

3 February 2014

Scrutiny of Acts & Regulations Committee
Parliament of Victoria Spring St
EAST MELBOURNE VIC 3002.

Attention: Andrew Homer
Andrew.homer@parliament.vic.gov.au

Dear Andrew

The Summary Offences and Sentencing Amendment Bill 2013

The Victorian Council of Social Service (VCOSS) is writing to express concerns about amendments proposed in the *Summary Offences and Sentencing Amendment Bill 2013*, specifically that the amendments may disproportionately impact on vulnerable groups of people who are highly visible in public spaces, including homeless people, people with mental health and drug and alcohol issues, Aboriginal people and young people.

The *Summary Offences and Sentencing Amendment Bill 2013* amends the *Summary Offences Act 1966 (Vic)* by expanding the grounds on which move-on directions can be given. It also introduces 'exclusion orders' which may be used to exclude people from a particular public place for up to 12 months.

Currently a member of the police force or a protective service officer (PSO) on duty at a designated place is able to give a direction to a person or a group of people in a public place to leave that public place if the officer suspects that

- (a) the person or persons are breaching or likely to breach the peace;
or
- (b) the person or persons are endangering or likely to endanger the safety or any other person; or
- (c) The behavior of the person or persons is likely to cause injury to a person or damage to property or is otherwise a risk to public safety.

Under these powers a person can be directed to 'move on' from the place for a period of up to 24 hours.

The proposed amendments increase the situations in which these 'move on' directions can be given:

- (d) the person or persons have committed in the last 12 hours an offence in the public place;
- (e) the conduct of the person or persons is causing a reasonable apprehension of violence in another person;
- (f) the person or persons are causing, or likely to cause an undue obstruction to another person or traffic (whether an obstruction is 'undue' requires consideration of the duration of the obstruction and the conduct that is causing the obstruction);
- (g) the person or person are present for the purposes of buying or selling drugs;
- (h) The person or persons are impeding or attempting to impede someone else from lawfully entering premises.

VCOSS is concerned that the amendments allow significant discretion in when police and PSOs may enact these powers and that this may discriminate against vulnerable groups who are more highly visible in public spaces or who may exhibit challenging behaviours due to mental health or substance use issues. This behaviour should not be criminalised but rather police and PSOs continue to be given appropriate training to respond to these issues and to make referrals to existing support services.

The proposed powers are very broad and there are not clear safeguards to ensure they are not used inappropriately. As an example, during the recent heatwaves, VCOSS members reported that homeless people, who had sought relief from the heat in shopping centres, were often asked to leave the premises by owners. If these owners expressed their concerns to police, what safeguards are in place to ensure police could not issue 'move on' directions for this behaviour?

VCOSS is also concerned about the proposed extension of exclusion orders up to 12 months. This is particularly problematic given many people may be in an area because it is their home or to use support services such as homelessness or drug and alcohol supports.

Victoria already has significant legislative provisions in place to respond to threats to public safety such as breach of the peace, unlawful assembly,

property damage, offensive language, and trespass laws. It is not clear how existing legislation is inadequate to deal with threats to public order.

Finally, VCOSS is concerned that the proposed laws are inconsistent with the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* in limiting an individual's right to freedom of movement, freedom of expression, freedom of assembly and freedom of association.

VCOSS believes that the Scrutiny of Acts and Regulations Committee (SARC) should recommend that the Bill be delayed to allow for further consultation and review.

Please contact Paula Grogan, Senior Policy Advisor, VCOSS t: 9235 1026 for further discussion.

Yours sincerely

Emma King
Chief Executive Officer