



VICTORIAN
WOMEN
LAWYERS

**SUBMISSION TO THE LEGISLATIVE COUNCIL OF THE
PARLIAMENT OF VICTORIA (LEGAL AND SOCIAL ISSUES
COMMITTEE) INQUIRY INTO HOMELESSNESS IN VICTORIA**

Submitted by:	Victorian Women Lawyers Association Inc (VWL)
Submitted:	By email
Contact:	Deborah Kliger, VWL President

About us

Victorian Women Lawyers (**VWL**) is a voluntary association that promotes and protects the interests of women in the legal profession. Formed in 1996, VWL now has over 600 members. VWL provides a network for information exchange, social interaction and continuing education and reform within the legal profession and broader community.

Since 1996, VWL has advocated for the equal representation of women at all levels of the legal profession and promoted the understanding and support of women's legal and human rights by identifying, highlighting and eradicating discrimination against women in the law and in the legal system, to achieve justice and equality for all women.

Details of our publications and submissions are available at www.vwl.asn.au under the 'Publications' tab.

Overview of submission and response

VWL welcomes the opportunity to make a submission to the Legislative Council of the Parliament of Victoria's legal and social issues committee in its inquiry into homelessness in Victoria.

In 2017, there were 33,000 people on the waiting list for public housing in Victoria. It is now estimated there are around 100,000 people waiting for public housing in Victoria.¹

Almost half of Victorians experiencing homelessness are women. One-sixth are children under 12 years old and family violence is the most common cause of homelessness in Victoria.

Victoria has less social housing per capita than any other state in Australia, and the lowest investment in social housing per capita than any other state.² Only 2% of rentals in Australia are affordable for a single person working full-time on minimum wage.³ Numerous reports on the issue of homelessness in Victoria have identified that Victoria's social housing system is chronically bottlenecked.⁴ At 30 June 2019, there were 42,723 applications for long-term social housing on the Victorian Housing Register.⁵

When considering the issue of homelessness, it is important to consider the context of the additional hardships and barriers faced by individuals experiencing homelessness. This includes mental health issues and substance misuse issues. The 2019 Victorian Auditor-General's Office report states that Victoria's mental health system is operating in 'crisis

¹ Jewel Topsfield, 'Homelessness Set to Rise as COVID-19 Help Scaled Back', *The Sydney Morning Herald* (online, 16 October 2020) <<https://www.smh.com.au/national/homelessness-set-to-rise-as-covid-19-help-scaled-back-20201015-p565ai.html>>.

² Australian Government Productivity Commission, *Report on Government Services* (Report, 2019).

³ Anglicare Australia, *Rental Affordability Snapshot* (National Report, April 2019) 4.

⁴ David Kelly, Kate Shaw and Libby Porter, 'Shh! Don't Mention the Public Housing Shortage. But No Serious Action on Homelessness Can Ignore It', *The Conversation* (online, 10 October 2019) <<https://theconversation.com/shh-dont-mention-the-public-housing-shortage-but-no-serious-action-on-homelessness-can-ignore-it-124875>>.

⁵ Commissioner for Residential Tenancies, Submission No 120 to Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Homelessness in Victoria* (January 2020) 6 <https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_Homelessness_in_Victoria/Submissions/S120_-_Commissioner_Residential_Tenancies.pdf>.

mode'.⁶ In the COVID-19 context, mental health services have experienced a large increase in demand (for instance, Lifeline has seen a 25% increase in calls)⁷. Other commonly faced hardships include unemployment, disability and domestic violence issues. Thirty-five per cent of homelessness in Victoria is a result of family violence.⁸

VWL supports prevention and early intervention as a primary solution to ending homelessness across Victoria. VWL supports primary prevention alongside further investing into quality services and systems to support people experiencing homelessness. Such funding is required to prevent women and children experiencing homelessness by funding more holistic and integrated legal and social work services.

The key areas of VWL's submission are as follows:

1. focus on prevention and early intervention;
2. the interaction between family violence and homelessness;
3. the impact of gender-based economic and financial inequalities on homelessness;
and
4. access to justice impacts of COVID-19 on persons experiencing homelessness or unstable housing.

1. Focus on prevention and early intervention

VWL supports as a priority, early prevention and early intervention of homelessness. This is in addition to addressing long-term gender-based economic and financial inequalities (which is discussed further at section 3 below). Early prevention of homeless for women includes addressing both legal and non-legal issues through holistic and integrated services. It keeps women and children in housing through a combination of legal representation and social work support.

The Women's Homelessness Prevention Project (**WHPP**), a Justice Connect initiative, supports prevention as a primary method by aiming to prevent the eviction of women and children into homelessness. The first WHPP legal clinic was held in April 2014 and demonstrated an 82% success rate resulting in women maintain safe and secure housing or resolving a tenancy legal issues that was a barrier to accessing safe housing.⁹

By providing further funding into projects like this, 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. Specialist services can then work with other family violence support services, the courts and VCAT to attract early referrals before legal issues escalate to a crisis point.

⁶ Victorian Auditor-General's Office, *Access to Mental Health Services* (Report, March 2019) 8 < <https://www.audit.vic.gov.au/sites/default/files/2019-03/20190321-Mental-Health-Access.pdf> >.

⁷ Elise Kinsella, 'As Victoria Endures Prolonged Coronavirus Lockdown, Mental Health Workers See Devastating Impacts of COVID-19', *ABC News* (Web Page, 2 September 2020) <<https://www.abc.net.au/news/2020-09-02/mental-health-crisis-coronavirus-victoria-lifeline-calls-rise/12588500>>.

⁸ Council to Homeless Persons, *Homelessness in Victoria* (Factsheet, August 2018) < <https://chp.org.au/wp-content/uploads/2019/01/Homelessness-in-Victoria-Fact-Sheet.pdf>>.

⁹ Justice Connect, *Keeping Women and Children Housed, Women's Homelessness Prevention Project* (Report, 2017) <<https://justiceconnect.org.au/our-services/homeless-law/womens-homelessness-prevention-project/>>.

2. Family violence and homelessness

Family violence is the most common reason for women and children experiencing homelessness. Since the Royal Commission into Family Violence in 2016, almost half (47%) of those who sought Specialist Homelessness Services Collection's housing crisis assistance in 2017-18 stated domestic and family violence as the reason for seeking support.¹⁰

Urgent applications to the family courts have surged by almost 40% since the coronavirus pandemic hit. Chief Justice Will Alstergren, who presides over both courts, has also noted anecdotal evidence that hospitals were receiving more patients who had suffered family violence.¹¹

Women experience lack of housing when escaping family violence.¹² Since the Royal Commission, more women and children are becoming homeless as a result of family violence due to the lack of adequate public housing.¹³ With Victoria experiencing an 11.3% increase in homelessness between 2011 and 2016,¹⁴ the demand for social housing highlights the critical shortfall of social housing available for women experiencing homelessness, especially due to domestic violence.

Access to social housing

Women have a right to safe and stable housing. Without it, vulnerable women and children are at risk, and it can (and does) lead to women being forced to return to violent relationships. The Victorian Government has committed to implementing all 227 recommendations of the Royal Commission into Family Violence. Notably, the recommendations include specialist family violence services and safe homes.¹⁵

The Age has highlighted the crisis of social housing, reporting that in the 2017 financial year only 118 apartments were added to Victoria's public housing pool, and only 530 new apartments managed by community housing providers were created, despite a waiting list of 82,000 people, including 24,000 children.¹⁶

As part of the Victorian Government's homelessness and rough sleeping action plan ('Homes for Victorians') established in 2017, the Victorian Government is investing in housing and specialist services, including by building more social housing and redeveloping

¹⁰ Australian Institute of Health and Welfare, *Specialist Homelessness Services 2017–18: Victoria* (Fact Sheet, 2019) <<https://www.aihw.gov.au/getmedia/46473685-40d3-471b-b28d-ae6aaac81e84/aihw-hou-299-vic.pdf.aspx>>.

¹¹ Bianca Hall, The Sydney Morning Herald (25 April 2020) (online) <<https://www.smh.com.au/national/surge-in-urgent-family-court-cases-as-covid-19-pressures-boil-over-20200424-p54mxi.html>>.

¹² Ibid.

¹³ Department of Health and Human Services (Vic), *Hearts and Homes: Public Perceptions of Homelessness* (Summary Report, August 2018) <<https://www.dhhs.vic.gov.au/publications/hearts-and-homes-public-perceptions-homelessness-summary-report>>.

¹⁴ Ibid 4.

¹⁵ *Royal Commission into Family Violence: Summary and Recommendations* (Report, March 2016) 48–9.

¹⁶ Miki Perkins, 'Women and Children Majority of Victorians Seeking Homelessness Help', *The Age* (online, 14 December 2018) <<https://www.theage.com.au/national/victoria/women-and-children-majority-of-victorians-seeking-homelessness-help-20181213-p50m52.html>>.

ageing supply, and in family violence housing measures.¹⁷ However, there continues to be a shortage of social housing that is failing to keep up with demand.¹⁸

While rates of rough sleeping have fallen during some periods in 2020, and while the funding for putting people in hotels has been extended in Victoria until April 2021, experts predict that a minority of rough sleepers staying in provided accommodation will have a permanent home once the program ends.¹⁹ It is critical for women in this context to either be able to stay at their homes without their abusers, or be placed in safe and stable housing.

VWL supports and endorses the submissions made by Domestic Violence Victoria, which recommends victim-survivors of domestic violence remain in the home where it is safe to do so. As women are overwhelmingly the victim-survivors of domestic violence, allowing women to remain in the home *'prevents them from needing to spend prolonged periods of time in crisis accommodation and prevents them from becoming entangled in the housing and homelessness system'*.²⁰

VWL echoes the sentiments outlined in Domestic Violence Victoria's submission:

Despite this dedicated investment, the scale and systemic nature of the housing affordability crisis means that these initiatives have been able to do little to improve access to long-term housing for victim-survivors of family violence. Almost four years after the Royal Commission released its report, the lack of affordable housing in Victoria remains one aspect of the reform where we have seen very little progress and which is a significant barrier to the effective implementation of many of the other family violence reforms.²¹

Keeping women and children safe in their own homes and removing perpetrators from the home was a key recommendation in the Royal Commission into Family Violence. The Victorian Government's decision in August this year to invest more than \$20 million to keep victims of family violence in their homes and offer alternative short and long-term accommodation to perpetrators, is welcomed by VWL.²² Children impacted by homelessness experience a restriction in access to their education and health services due to lack of transport and financial difficulties, as well as their physical and mental wellbeing being negatively impacted.²³ It is therefore critical for women and children in their care to have a safe and stable home environment, and for women and children who are affected by domestic violence, to have their lives disrupted as little as possible.

VWL believes that it is crucial that the Victorian Government remains focused on funding the development of more social housing to meet the overwhelming demand as a crucial aspect

¹⁷ Victorian Government, *Homes for Victorians: Affordability, Access and Choice* (Report, March 2017) 1,4 <<https://www.vic.gov.au/about-homes-victorians-policy>>.

¹⁸ Luke Michael, 'Victorian Family Violence Victims Left Homeless After Seeking Help', *Pro Bono Australia* (Web Page, 10 March 2020) <<https://probonoaustralia.com.au/news/2020/03/victorian-family-violence-victims-left-homeless-after-seeking-help/>>.

¹⁹ *Ibid* in 1.

²⁰ Domestic Violence Victoria, Submission to Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Homelessness in Victoria* (January 2020) 5 <http://dvvic.org.au/wp-content/uploads/2020/02/SUB_200131_DV-Vic_Homelessness-Inquiry_FINAL.pdf>.

²¹ *Ibid* 4.

²² 'Keeping Family Violence in Sight During Coronavirus', *Premier of Victoria: The Hon Daniel Andrews* (Web Page, 17 August 2020) <<https://www.premier.vic.gov.au/keeping-family-violence-sight-during-coronavirus>>.

²³ 'Homelessness and Children', *Homelessness Australia* (Web Document, January 2016) <https://www.homelessnessaustralia.org.au/sites/homelessnessaus/files/2017-07/Homelessness_and_Children.pdf>.

of supporting women and their dependents who are victim-survivors of domestic violence. It is also crucial to develop strongly connected holistic support services for victim-survivors of domestic violence in need of housing.

Recommendations

- a. Continued further development of affordable housing with adequate funding and support from the Victorian government to address demand, which has increased as a result of COVID-19.
- b. Continued funding of the Safe at Home programs, to ensure victim-survivors of domestic violence can stay in their homes and perpetrators are removed to other accommodation (where this is the desired outcome for the victim-survivor).
- c. Provision of further funding for emergency accommodation for women and children experiencing domestic and family violence, in particular at-risk cohorts such as Aboriginal and Torres Strait Islander women and women with disabilities.
- d. Provision of further funding and support for legal, mental health, and other support services connected to persons experiencing homelessness.
- e. Implementation of the recommendations of the Victorian government's Royal Commission into Family Violence.

3. The impact of gender-based economic and financial inequalities on homelessness

Although the shortage of affordable and available rental housing affects all people, gender-based economic and financial inequalities mean that women may be more at risk of homelessness than men.²⁴ The experience of gender inequality is often '*compounded by the way gender-based discrimination intersects with other forms of diversity*', and as such, Aboriginal women, women with disabilities, culturally and linguistically diverse women, LGBTIQ+ women, women from low socioeconomic backgrounds and older women are all at greater risk of economic insecurity and consequently of homelessness.²⁵

Caring responsibilities

One factor contributing to the gender pay gap is that Australian women continue to carry the burden of most caring responsibilities within the home. In Australia women spend 64.4% of their average weekly working time on unpaid care compared to 36.1% for men.²⁶ Economic modelling has shown that raising children accounts for a 17% loss in lifetime wages for women.²⁷ Once children are born, men's paid workloads and incomes usually remain stable;²⁸ by contrast, women are more likely to take leave from the workforce due to caring responsibilities, and to return to paid employment on a part-time or casual basis. Returning to the workforce after extended leave can also be difficult for women, with one third of women returning to the workforce after maternity leave believing that they work for non

²⁴ 'Homelessness and Women' *Homelessness Australia* (Web Document, April 2013) <https://www.homelessnessaustralia.org.au/sites/homelessnessaus/files/2017-07/Homelessness_and_Women.pdf> ('Homelessness and Women').

²⁵ Victoria State Government, *Victoria's Gender Equality Baseline Report* (Report, November 2019) 7–8 ('*Gender Equality Report*').

²⁶ 'The Gender Pay Gap', *Workplace Gender Equality Agency* (Web Page, 2018) <<https://www.wgea.gov.au/topics/the-gender-pay-gap>>.

²⁷ *Ibid.*

²⁸ *Ibid.*

family-friendly organisations.²⁹ Women consequently often experience a decline in salary and superannuation following childbirth, the cumulative loss of which is usually irreversible across a woman's lifetime, regardless of subsequent paid employment'.³⁰ This can be seen in the 40% gap in superannuation savings between men and women; and whilst only 13% of Australian men retire with no superannuation, 23% of Australian women retire with no superannuation.³¹

Because the burden of caring responsibilities disproportionately falls on women, women in Australia are often partially or entirely financially dependent on male partners or family members. Older women who experience the death of an income-earning spouse may find themselves facing financial challenges and consequently an increased risk of homelessness. Indeed in 2019, women over 55 were the fastest growing group of homeless people in Australia.³² Similarly, women who are financially dependent on abusive partners present an increased risk of homelessness if they leave their partners. Fifty-five per cent of female clients of specialist homelessness services in 2012 cited domestic and family violence as their reason for being homeless.³³ This is particularly an issue for women experiencing intersecting forms of disadvantage. For example, Aboriginal and Torres Strait Islander women have been found to be 35 times more likely to be victims of violence,³⁴ and are therefore more likely to become homeless when fleeing family violence.

Economic impacts of the COVID-19 pandemic

Early evidence related to job losses and the economic impacts of COVID-19 suggest that women are facing an increase in caring responsibilities, including more time spent caring for and teaching children, and caring for sick family and community members, which has the potential to limit their current and future economic opportunities.³⁵ According to the Workplace Gender Equality Agency (**WGEA**), *'[W]omen's over-representation in more precarious employment, including casual work without access to paid leave, makes them particularly vulnerable during the current crisis.'* and *'In the short-term, the sectors of the economy that are most impacted by COVID-19 are those that require travel and interaction with customers, such as air travel, tourism, retail, accommodation, food and beverage, and garment and manufacturing.'*³⁶ WGEA identifies that Many of these industries have a significant female workforce³⁷ and that financial hardship coupled with more time spent at home due to social distancing and isolation measures further increases the likelihood of family and domestic violence.³⁸ Indeed, the rise in violence against women during the COVID-19 pandemic has been described by the United Nations as a 'shadow pandemic'.³⁹

²⁹ Ibid.

³⁰ Ibid.

³¹ *Gender Equality Report* (n 24) 22.

³² 'Homelessness: Understand Why Older Women Are The Fastest Growing Cohort of Homeless People', *Older Women's Network New South Wales* (Web Page, 2020) <<https://ownsw.org.au/our-work/homelessness/>>.

³³ 'Homelessness and Women' (n 23).

³⁴ Ibid.

³⁵ 'Gendered Impact of COVID-19', *Workplace Gender Equality Agency* (Web Page, 11 May 2020) <<https://www.wgea.gov.au/topics/gendered-impact-of-covid-19>>.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Phumzile Mlambo-Ngcuka, 'Violence Against Women and Girls: The Shadow Pandemic', *UN Women* (Web Page, 6 April 2020) <<https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>>.

These factors all contribute to a heightened risk of homelessness amongst vulnerable women as a result of the COVID-19 pandemic.

Recommendations

- a. Collect gender-disaggregated data during the pandemic, and ensure that policy responses to the pandemic undergo gender impact assessments which consider their likely consequences on people of different genders.
- b. Promote flexible working, equal pay, safe workplaces for women free from sexual harassment or discrimination, and other policies relating to gender equality in the workplace.

4. The pandemic and access to justice for women in Victoria

COVID-19 has led to a surge in legal issues related to hardships common amongst individuals experiencing homelessness, including domestic violence, employment, hardship applications, insolvency, and tenancy disputes.⁴⁰ As discussed throughout our submission, some of these issues disproportionately impact women.

The COVID-19 pandemic has increased women's vulnerability to all forms of gender-based violence. The United Nations Population Fund has predicted that for every three months that lockdowns continue, an additional 15 million cases of domestic violence will occur worldwide. As noted above, the UN Secretary General has labelled violence against women the 'shadow pandemic'.⁴¹

New family violence protections have been introduced at the Victorian Civil and Administrative Tribunal (**VCAT**), which include allowing victim-survivors to apply to VCAT to either have the perpetrator removed from their shared lease agreement or to have themselves removed from a lease agreement, thereby protecting themselves from incurring any debts in relation to the property (such as rental arrears or property damage costs).⁴² Such applications must be heard by a VCAT member within three days of the application being received.⁴³ VWL believes that these sorts of interventions by VCAT are a positive step forward, which should remain after the pandemic.

However, there continues to be a lack of access to free legal representation which forces women to be self-represented. Women trying to access legal advice online may also be left feeling uncertain and confused about what temporary relief measures are currently in place, given the frequent changes to rules, regulations and processes. Online legal help tools are an important resource to address these issues.

⁴⁰ Pauline Wright, 'Access to Justice and COVID-19' (Speech, LAWASIA Human Rights Webinar, 2 June 2020) <<https://www.lawcouncil.asn.au/media/speeches/access-to-justice-and-covid-19>>.

⁴¹ See generally: United Nations Women, 'Violence against women and girls: the shadow pandemic' (Press Statement, 6 April 2020) .

⁴² 'Family Violence and Your Tenancy', *Tenants Victoria* (Web Page)

<<https://www.tenantsvic.org.au/advice/during-your-tenancy/family-violence-and-your-tenancy>>.

⁴³ *Ibid.*

A great example is Justice Connect's 'Dear Landlord' tool, which was redesigned to address issues affecting Victorian renters in the COVID-19 context, including by updating the information on applicable laws and measures in place.⁴⁴

The tool was developed by Justice Connect's Homeless Law team, which developed the content based on a wealth of practical experience working with Homeless Law clients, as well as based on multiple rounds of user testing to ensure the tool was suited to the needs of its users.⁴⁵

VWL encourages the development of innovative online help tools to assist with the demand for legal and other services related to homelessness, where they are developed by organisations with the relevant expertise and to address appropriate unmet needs. This is especially important for women who remain living at home with perpetrators, who are trying to access legal advice without the perpetrator becoming aware.

Recommendations

- c. Improve funding and resources to boost existing frontline legal services, family violence prevention legal services and community legal centres.
- d. Invest in relevant online legal help tools, developed by community legal centres and other organisations with expertise in the area of homelessness.

Concluding remarks

VWL supports prevention and early intervention as a primary solution to ending homelessness across Victoria but calls for an urgent increase in public and affordable housing alongside increased investment in holistic and integrated services to support women, and all Victorians experiencing homelessness. Such funding is required to prevent women and children experiencing homelessness by improving access to legal and social work services. Economic and financial inequalities, driven by factors such as the gender pay gap increase the risk that women will suffer homelessness. These issues have been exacerbated as a result of COVID-19 and will continue to affect these issues well after restrictions are eased in Victoria.

VWL believes that a combination of improving holistic support services in addition to primary prevention and funding initiatives is required to ensure individuals experiencing homelessness have access to appropriate legal services and support.

Elsbeth McConaghy

Victoria Muravchenkov

VWL, Co-Chair Law Reform Committee

VWL, Co-Chair Law Reform Committee

⁴⁴ 'Insights From Our July COVID-19 Response: Redesigning Dear Landlord to Help Victorian Renters Affected by COVID-19', *Justice Connect* (Web Page, 10 September 2020) <<https://justiceconnect.org.au/our-july-insights-into-our-covid-19-response-redesigning-dear-landlord-to-help-victorian-renters-affected-by-covid-19/>>.

⁴⁵ *Ibid.*