mother who until recently had lived in a public housing property with her teenage child. Lily had experienced severe family violence from her ex-partner, and she had developed substance abuse issues as a coping mechanism. Lily had been incarcerated for several months and was awaiting sentencing when the friend who had agreed to look after her son at the public housing property began falling behind in rent. As a result, the Director of Housing sought to terminate Lily's public housing tenancy.

Lily was referred to Homeless Law by a prison support worker, and the Homeless Law lawyer was able to enter negotiations with the Director to set up a new direct debit payment arrangement with Lily's friend to ensure the rent and arrears that had accrued could be repaid at a satisfactory rate. This enabled Lily's tenancy agreement to continue so that she will be able to return to the premises with her son upon release from prison. The Homeless Law lawyer also assisted Lily to defend a compensation claim that had been made against her by the Director, in relation to damage to the property caused by a burglary. This led to a 70% reduction in the amount Lily had to pay to the Director.

The WHPP social worker was also able to link Lily's family to a school liaison support worker to help with funding for Lily's son to participate in co-curricular activities, and to waive IT and school uniform related expenses.

One of the ongoing difficulties Homeless Law has encountered in assisting prisoners facing eviction proceedings is to ensure these clients are able to properly engage with the VCAT process by appearing and participating in hearings via video-link from within jail. In particular, the fees associated with video-link appearances at VCAT are a key concern, given that these fees are not able to be waived and most Homeless Law and WHPP clients rely primarily on a government pension which is automatically cancelled once they enter the corrections system.

For one WHPP client whose social housing landlord had applied for a possession order at VCAT, the rejection of a fee-waiver application in the lead-up to the hearing forced Homeless Law to fund the up-front video-link costs, and then seek reimbursement from VCAT via the appeals process. Although the costs were eventually reimbursed to Homeless Law, the overriding issue remained unresolved. When Homeless Law lawyers raised this concern at the VCAT Residential Tenancies User Group, it was confirmed that VCAT lacked the legislative power to waive video-link fees, even where an applicant was incarcerated with no income.

Informed by this experience, Homeless Law recently advocated for a legislative amendment to give VCAT the power to waive video-link fees for people experiencing financial hardship, including prisoners. To do this, Homeless Law wrote to a Member of Parliament explaining the impact on prisoners of not being able to participate in VCAT hearings if they cannot afford the \$82.50 video-link fee. Subsequently, an amendment was made by the *Justice Legislation Amendment Act 2015* (Vic) which was passed in May 2015. In moving the amendment, which was agreed to by the Government and the Coalition, Greens MP Colleen Hartland, on behalf of Sue Pennicuik MP, noted:

*'Homeless Law routinely provides pro bono legal assistance to tenants in prison who are respondents to possession order applications at VCAT. These inmates have no income or access to any funds. They cannot participate in the hearing unless they can apply for a fee waiver in relation to a video link application. However, Homeless Law has informed us that it has been advised by the principal registrar that charges for the use of the video link are not levied under the act or under the regulations and are not covered. Our amendment aims to expand the government's amendment so that the principal registrar can not only reduce, waive, postpone, remit or refund any fees payable under the act or regulations but can also do this for fees that are routinely charged by VCAT but are not specifically named under the act or regulations. This includes video link applications and any other unforeseen costs that are not specific in the act or the regulations'.<sup>45</sup>*

*'We were alerted to concerns expressed by Justice Connect, the homeless law service, about the video link fees that people have to pay if [they] are in prison. All other fees can be waived, but this fee and a few others cannot be because they are not*

<sup>45</sup> Victoria, *Parliamentary Debates*, Legislative Council, 28 May 2015, 1573, Sue Pennicuik MP (available at: [http://www.parliament.vic.gov.au/images/stories/daily-hansard/Council\\_2015/Council\\_Daily\\_Extract\\_Thursday\\_28\\_May\\_2015\\_from\\_Book\\_7.pdf](http://www.parliament.vic.gov.au/images/stories/daily-hansard/Council_2015/Council_Daily_Extract_Thursday_28_May_2015_from_Book_7.pdf)).

*covered in the regulations. It is a very simple process. This amendment will mean that those other fees can also be waived at the discretion of the registrar'.<sup>46</sup>*

This modest but important win for prisoners seeking to participate in their VCAT hearings highlights the capacity for the WHPP's work to inform changes to the law that improve access to justice and reduce the risk of unnecessary evictions into homelessness.

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<sup>46</sup> Ibid 1581.

## Annexure 1

12 key recommendations from Justice Connect Homeless Law's submission to the Royal Commission into Family Violence, *Home Safe*, May 2015.<sup>47</sup>

12 RECOMMENDATIONS TO BREAK THE CURRENT LINKS BETWEEN FAMILY VIOLENCE AND HOMELESSNESS	
Affordable housing, targeted homelessness prevention and mechanisms to make evictions into homelessness a last resort	1. <b>Stronger, better resourced programs targeted at preventing the eviction of victims of family violence into homelessness and providing rapid re-housing.</b> An investment of approximately \$23.4 million each year could assist an additional 4800 families through Safe at Home responses, the Social Housing Advocacy and Support Program, legal representation for women facing eviction, private rental brokerage schemes, and a rapid re-housing program.
	2. <b>Legislative and procedural safeguards to prevent unnecessary evictions into homelessness.</b> Amending the factors VCAT can consider in eviction proceedings, introducing a checklist of pre-eviction requirements and a voluntary 'code of conduct for private landlords and real estate agents who support victims of family violence' will provide a legal, policy and cultural framework for making evictions into homelessness a last resort.
	3. <b>Growth in the supply of affordable housing.</b> A long-term affordable housing strategy to address the soaring public housing waitlist and increasing unaffordability of private rental for low-income Victorians will create housing options for victims seeking to leave violent relationships, reduce the link between family violence and homelessness, and generate housing pathways for perpetrators of family violence to promote engagement with the justice system and services and reduce the risk of further violence. An affordable housing growth fund of \$200 million per year could build a minimum of 800 homes annually.
Reform of Victoria's tenancy laws and practices	4. <b>Amend the Residential Tenancies Act 1997 (Vic) (Residential Tenancies Act) to allow clear apportionment of liability in compensation claims against tenants who are victims of family violence.</b> This will avoid victims of family violence being held liable for damage or debts caused by a perpetrator who was or is a co-tenant. It will reduce one barrier victims of family violence face when leaving violent relationships, by removing the fear that they will be legally responsible for damage they didn't cause and rent arrears that were accrued after they had fled.
	5. <b>Amend the Residential Tenancies Act to allow victims of family violence to prevent their personal details being listed on residential tenancy databases ('black lists') and to remove existing listings where the breach or damage occurred in the context of family violence.</b> This will reduce the barriers victims of family violence face when seeking to re-enter the private rental market after leaving a violent relationship. It will contribute to a reduced risk of homelessness and shorter periods in crisis or refuge accommodation.
	6. <b>Promote the use of creation applications under section 233A of the Residential Tenancies Act by victims of family violence.</b> A brokerage fund to sustain tenancies pending a final intervention order and guidelines to build awareness of these applications within Victoria Police, the Magistrates' Court and frontline service providers, will increase the use of this mechanism, which was introduced to assist victims of family violence to sustain their tenancies after the exclusion of a perpetrator via a final intervention order.
Appropriate, transparent family violence policies	7. <b>Amend public and community housing policies to allow tenants to be 'temporarily absent' while in women's refuge or family violence emergency accommodation, or experiencing homelessness (eg couch surfing or sleeping in their car) as a result of family violence.</b> By reducing the risk that a tenancy will be terminated for arrears soon after a victim has fled, this will improve the ability of public and community housing tenants to maintain safe housing and avoid entering homelessness after experiencing family violence.
	8. <b>Amend Office of Housing policies to clearly and appropriately exempt victims of family violence from liability for damage or arrears caused by family violence.</b> This will rectify the confusion about whether criminal charges are required for the family violence exemption from liability to apply. By reducing the risk of compensation claims and associated debts in the context of

<sup>47</sup> See RCFV submission, above n 1.

	<p>family violence, this will also reduce the likelihood of victims of family violence experiencing delays in urgent transfers or allocation of housing, which jeopardise safety and exacerbate hardship.</p>
<p><b>Family violence training across jurisdictions, agencies and sectors</b></p>	<p><b>9. Create a single, publicly available information resource for public housing tenants, support workers and Office of Housing staff which clearly sets out policies that apply when tenants have experienced family violence.</b> This will assist victims of family violence living in public housing to make better informed decisions about their housing. It will also contribute to better, fairer outcomes that support victims of family violence to sustain their public housing, avoid debts for damage they did not cause and reduce barriers to accessing safe alternative housing.</p>
	<p><b>10. Retain detailed, publicly available Office of Housing policies providing practical, appropriate guidance to staff.</b> This will improve the accountability and consistency of decision-making by the OOH, including by providing guidance about appropriate responses to tenants affected by family violence in relation to arrears, abandonment, evictions, transfers or property damage.</p>
	<p><b>11. Targeted training for staff in the public, community and private housing sectors regarding family violence and its impacts in a housing and homelessness context.</b> This will mean that housing decision-makers are better equipped, and supported, to understand family violence and to respond effectively, including with appropriate referrals that minimise the risk of eviction into homelessness. People with a direct experience of family violence should be involved in developing and delivering this training.</p>
	<p><b>12. Cross-jurisdictional education and training for VCAT members and Magistrates, as well as staff in both jurisdictions, regarding the overlapping provisions in the Residential Tenancies Act and Family Violence Protection Act 2008 (Vic).</b> This will assist decision-makers in both VCAT and the Magistrates' Court to better understand each other's powers and responsibilities and encourage victims of family violence to exercise relevant rights in both jurisdictions.</p>

## Annexure 2

Joint submission to the Royal Commission into Family Violence, May 2015.<sup>48</sup>

29 May 2015

The Honourable Marcia Neave AO  
Commissioner  
Royal Commission into Family Violence  
PO Box 535  
Flinders Lane VIC 8009

Copy: The Honourable Martin Foley, Minister for Housing, Disability and Ageing  
The Honourable Fiona Richardson, Minister for the Prevention of Family Violence  
The Honourable Martin Pakula, Attorney-General

Dear Commissioner Neave

### Family violence, homelessness and affordable housing – a joint submission from 129 organisations

The undersigned organisations join together to call for urgent investment in affordable housing and services in Victoria to address the current links between family violence, housing and homelessness across the State.

Through our work in the housing, homelessness, community, family violence and legal sectors, our organisations know that Victoria's shortage of affordable housing:

1. Deters victims from leaving violent relationships.<sup>1</sup>
2. Pushes victims into homelessness.<sup>2</sup>
3. Can make perpetrators more isolated and increase the risk of repeated or escalated violence.<sup>3</sup>

A suite of solutions is required to break these links between family violence, housing and homelessness in Victoria. We collectively call on the Government to invest in these solutions:

1. Improving measures to sustain tenancies and prevent homelessness for women who can safely stay in their housing, including strengthened programs such as Safe @ Home responses, the Social Housing Advocacy and Support Program, legal representation for women facing eviction, and private rental brokerage schemes. \$13.4 million per year could assist an additional 3800 families.<sup>4</sup>
2. Establishing a rapid rehousing program to assist women and children escaping family violence to be quickly rehoused with appropriate supports in place. \$10 million per year could assist over 1000 women and their children.<sup>5</sup>
3. Improving affordable housing pathways for perpetrators of family violence to ensure they remain engaged with relevant supports to help prevent the risk of further violence.
4. Developing a long-term affordable housing strategy to address the soaring public housing waitlist and increasing unaffordability of private rental for low-income Victorians. An affordable housing growth fund of \$200 million per year could build a minimum of 800 homes.<sup>5</sup>

Addressing Victoria's shortage of affordable housing must be a priority for the Royal Commission into Family Violence and for the Victorian Government.

Yours sincerely

<sup>1</sup> Just three in 100 two-bedroom rental lettings in the December 2014 quarter were affordable to a single parent reliant on Centrelink: Department of Health and Human Services, *Rental Report December Quarter 2014*. On 11–12 April 2015, less than 0.1% of private rental properties in metropolitan Melbourne were affordable and appropriate for a single mother of two children who relies on a parenting pension: Anglicare Australia, *Anglicare Australia Rental Affordability Snapshot* (2015), 88. There are currently 33,933 people on the Victorian public housing waiting list; 9,556 are eligible for 'early housing' due to urgent needs including unsafe housing as a result of family violence: Department of Health and Human Services, *Public Housing Waiting and Transfer List March 2015*.

<sup>2</sup> 99,892 people sought assistance from specialist homelessness services in Victoria 2013–14. 28% of these people cited domestic or family violence as the main reason they needed assistance: 25,104 people in total; 2,892 male; 22,213 female. See Australian Institute of Health and Welfare, *Specialist Homelessness Services: 2013–2014* (2014), Table VIC2.14: Clients, by main reasons for seeking assistance, 2013–14, adjusted for non-response.

<sup>3</sup> See, eg. Centre for Innovative Justice, *Opportunities for Early Intervention: Bringing perpetrators of family violence into view* (2015) 50: The report identifies that availability of housing for men excluded through the intervention order process is a key aspect of engaging with these men to address their issues and prevent further violence from occurring.

<sup>4</sup> \$7.5 million to provide Safe @ Home measures to 1521 households (\$5000 per package); \$3 million to extend the Social Housing Advocacy and Support Program to provide approximately 1500 more case management episodes per year; \$1.8 million to provide 500 women at risk of eviction with legal representation and social work support; and \$1 million to double private rental brokerage packages to approximately 600 packages in total.

<sup>5</sup> Approximately \$2.3 million in annual rental subsidies and \$7.3 million in annual support costs could fund assistance to search for suitable properties, incentives for landlords to participate and medium term rental subsidies (of up to six months) to ensure the rent remains affordable. See Council to Homeless Persons, *Pre Budget Submission 2016–16* (2015).

<sup>6</sup> See *Making Social Housing Work: Better homes for low-income Victorians* (2014), a joint paper of seven peak organisations, Community Housing Federation of Victoria, Victorian Council of Social Service, Council to Homeless Persons, Victorian Public Tenants Association, Tenants Union of Victoria, Domestic Violence Victoria, Justice Connect Homeless Law.

Costings in this submission are indicative only.

<sup>48</sup> See RCFV joint submission, above n 2.

Aboriginal Advancement League  
 Aboriginal Family Violence  
 Prevention and Legal Service  
 Victoria  
 Anchor Inc  
 Australian Services Union,  
 Victorian and Tasmanian Branch  
 Bapcare  
 Barwon Community Legal  
 Service  
 Berry St  
 Bethlehem Community Inc  
 Catholic Social Services Victoria  
 Central Highlands Local Area  
 Service Network  
 Centre Against Violence  
 Centre for Excellence in Child  
 and Family Welfare  
 Chris Shields - Architect  
 City of Port Phillip  
 City of Yarra – Family Services  
 cohealth  
 Community Information &  
 Support Victoria (CISVic)  
 Community Housing Federation  
 of Victoria  
 Corpus Christi Community  
 Greenvale  
 Council to Homeless Persons  
 Crossroads Family Violence  
 Service  
 Disability Discrimination Legal  
 Service  
 Domestic Violence Resource  
 Centre Victoria  
 Doncare Community Services  
 Domestic Violence Victoria  
 emerge, women & children's  
 support network  
 Equality Rights Alliance  
 Family Access Network Inc  
 Federation of Community Legal  
 Centres (Victoria) Inc.  
 Fitzroy Legal Service  
 Flat Out  
 Flemington & Kensington  
 Community Legal Centre Inc.  
 Footscray Community Legal  
 Centre  
 Gippsland Community Legal  
 Service  
 HomeGround Services  
 Homeless Law  
 Homelessness Australia  
 Hope Street Youth and Family  
 Services  
 Housing for the Aged Action  
 Group  
 Housing Justice  
 Human Rights Law Centre  
 Infoxchange  
 Inner Melbourne Community  
 Legal

Inner North West Primary Care  
 Partnership  
 Inner South Rooming House  
 Network  
 Jesuit Social Services  
 Jewish Taskforce Against Family  
 Violence Inc  
 Jubilee Housing Inc  
 Junction Support Services  
 Kara House Inc  
 Kids Under Cover  
 Kildonan UnitingCare  
 Ladder  
 Latitude: Directions for Young  
 People  
 Loddon Campaspe Community  
 Legal Centre  
 Mallee Accommodation and  
 Support Program Inc.  
 Mallee District Aboriginal  
 Services  
 Mallee Family Care  
 McAuley Community Services for  
 Women  
 Melbourne City Mission  
 Mental Health Legal Centre Inc  
 Merri Community Health  
 Services  
 Merri Outreach Support Service  
 MI Fellowship  
 Mind Australia  
 Moonee Valley Legal Service  
 Mornington Community Contact  
 Inc  
 Mornington Community  
 Information & Support Centre Inc  
 National Affordable Housing  
 Consortium  
 Neami National  
 Ngwala Willumbong Cooperative  
 Ltd  
 Out Doors Inc  
 Peninsula Community Legal  
 Centre  
 Peninsula Support Services  
 Port Phillip Community Group  
 Port Phillip Housing Association  
 Ltd  
 Prahran Malvern Community  
 Public Health Association  
 Australia's Women's Health  
 Special Interest Group  
 Quantum Support Services Inc  
 Rotary Club of Melbourne  
 Royal Women's Hospital  
 Rural Housing Network Limited  
 Sacred Heart Mission  
 Seniors Law  
 Social Justice and Advocacy  
 Committee of St Vincent de Paul  
 Society Inc  
 South Port Community Housing  
 Group

Springvale Monash Legal  
 Service Inc  
 St Mary's House of Welcome  
 StreetSmart Australia  
 Sunshine/St.Albans Rental  
 Housing Co-operative  
 Tenants Union of Victoria  
 The Bridge Youth Service  
 The Integrated Family Violence  
 Partnership – Southern  
 Melbourne  
 The Salvation Army Crisis  
 Services Network (Crisis Contact  
 Centre and Family Violence  
 Services)  
 The Salvation Army Victoria  
 Travellers Aid Australia  
 United Housing Co-operative Ltd  
 Uniting Care Lentara  
 Uniting Care Prahran Mission  
 UnitingCare Ballarat  
 Victorian Aboriginal Legal  
 Service  
 Victorian Alcohol and Drug  
 Association  
 Victorian Council of Social  
 Service  
 Victorian Indigenous Statewide  
 Homelessness Network  
 Victorian Public Tenants  
 Association  
 VincentCare Victoria  
 WAYSS Ltd  
 West Heidelberg Community  
 Legal Service @ Banyule  
 Community Health  
 Western Suburbs Legal Service  
 Westernport Community Support  
 Whitelion  
 Whittlesea Community  
 Connections  
 WIRE Women's Information  
 WISHIN  
 Wombat Housing & Support  
 Services  
 Women with Disabilities Victoria  
 Women's Health In the North  
 Women's Housing Limited  
 Women's Legal Service Victoria  
 Women's Property Initiatives  
 Women's Health Loddon Mallee  
 Women's Health West  
 WRISC Family Violence Support  
 Service  
 Wyndham Legal Service  
 Yarra City Council  
 Yarra Community Housing  
 Yarra Drug and Health Forum  
 YWCA Australia  
 YWCA Victoria