Assisting homeless people – the need to improve their access to accommodation and support services

Final Report arising from an Inquiry into access to, and exiting from, the Supported Accommodation Assistance Program

May 2004

NSW Ombudsman

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6 May 2004

The Hon Meredith Burgmann MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon John Aquilina MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Madam President and Mr Speaker

I submit a report pursuant to s 31 of the Ombudsman Act 1974. In accordance with the Act, I have provided the Minister for Community Services with a copy of this report.

I draw your attention to the provisions of s 31AA of the Ombudsman Act 1974 in relation to the tabling of this report and request that you make it public forthwith.

Yours faithfully

Bruce Barbour
Ombudsman

Acknowledgements

I gratefully acknowledge the support and active involvement of many individuals and organisations in this Inquiry. In particular, I wish to thank members of the reference panel, participants in consultations, the Supported Accommodation Assistance Program (SAAP) sector peak organisations, the SAAP agencies that provided copies of policies and/or completed the survey, and the people who use SAAP accommodation who participated in interviews.

I also acknowledge that the funding administration department, the Department of Community Services, and SAAP agencies have been open and constructive in their contributions and have been willing to critically examine the policy and practice of SAAP in relation to access and early exiting.

Bruce Barbour
Ombudsman

Contents

Executive summary

The Supported Accommodation Assistance Program

SAAP is a jointly funded Commonwealth/State program that was established in 1985 as Australia's primary response to the needs of people who are homeless or at risk of homelessness. The *Supported Accommodation Assistance Act 1994*, the Commonwealth legislation governing SAAP, cites the aim of the program as being to '…. provide transitional supported accommodation and related support services, in order to help people who are homeless to achieve the maximum possible degree of self-reliance and independence'.

In NSW, the program is administered by the Department of Community Services (DoCS) and delivered through non-government community-based organisations, with some local government involvement. The NSW SAAP budget for the 2001/2002 financial year was $100.6 million. In that year, the program funded 394 services and provided support to 26,450 clients.

Background to our inquiry

Homeless people form one of the most vulnerable and marginalised groups in our community. SAAP is a safety net that is often a last resort for people who have become homeless. If appropriately provided, the program may also be the starting point for individuals to re-engage with the community and gain access to a range of life opportunities. In order to fulfil these functions, SAAP must be accessible to homeless people.

Through our work with community service agencies, we became aware of concerns about groups of homeless people who appeared to be having difficulty gaining access to SAAP, or who were highly represented in early exiting from the program. In response to these concerns, we instigated an inquiry to determine the extent of, and reasons for, exclusion from SAAP.

Our inquiry

The inquiry was conducted under s11(1)(e) and (d) of the *Community Services (Complaints, Reviews and Monitoring) Act 1993 (CS CRAMA).* The primary aim of our inquiry was to determine who is excluded from SAAP and the implications this has for people with high and complex needs. The focus, therefore, was on SAAP agencies and on the experiences of referral agencies using or having links with SAAP.

In conducting the inquiry, we had close regard to the legislation governing the program and existing policy and practice guidance, including:

- the NSW SAAP standards;
- the Memorandum of Understanding between the Commonwealth and states and territories;
- the bilateral agreement between the Commonwealth and DoCS; and
- the NSW SAAP service framework.

According to these key documents, SAAP is a program that is intended to be:

- delivered free of discrimination within a framework of human and consumer rights and respect for individuals;

- accessible and inclusive of people with a wide range of needs and circumstances, including people with complex needs or requiring a high level of service response;

- flexible and responsive to individual needs; and

- coordinated and collaborative in its approach to meeting clients' needs and working with other service systems.

The key components of our inquiry were:

- a survey of SAAP agencies, with a 79% response rate and 231 responses from SAAP accommodation providers;

- a review of policy and procedure documents concerning eligibility for, access to and exiting from 68 SAAP agencies;

- consultations with referral, advocacy and related agencies and with a range of SAAP providers and peak organisations;

- interviews and focus groups with SAAP clients or former clients;

- review of relevant complaints made to the Ombudsman.

Our inquiry was assisted by a reference panel comprised of representatives of government and non-government agencies with an interest in SAAP.

In November 2003, we provided a preliminary report to the Minister for Community Services, the Director-General of DoCS and members of the reference panel. Responses received were taken into account in preparing the final report. A final report was provided to the Minister, the Director General and members of the reference panel in early May 2004.

The extent of exclusions from SAAP

Overall, our inquiry found that the level and nature of exclusions in SAAP are extensive. In some cases, exclusions appear to be unreasonable and possibly in contravention of SAAP and anti-discrimination legislation, and SAAP standards and guidelines.

Significant groups affected by exclusions are:

- people who use, are affected by, or dependent on drugs and/or alcohol;

- people who exhibit or who have previously exhibited violence or other challenging behaviour;

- people with mental illness; and

- people with disabilities, including people with physical disabilities, intellectual disabilities and acquired brain injury.

People with high and complex needs are likely to be highly represented in these groups, but conversely, not all people in these groups have high and complex needs.

Other key groups affected include:

• people not willing to enter into a case management plan;

• people unwilling or unable to pay for their accommodation;

• pregnant women;

• people who have been 'blacklisted' by agencies; and

• people who are unable to meet other eligibility restrictions set by agencies.

A significant proportion of exclusions are based on 'global' policies of turning away all individuals belonging to a particular population group or sharing similar characteristics with a group. Our survey found that 16.5 per cent (40) of agencies indicated that all people with the identified characteristic would be excluded.

Notably, three quarters of agencies surveyed indicated that there was some flexibility in applying eligibility criteria, in that they would make decisions to exclude or accept depending on the severity of an individual's illness, disability or behaviour. However, we found that where this was the case, grounds for exclusion are at times based on subjective assumptions about the impact of particular conditions or characteristics, rather than on a more objective and considered assessment of the capacity and needs of a particular individual.

We have set out below some examples of approaches to, and circumstances of, exclusion. The examples are drawn from agency policies and consultations undertaken in the course of the inquiry and illustrate the types of exclusionary policies and practices within SAAP that are of concern.

People who use, are affected by, or are dependent on drugs and/or alcohol

Many youth refuges kick people out for drinking on the premises on one occasion, coming home drunk, or one smoke of dope on the premises – one breach of the rules leads to exiting. Rules tend to be very strict and are applied rigidly.

Consultation with youth worker

People who exhibit or who have previously exhibited violence or other challenging behaviour

Robert was staying in a shelter for single men about 18 months ago. One night Robert was almost asleep when he saw another resident standing over him and going through his belongings. Robert scared him off. The next day Robert challenged the man about his behaviour – there was an altercation witnessed by the manager. The manager got upset with Robert and banned him. The other person was not exited. Robert felt he wasn't able to put his side of the story. That was 18 months ago and Robert thinks he is still banned.

Former SAAP client, client focus group

People with mental illness

Gary is a young man with a mental illness. He was referred to a SAAP service on a Saturday, but once he arrived at the agency he was refused a place. He was told by the agency that this was because of his mental illness, even though Gary says he was not ill and was taking medication at the time. As he couldn't find other accommodation, Gary rode the trains that night – to keep warm and get some sleep – before being referred to a single men's emergency shelter the next day and staying there the next two nights. Following advocacy by a youth worker, Gary was accepted into the service on the Tuesday.

Client interview

People with disabilities, including people with physical disabilities, intellectual disabilities and acquired brain injury

(People with an) acquired brain injury … would not apply to our accommodation centre as our government health office in [town] handles all people in their system, who exhibit this condition.

Comments accompanying agency survey

Clients with limited mobility cannot be accommodated due to the physical nature of the building and lack of facilities.

Comments accompanying agency survey

People not willing to enter into a case management plan

Women who just want a place to stay for the night may be excluded because they are not willing to commit to a case plan …

Consultation with SAAP worker

People unwilling or unable to pay for their accommodation:

…Most hostels require clients to pay back money owed. People don't get in because they owe money. People are often given unrealistic time to pay, and there is a lack of flexibility.

Consultation with outreach worker

Pregnant women

Exclusion: Females who are seven months pregnant or require specialist medical intervention in the early stages of pregnancy

Agency policy: service for young people

No pregnant women

Agency policy: service for young people

People who have been 'blacklisted' or banned by agencies

An applicant would be told (on the phone) that the worker would check if there was a bed available, making out that she may not know whether there was a vacancy – then the applicant would be put on hold – the list would be checked and if the person was on the list, they were told there was no bed available.

Family support worker (former SAAP worker)

People who are unable to meet other eligibility restrictions set by agencies

Mick was homeless when he applied to a SAAP agency in metropolitan Sydney. He was calling from a phone box in a different part of town. He was told he wasn't eligible because he was out of area. He couldn't understand because as a homeless person he didn't live in any area.

Client interview

Key systemic issues

The role of SAAP and other service systems

Many people told us that exclusions reflect the necessarily limited role of SAAP in the context of other service systems, and that SAAP was not established, nor should be expected, to cater to people whose predominant needs are best met by other service areas. Specifically, a common view was that it is not the 'core business' of SAAP to deal with problems such as substance abuse, mental health and other complex issues.

We acknowledge that there are gaps and inadequacies in other service systems, such as drug and alcohol detoxification and rehabilitation services and community-based mental health services. We accept that it is not the core business of SAAP to provide primary health services to people who are acutely ill and who require health, mental health or drug and alcohol services in the first instance. It is also not SAAP core business to provide disability accommodation for those people with disabilities who require specialised assistance as a result of their disability.

However, it is not sufficient for SAAP to consider every person within these groups to be outside its responsibility. It is the role of SAAP, in conjunction with other service systems, to cater to a diversity of individuals who are homeless, including people with mental illness, disabilities and/or substance abuse issues.

Occupational health and safety and duty of care

The requirements of the NSW *Occupational Health and Safety Act 2000 (OHS Act)* was a key reason given by agencies for exclusion of many people, particularly those who exhibit, or are assumed to be capable of, violence or challenging behaviour. Duty of care was noted by some agencies as the rationale for the exclusion of some groups of people, including pregnant women, people with disabilities, and people who use or possess drugs or alcohol.

It is our view that exclusion on the basis of occupational health and safety and duty of care obligations should only occur following individual assessment of the risk to health and safety that may be posed by an individual, and consideration of strategies to manage risk through methods other than exclusion or termination of accommodation. Individuals should not be excluded solely because they belong to a group with characteristics or behaviours generally considered to constitute some risk.

SAAP agencies are required under the *OHS Act* to develop policies and procedures regarding occupational health and safety, hazard identification, risk assessment and violence prevention. In order to progress this requirement, unclear criteria for exclusion such as 'other challenging behaviour' or 'threatening behaviour' should be reviewed, to ensure clarity in assessments of risk. DoCS should continue its efforts to support agencies in fulfilling their responsibilities. The department should also determine, with agencies, whether current resources are adequate to meet duty of care and OHS obligations without the use of exclusion as the primary risk management response.

Ensuring the safety of clients and staff in tandem with providing an inclusive service is a challenge for SAAP providers. There is a need for comprehensive education and assistance strategies for both management and staff in SAAP agencies in order to assist understanding of their obligations under the OHS Act, and how to meet these responsibilities.

Agency resources

SAAP agencies argued strongly to the inquiry that lack of resources is a significant reason for exclusion at the point of access and a primary barrier to meeting the needs of people who require high levels of support or specialised assistance.

It is clear that the program and its clients would benefit from an enhanced level of resources. We recognise that inadequate levels of funding and the subsequent impact on staffing levels and agency capacity can pose a significant barrier to improved service provision. However, the key issue identified through the inquiry – the extensive level and nature of exclusions in SAAP – needs to be recognised as an issue *irrespective* of funding levels, in that agencies have a responsibility to administer the resources that are available fairly.

It is not the role of SAAP to provide a service to people who require specialised accommodation and support that is beyond the funding capacity and scope of the program. However, decisions about a person's eligibility for assistance must be made equitably and transparently, on the basis of individual assessment, and in the context of current program standards and expectations. For example, it may be reasonable for an agency to exclude an individual on the basis that they need intensive supervision or professional intervention that is beyond the funding capacity of the service to provide. However, it is not reasonable to exclude groups of individuals – for example people with a mental illness or an intellectual disability – on the assumption that they would be likely to require a more intensive level of assistance than the agency is able to provide.

Congregate care

The congregate care model appears to have a particular impact on exclusion, both at the point of access and through early exiting. For example, 47.6 per cent of survey responses (110 agencies) identified compatibility with other clients as a reason for denial of access.

Our findings indicate that the development of alternative models of support to congregate care would assist in decreasing the level of exclusion of some people from SAAP, in particular those whose behaviour or characteristics impact on others, and/or make it difficult for them to function well in a shared living environment.

Our recommendations

We acknowledge that the expectations placed on SAAP are extensive, and there are significant issues related to agency capacity and funding. SAAP is not, and should not be, the only response to meeting the needs of homeless people. Nonetheless, we believe that SAAP, as a safety net for those most vulnerable in our society, must move away from presumption of risk to considered assessment and risk management, and from a culture of 'gate-keeping' to a culture of inclusion.

We have made a range of recommendations targeted primarily to DoCS and SAAP agencies. The recommendations are aimed at improving access to SAAP services for people who are homeless and whose predominant need is for supported accommodation and related support services. My office will closely monitor responses to these recommendations by DoCS and SAAP agencies. Key recommendations include:

Inclusive services

DoCS should require that SAAP agencies ensure inclusive access to services, within the broad limits of agreed target groups as provided for in program legislation. In this context, we have also recommended that SAAP agencies ensure that their policies, procedures and practices are inclusive, and that any exclusions be based on considered assessment of the presenting circumstances of individual clients and fair and transparent exiting procedures. Within the agreed target groups, there should be no global or group exclusions.

Service standards

DoCS should ensure that standards governing SAAP prescribe minimum standards for service providers. Standards should address specific expectations about non-discriminatory and fair policies and practices regarding client eligibility, access and exiting. Further, DoCS should develop clear guidance and tools for SAAP agencies in relation to service policy and practice.

Interagency protocols

DoCS should review the scope and status of protocols with other service systems, to consider the efficacy of the current system in providing the level and type of interagency support required by SAAP at the local level.

Training and professional development

DoCS and SAAP agencies should ensure that service providers have access to training to increase understanding of, and professional development in, critical issues raised through our inquiry. Key areas for training include anti-discrimination legislation and access and equity; the needs of specific client groups who may have high and complex needs; and risk assessment and risk management in the context of occupational health and safety.

Agency resources

In the process of negotiating the new Commonwealth/State agreement for SAAP, DoCS should negotiate enhancement funding for the program to areas where the need for increased resources has been indicated by the inquiry.

Recommendations

Scope of exclusion

1. DoCS, in service specifications, should require SAAP agencies providing accommodation services to ensure that access to services is inclusive of all persons within an agreed target group as provided for in s13(1) of the *Supported Accommodation Assistance Act 1994*, and that any exclusions are based on considered assessment of the presenting circumstances of an individual and reasonable attempts by the agency to manage identified risk. In particular, service specifications should indicate that individuals should not be denied access to services **solely** on the basis that they:

   • have a mental illness or disability, including an acquired brain injury or intellectual disability;

   • are pregnant, if women are part of the target group of the agency;

   • have a drug or alcohol dependence per se, or are affected by illegal drugs or alcohol, or are receiving treatment for substance abuse or are not receiving treatment, unless this exclusion is supported by an assessment of the current risk presented by that individual;

   • have previously exhibited violent or challenging behaviour, unless this exclusion is supported by an assessment of the current risk presented by that individual;

   • have previously been banned or blacklisted by their own or another SAAP agency;

   • decline to enter a formal case management or planning process, where services can be provided in such a way that the goal of transition towards independence can be progressed informally;

   • do not have the capacity to pay bond, rent or service charges.

2. SAAP agencies providing accommodation services should ensure that their eligibility and access policies, procedures and practices are inclusive of all persons within the target group identified in the agencies' service specifications, and that any exclusions are based on considered assessment of the presenting circumstances of an individual and reasonable attempts by the agency to manage identified risk. In particular, individuals should not be denied access to services **solely** on the basis that they:

   • have a mental illness or disability, including an acquired brain injury or intellectual disability;

   • are pregnant, if women are part of the target group of the agency;

   • have a drug or alcohol dependence per se, or are affected by illegal drugs or alcohol, or are receiving treatment for substance abuse or are not receiving treatment, unless this exclusion is supported by an assessment of the current risk presented by that individual;

   • have previously exhibited violent or challenging behaviour, unless this exclusion is supported by an assessment of the current risk presented by that individual;

   • have previously been banned or blacklisted by their own or another SAAP agency;

   • decline to enter a formal case management or planning process, where services can be provided in such a way that the goal of transition towards independence can be progressed informally;

   • do not have the capacity to pay bond, rent or service charges.

SAAP standards

3. In the process of revising the SAAP standards, currently underway, DoCS should ensure that the standards address specific expectations regarding non-discriminatory and fair policies and practices regarding client eligibility, access and exiting. In particular, standards and practice indicators should provide clear guidance on:

    • legal and ethical obligations regarding anti-discrimination, residential tenancy and privacy legislation;

    • policies and practices which are based on inclusion rather than exclusion, with exclusions beyond broad target groups based on individual assessment;

    • occupational health and safety and risk assessment and risk management approach to clients;

    • the application and limits of duty of care in the context of accessible and non-discriminatory service provision;

    • parameters and processes for early exiting of SAAP clients, including the preclusion of the use of time bans and black lists;

    • requirements for a client's voluntary involvement in case management and options for service delivery in cases where case management is declined or involvement is ceased by the client;

    • requirements that agencies do not restrict access where clients do not have a capacity to pay.

4. The revised SAAP standards should prescribe minimum standards in order to ensure a common understanding of minimum expectations and requirements, in addition to articulating best practice aspirations.

Review of SAAP agencies' policies, procedures and rules

5. All SAAP agencies providing accommodation services should undertake a review of their policies and procedures in relation to eligibility, access and early exiting. The review should focus on ensuring that the operations of the service clearly reflect program policy and guidance and legal obligations, particularly in relation to equitable and non-discriminatory access and fair and transparent exiting.

Accessibility of premises

6. DoCS and the NSW Department of Housing should develop a joint plan of action to improve access to SAAP by people with physical disabilities. In particular, the plan should consider the role of the Crisis Accommodation Program in increasing access to funds for:

    • modification of existing SAAP premises;

    • purpose building, acquisition or leasing of accessible premises; and

    • use of alternative, appropriate accommodation through brokerage.

Case management

7. SAAP accommodation agencies should not deny access, nor should accommodation be terminated, on the basis of an applicant's or client's refusal to enter into or continue in case management, when services can be provided in such a way that the goal of transition towards independence can be progressed informally.

Interagency agreements

8. In the context of the planning for SAAP V, DoCS should review the scope and status of protocols and interagency agreements between SAAP and other service systems. The review should specifically consider:

    *   the efficacy of existing state-wide protocols and interagency agreements in achieving outcomes for SAAP clients at the local level;

    *   gaps in the existing range of state-wide protocols and interagency agreements and priority areas for future initiatives;

    *   supports required by SAAP agencies at the local level to assist them to develop close linkages and collaborative initiatives with other service systems.

DoCS to develop clear guidance

9. DoCS, through its role with the Industry Reference Group, should continue to pursue action to address the need for the provision of clear guidance and tools in relation to client risk assessment and risk management, appropriate for use in SAAP accommodation services.

10. As part of a quality improvement strategy, DoCS should develop, in consultation with SAAP agencies providing accommodation services, clear guidance and tools in relation to service policy and practice governing client eligibility, access and exiting. Guidance should emphasise an inclusive, rather than exclusive, approach to eligibility, access and exiting, and should:

    *   reflect program standards and expectations and legal obligations;

    *   clarify the meaning and practical implications of the statement in the Memorandum of Understanding that no person should be excluded on the basis of complexity of need;

    *   incorporate model operational policies and good practice strategies to assist agencies to implement policies and practices which reflect equitable and non-discriminatory eligibility and access and fair and transparent exiting.

Training

11. The DoCS SAAP Training Unit should develop and provide, or coordinate the provision of, training for SAAP agencies in the areas of:

    *   discrimination law and non-discriminatory policy and service delivery;

    *   awareness of issues regarding people with specific or complex needs, in particular:

        -   people with mental illness

        -   people with intellectual or physical disability

        -   people with acquired brain injury

        -   people with dual diagnosis

        The focus of such training should incorporate effective service responses where individuals with such needs are appropriately receiving assistance from SAAP; ensuring effective referral to relevant services; and fostering interagency coordination;

    *   appropriate eligibility and access assessment processes;

- duty of care, in the context of equitable and accessible service delivery.

  The unit should continue to provide training on 'Alcohol and Other Drugs', 'Safety and Security', culturally appropriate service delivery in relation to clients from Aboriginal and Torres Strait Islander backgrounds and culturally and linguistically diverse communities, and coordinate the provision of accredited training on occupational health and safety legislation.

12. SAAP agencies providing accommodation services should ensure that all staff are provided with training in the areas of:

- occupational health and safety requirements, with a particular focus on client risk identification and risk assessment, violence prevention and responses that seek alternatives to exclusion;

- discrimination law and non-discriminatory policy and service delivery;

- awareness of and appropriate service responses to people with specific or complex needs, in particular:

  - people with mental illness

  - people with intellectual or physical disability

  - people with acquired brain injury

  - people with dual diagnosis

  - Aboriginal and Torres Strait Islander people

  - people from non-English speaking backgrounds;

- appropriate eligibility and access assessment processes;

- duty of care, in the context of equitable and accessible service delivery.

Agency resources

13. DoCS in the process of negotiating the SAAP V agreement with the Commonwealth Government should negotiate enhancement funding for the program, to areas where the need for increased resources is indicated:

- to meet SAAP agencies' costs of compliance with increased occupational health and safety (OHS) responsibilities, including: additional staffing, if it is determined to be necessary to meet OHS requirements while maintaining current service capacity; provision of emergency/back up staff support; mobile telephones and alarm/call systems; equipment testing and tagging; and provision of accredited OHS training for staff;

- to allow agencies to contract additional and/or specialist assistance to meet the support needs of people requiring a high level of support or service response;

- to enable agencies to accommodate people who have limited capacity to pay rent or service charges.

Provision of report to the Commonwealth

14. DoCS should provide a copy of this report to the Commonwealth Department of Family and Community Services.

Early exiting / termination of accommodation

15. DoCS should ensure that SAAP Standards and service specifications provide guidance in relation to reasonable grounds and appropriate processes for early termination of accommodation and support. The basis for guidance should be that termination of accommodation and support earlier than planned should only be effected as a last resort because of serious or persistent breaches of reasonable rules, or violence or other behaviour that puts the resident, staff or others at risk. Guidance should specify that early termination should be subject to fair and transparent processes that recognise individual rights and dignity and legislative requirements and that should include:

   - provision of warnings, where possible and appropriate;

   - a period of notice, where possible and appropriate;

   - opportunity to appeal the decision;

   - emergency assistance and referral to alternative accommodation or other services, if the client is willing to be referred.

16. SAAP agencies providing accommodation services should ensure that termination of accommodation and support earlier than planned is only effected as a last resort because of serious or persistent breaches of reasonable rules or violence or other behaviour that puts the resident, staff or others at risk. Early termination should be subject to fair and transparent processes that recognise individual rights and dignity and legislative requirements and include:

   - provision of warnings, where possible and appropriate;

   - a period of notice, where possible and appropriate;

   - opportunity to appeal the decision;

   - emergency assistance and referral to alternative accommodation or other services, if the client is willing to be referred.

Ban lists / blacklists

17. SAAP agencies providing accommodation services should not operate time bans or blacklists. Early termination of accommodation and support should not be applied as a punitive measure, and reasons for such termination should be transparent. Requests for assistance should be considered as new requests and assessed in accordance with agency access policy and procedure.

Reporting and monitoring of recommendations

DoCS reporting on acceptance and implementation of recommendations

18. Three months from the date of receipt of this report, DoCS should advise the Ombudsman, in writing, regarding its response to the recommendations directed to or involving DoCS in a lead role, and advice regarding plans and a timetable for implementation of those recommendations.

Monitoring of SAAP agency acceptance and implementation of recommendations

19. Within twelve months of agencies receiving this report, the Ombudsman will instigate a monitoring strategy to assess the response to recommendations directed to or requiring involvement of SAAP agencies and progress toward the implementation of those recommendations.

Definitions

Terms used for the purposes of the Inquiry are defined below.

- **Access** refers to the process of being accepted into a SAAP agency. People eligible to receive assistance may be accepted or denied access to an agency.

- **Accommodation based services** are agencies where the primary mode of assistance is provision of accommodation.

- **Agency policy review** refers to an analysis of policy documentation of 68 SAAP agencies, which were provided to us following a request accompanying the distribution of the agency survey.

- **Agency survey** refers to the survey of SAAP agencies conducted by the Ombudsman, through the Australian Institute of Health and Welfare as part of this Inquiry. Survey responses were received from 231 SAAP agencies providing accommodation services.

- **Crisis/short term service/agency** refers to agencies providing supported accommodation for a period generally not more than three months (short term) and for persons needing immediate short term accommodation (crisis).[1]

- **Eligibility** is the verbal or written criteria used by agencies to determine which individuals/groups do and do not qualify for assistance from the agency.

- **Global exclusion** refers to the exclusion of individuals on the basis that they belong to a particular population group or share similar characteristics with a group.

- **Medium/long term service/agency** refers to agencies providing supported accommodation for periods of around three – six months (medium term) and for longer than six months (long term).

- **Multiple service/agency** refers to agencies which frequently use more than one service delivery model for the provision of SAAP services, for example crisis/short term accommodation and support and day support (meals).

- **People with high and complex needs** refers to people who have characteristics or behaviours that may indicate that they require a high level of support or intervention from a SAAP agency, and/or a range of services to meet their needs.[2]

- **Target group** refers to the primary characteristic of persons to whom a SAAP service is targeted (such as young people; single men; single women; families; women and women with children) which are detailed in the service specification between DoCS and the agency. Agencies may also target more than one target group. These are referred to as cross target, general or multiple target agencies. Agencies may also identify a secondary target group to whom their services are targeted, such as Aboriginal and Torres Strait Islander peoples, people from non-English speaking backgrounds or other special characteristics.

- **Unplanned or early exit** relates to the process whereby an agency terminates or evicts a client from their accommodation before they have completed their case plan or before they have stayed the maximum time allowed under the agency's service delivery model.

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1 This and the following definitions are drawn from the Australian Institute of Health and Welfare, as defined in the SAAP agency survey.
2 The range of definitions in program literature varies. See: Ecumenical Housing & Thomson Goodall Associates Pty Ltd., *Appropriate responses for Homeless People whose Needs Require a High Level and complexity of Service Provision,* Department of Family & Community Services, Canberra, 2000; S Nash, 'Assisting Homeless People with Complex Needs Access and Sustain Public Housing', *Parity,* Vol 15 Issue 5 2002; Victorian Department of Human Services, *Responding to people with multiple and complex needs Phase One report,* July 2003, *Client profile data and case studies report,* January 2003, and *Literature Review* by Thomson Goodall Associates, September 2002.

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1 Introduction

1.1 Background and Inquiry process

The role of the Ombudsman in community services is to promote improvements in the delivery of community services, and the rights and best interests of service receivers through its recommendations.

Homeless people form one of the most vulnerable and marginalised groups in our community. Supported Accommodation Assistance Program (SAAP) agencies provide a safety net that is often a last resort for people who have become homeless. If appropriately provided, the Program may also be the starting point for individuals to re-engage with the community and gain access to a range of life opportunities. In order to fulfil either of these functions, SAAP must be accessible to homeless people.

Through a range of sources, we became aware of concerns about groups of homeless people who appeared to be having difficulty gaining access to SAAP agencies or who were highly represented in early exiting from the program.

As a result, this office instigated an inquiry to determine the extent of, and reasons for, exclusion from SAAP. This Inquiry was initiated by the Community Services Commission (the Commission) in late 2001 and finalised by the NSW Ombudsman (the Ombudsman)[3].

This Inquiry was conducted under s11(1)(e) and (d) of the *Community Services (Complaints, Reviews and Monitoring) Act 1993 (CS CRAMA).* The Inquiry was conducted having regard to the principles set out in CS CRAMA, in particular,

s(3)(2)(a): *the paramount consideration in providing a service for a person must be the best interests of the person, and*

s(3)(2)(c): *a service provider is to promote and respect the legal and human rights of a person who receives a community service and must respect any need for privacy or confidentiality.*

SAAP is a jointly funded Commonwealth/State program that was established in 1985 as Australia's primary response to the needs of people who are homeless or at risk of homelessness. The *Supported Accommodation Assistance Act 1994*, the Commonwealth legislation governing SAAP, cites the aim of the program as being to: ….provide transitional supported accommodation and related support services, in order to help people who are homeless to achieve the maximum possible degree of self-reliance and independence (s2).[4]

In 1998, a national evaluation of SAAP found that the program was 'successful in meeting, or making significant progress towards achieving, the Operational Aims set out in the SAAP III Agreement, and in implementing the reform process outlined in the SAAP Act 1994'[5]. However, the evaluation also found that access to SAAP is limited for people with high and complex needs. Similarly, the NSW state evaluation of the program found that some groups were not receiving equitable access or appropriate services[6]. The evaluation noted the key barriers of exclusion practices, discrimination and lack of holistic response to complexity of need.

In the period between the release of the evaluations and our Inquiry, indications were that there had been little progress on these critical issues.

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3 The Community Services Commission amalgamted with the Office of the NSW Ombudsman in December 2002.
4 The Act defines the person as homeless if he or she does not have access to safe, secure and adequate housing.
5 Social and Economic Research Centre & Australian Housing and Urban Research Institute, *National Evaluation of the Supported Accommodation Assistance Program (SAAP III)*, Department of Family and Community Services, Canberra, 1999, p. XIII.
6 Thomson Goodall Associates, *Report of the Evaluation of the SAAP in New South Wales*, NSW Department of Community Services, Sydney, 1998.

The Inquiry investigated policy and practice in relation to access to and exiting from accommodation services provided under SAAP in NSW. The primary aim of the Inquiry was to determine who is excluded from SAAP and the implications this has for people with high and complex needs. The focus, therefore, was on SAAP agencies and on the experiences of referral agencies using or having links with SAAP.

The Inquiry was conducted throughout 2002 and 2003. Details of methodology are provided at Appendix 1. The key components of the Inquiry were:

- a survey of SAAP agencies, with a 79% response rate and 231 responses from SAAP accommodation providers. Key results of the survey, conducted by the Australian Institute of Health and Welfare (AIHW), are at Appendix 2;

- review of policy and procedure documents concerning eligibility, access and exiting from 68 SAAP agencies, also presented in Appendix 2;

- consultations with referral, advocacy and related agencies and with a range of SAAP providers and peak organisations;

- interviews and focus groups with SAAP clients or former clients;

- review of relevant complaints made to the Commission and/or the Ombudsman;

- review of relevant reports, legislation and policy documents related to or impacting on the SAAP program.

The Inquiry was informed by a reference panel, the membership and role of which is detailed at Appendix 3.

A Preliminary Report was provided to the Minister for Community Services, the Director-General of DoCS and members of the reference panel in November 2003. These stakeholders were provided with an opportunity to comment by mid-December 2003. Responses were received from six agencies.[7] The responses were taken into account in preparing the final report and are noted and discussed as relevant. A final report was provided to the Minister, the Director General and members of the reference panel in early May 2004.

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7 Responses were received from DoCS, the Council of Social Services NSW, the Youth Accommodation Association, Shelter NSW, Centre for Mental Health (NSW Health) and the Office of Community Housing (NSW Department of Housing).

1.2   SAAP clients, funding and services in NSW[8]

In NSW in 2001/2002, 26,450 SAAP clients were provided with 47,850 support periods, including 30,650 accommodation support periods.[9]

- 2.2% were aged under 15 years;
- 32.4% were aged 15-24 years;
- 27.2% were aged 25-34 years;
- 22.0% were aged 35-44 years;
- 13.1% were aged 45-59 years; and
- 3.2% were aged 60 years and over.

Aboriginal and Torres Strait Islander people made up 16% of SAAP clients, compared to about 2% of the NSW population, and 11% of clients were people born overseas in a non-English speaking country, compared to an estimated 17% in the NSW population.[10]

Of the 394 services that were funded by SAAP in NSW in 2001/2002:

- 44.7% of services targeted young people;
- 21.6%, of services targeted women escaping domestic violence;
- 10.2% of services were for single men;
- 6.1% of services were for families; and
- 5.1% of services were for single women.

The main reason for seeking assistance from SAAP was domestic and family violence (18%), followed by relationship and family breakdown (11%), financial difficulty (11%), and usual accommodation unavailable (10%)[11].

The most common type of service provided was housing and accommodation (85%), followed by basic support and services, such as meals and shower facilities (81%). General support and advocacy in relation to housing or other services was provided to 72% of SAAP clients.

At times, requests for services are unmet due to the high demand and limited service capacity. The Australian Institute of Health and Welfare collects data on demand and unmet requests in SAAP on an audit basis, over two one-week periods in a year. The 2000/2001 data collection estimated that an average of 145 individuals or family groups a day had their request for accommodation unmet in NSW.[12]

In NSW, the program is administered by the Department of Community Services (DoCS) and delivered though non-government community-based organisations, with some local government involvement. The NSW SAAP budget for the 2001/2002 financial year was $100.6 million.[13]

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8 Australian Institute of Health and Welfare, *Homeless people in SAAP. SAAP NDC Annual Report 2001-02 New South Wales supplementary tables,* Australian Institute of Health and Welfare, Canberra, 2002.
9 A support period commences when a client begins to receive support and/or supported accommodation from a SAAP agency of one hour or more. The support period is considered to finish when the client ends the relationship with the agency; or the agency ends the relationship with the client.
10 Australian Institute of Health and Welfare, *Homeless people in SAAP. SAAP NDC Annual Report 2001-02 New South Wales supplementary tables,* op. cit., p.13.
11 Reasons for seeking assistance are not collected in high-volume agencies, which often support single men. Thus some reasons, such as drug and alcohol issues, may be understated in this data.
12 Australian Institute of Health and Welfare, *Demand for SAAP Assistance by Homeless People 2000-01*, Australian Institute of Health and Welfare, 2002, Table A1.3, p. 41.
13 NSW Department of Community Services, *New South Wales Annual Report 2001/2002,* NSW Department of Community Services, Sydney, 2001.

1.3   SAAP legal and strategic context

The legislative and policy framework guiding SAAP provides a context for analysis of the Inquiry findings. Key aspects of legislation, policy and practice guidance are summarised below, with particular reference to aspects pertinent to the Inquiry.

From its establishment in 1985, SAAP has evolved through a series of five-year plans. The current plan, SAAP IV, has an agreed strategic and administrative framework underpinned by:

- the *Supported Accommodation Assistance Act 1994*;
- memorandum of Understanding between the Commonwealth and all states and territories;
- a bilateral agreement between the Commonwealth and each state/territory; and
- in NSW, the SAAP Service Framework.

Other key guidance documents, which predate the current agreement and continue to guide service provision in NSW, are the national *Case Management Resource Kit for SAAP Services* and the *NSW SAAP Standards*.

1.3.1 Supported Accommodation Assistance Act 1994

In addition to providing an administrative framework for the program, the *Supported Accommodation Assistance Act 1994 (SAA Act)* provides definitions and objects of the program, the scope of SAAP and the responsibilities of service providers. In relation to this Inquiry, a significant aspect of the Act is the Preamble, which places the context of the program in terms of human rights, dignity, equity and collaboration. The Preamble, although without legislative force, reflects the spirit in which services should be provided:

> Homeless people form one of the most powerless and marginalised groups in society. Responses to their needs should aim to empower them and to maximise their independence. These responses should be provided in a way that respects their dignity as individuals, enhances their self esteem, is sensitive to their social and economic circumstances, and respects their cultural backgrounds and their beliefs.

1.3.2 Memorandum of Understanding

The *SAAP 2002–2005 Memorandum of Understanding* (*MOU*) is the agreement between the Commonwealth and all states and territories.[14] The *MOU* is the primary policy framework for SAAP IV. It guides the program by stating aims, goals, principles, strategic themes, the roles and responsibilities of partners, and administrative and funding arrangements.

Relevant to this Inquiry, the *MOU* requires that SAAP:

- ensure services are flexible and responsive to client needs and include timely intervention;
- ensure services are accessible and clients are not excluded on the basis of capacity to pay;
- frame service delivery around a continuum of care approach, principles of access and equity and a commitment to protect client's rights and dignity;
- ensure the service system does not exclude clients on the basis of complexity of need; and
- collaborate with other programs and the community to encourage an environment for shared responsibility to address client needs, including those with long-term needs (s4.5).

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14 Department of Family and Community Services, *SAAP 2002–2005 Memorandum of Understanding,* Department of Family and Community Services, Canberra, 1999.

1.3.3 Bilateral agreement

Bilateral agreements are agreements between the Commonwealth and each state and territory. They establish state/territory priorities and expected outcomes.

NSW priorities and directions for SAAP IV are contained in Schedule 7 of the *SAAP IV (2000-2005) Bilateral Agreement between the Commonwealth of Australia and New South Wales* (2000).[15] Priorities for action are to:

- provide a more efficient, flexible, progressive service system;
- diversify housing assistance responses through the Crisis Accommodation Program;
- reconfigure services and improve accommodation management;
- develop better links to other services;
- integrate Proclaimed Places into SAAP[16];
- continue to improve service delivery;
- respond to indigenous homelessness;
- implement an aged homelessness strategy to reduce dependence on SAAP by chronically homeless older people;
- implement action for vulnerable youth arising from the Drug Summit 1999; and
- develop a continuum of care framework in collaboration with key stakeholders.

1.3.4 SAAP Service Framework

In NSW, the *SAAP Service Framework* (the framework) incorporates performance requirements and service benchmarks.[17] The framework provides the basis for DoCS and agencies to negotiate the way services are provided. It is used as a purchasing tool from which individual service specifications are negotiated with each agency. These specifications are then included in each service agreement.

The framework emphasises service delivery through flexible approaches, including brokerage and leasing arrangements and a commitment to meeting the needs of people from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander families and communities and families comprising parents and/or children with disabilities.

The framework envisages that clients may require many different types of services and will require different levels of support, ranging from casual support to high or complex support. While the framework does not require every individual agency to respond to every support level, it states:

> … however through good coordination and integration of approaches to service delivery, each DoCS Planning Area will aim to respond to each support group in an equitable manner and within current program resources.[18]

The service specifications template requires agencies to indicate their agency's or project's target group, along with areas of specialisation, limitations and reasons for limitations.[19] In the user guide, this section is explained:

- describe any service limitations and outline reasons for this limitation;
- DoCS and the agency should agree on whether this is done on a project-by-project basis or on an agency level.[20]

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15 Department of Family and Community Services, *SAAP IV (2000-2005) Bilateral Agreement between the Commonwealth of Australia and New South Wales,*. Department of Family and Community Services, Canberra, 2000.
16 Proclaimed Places were temporary accommodation services for intoxicated people, under the *Intoxicated Persons Act 1979*.
17 NSW Department of Community Services, *SAAP Service Framework.*, NSW Department of Community Services, Sydney, 2001.
18 ibid., p. 8
19 NSW Department of Community Services, *Support Accommodation Assistance Program Service Specification Kit July 2002 / June 2005*. NSW Department of Community Services, Sydney, p. 15.
20 ibid, p. 9.

There is no guidance on the limitations or reasons that may be acceptable or unacceptable to DoCS.

We have been advised by DoCS that a monitoring and review framework to accompany three-year service reviews is in development and expected to be completed by November 2004.

1.3.5 National case management strategy

The development of a national case management strategy, following the national evaluation of SAAP II, was intended to enhance the capacity of SAAP to assist all clients regardless of level of need. A resource kit to guide practice was published in 1997.[21] Case management focuses on providing a framework for the SAAP agency and client to work together to address needs and find solutions to the individual's homelessness and related issues.

1.3.6 NSW SAAP Standards

In NSW the program is supported by the SAAP standards that 'establish the type and quality of services that are expected of an organisation'.[22] The standards are optimum or 'best practice' standards that do not describe a minimum level of service delivery 'because that is covered by the agency's funding agreement'[23]. Although SAAP agencies are not subject to an accreditation system, according to the Service Framework, the standards are regarded as the primary principles to assess quality service provision[24].

The standards encompass principles including:

- equity of access to services;
- promotion of dignity and positive image;
- the right to make complaints;
- respect for cultural heritage and community ties;
- upholding legal and human rights;
- appropriate, timely and practical individual planning in response to needs and goals;
- participation in decision-making and exercise of choice;
- the right to privacy, confidentiality and access to personal information;
- support to achieve independence and participation in the community;
- safe and secure service environment;
- efficient and effective service management;
- recognition of children accompanying adults as clients in their own right.

We have been advised by DoCS that the SAAP Standards are being revised to be consistent with a quality management framework being developed by Quality Management Services for the Mental Health Coordinating Council. The standards will consist primarily of generic standards for both SAAP and the Community Services Grants Program with an additional small number of program specific standards. DoCS expects this work to be completed by October 2004.

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21 National Case Management Working Group, *Case Management Resource Kit for SAAP Services*, Australian Government Publishing Service, Canberra, 1997.
22 NSW Department of Community Services, *SAAP Standards*, NSW Department of Community Services, Sydney, 1998, p. 6.
23 ibid.
24 NSW Department of Community Services, 2001, op. cit., p. 13.

1.3.7 Summary

According to the program legislation, policy and practice guidance described above, SAAP is a program that is intended to be:

- delivered free of discrimination within a framework of human and consumer rights and respect for individuals;

- accessible and inclusive of people with a wide range of needs and circumstances, including people with complex needs or requiring a high level of service response;

- flexible and responsive to individual needs;

- coordinated and collaborative in its approach to meeting clients' needs and working with other service systems; and

- encouraging of the right to complain and appeal decisions.

2   Summary of key findings

This summary provides an overview of the key findings of a survey that elicited a participant rate of 79%, including responses from 231 agencies providing accommodation services, and the review of 68 SAAP agency policy and procedure documents. Appendix 2 provides a detailed data analysis, including differences identified according to agency type and target group.

2.1   Who is excluded?

Overall, our Inquiry has found that the level and nature of exclusions in SAAP are extensive.

According to the agency survey, in eligibility policies:

- over three quarters of agencies indicated that they exclude people exhibiting violent behaviour;
- almost two thirds of agencies stated that they exclude people with drug and alcohol disorders
- approximately half of the agencies stated that they exclude people with a mental illness;[25]
- over one third of agencies indicated they exclude people with a physical or an intellectual disability;
- over one third of agencies indicated they exclude people unable to live independently/ semi-independently;
- almost one third of agencies stated that they exclude people who have been blacklisted.[26]

While a number of agencies (16.5% or 40 agencies) indicated that all people with the identified characteristic would be excluded, three quarters of the agencies stated they would accept people depending on the severity of the characteristic.

The policy review of 68 agencies also found the same three groups most highly represented in exclusion policies: people with drug and alcohol disorders (32 agencies), people with mental illness (30 agencies), and people exhibiting violent behaviour (29 agencies).

2.2   Extent of exclusions

Agencies responding to the survey were asked to estimate the number of people turned away for reasons other than unmet demand in a six month period prior to the survey completion. Responses indicated that the majority of agencies (57.0%) turned away between one and 20 people, and 11.3% turned away over 40 people. 16.7% of agencies did not turn away any people.[27]

The data indicates that people were turned away for reasons other than unmet demand on approximately 2,249 occasions from 165 agencies in the six month period.[28]

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25 The majority (over 74%) of these agencies excluded on the basis of exhibiting symptoms or as identified by the agency.
26 'Blacklisting' is a practice whereby an agency keeps a list of clients who are not to be accommodated at the service.
27 As agencies used multiple methods to calculate turn-aways, these figures must be seen as approximate.
28 Number based on totals of rounded numbers provided in AIHW report Table 41, 2,940, minus 691 entries from 'Other' category that indicated some respondent error, most notably some people were turned away due to unmet demand/lack of capacity, people declining the offer, not attending interviews or were outside the eligibility criteria, such as age, target group.

2.3   Access conditions

In about three quarters of agency policies we reviewed, we found certain 'conditions of entry' or 'conditions of stay'. Of particular note was the specification in 47 of the 68 agency policies that a person must commit to a case plan. Other conditions stated included the requirements to:

- attend meetings and participate in shared duties (18 policies);
- to have income and/or pay rent (16 policies).

A number of agencies stated that a client must be committed to making a change in their lives, have a certain level of independence, or wish to develop skills.

Living in a certain area was an access condition found in some policies and also led to exclusion of some people.

> Mick was homeless when he applied to a SAAP agency in metropolitan Sydney. He was calling from a phone box in a different part of town. He was told he wasn't eligible because he was out of area. He couldn't understand because as a homeless person he didn't live in any area.
>
> *Client interview*

2.4   Reasons for access exclusions

Approximately three quarters of agencies surveyed indicated that physical safety of clients and staff were reasons for excluding particular groups of clients. In addition, approximately half of agencies stated the following as reasons for exclusion:

- limited staffing levels;
- occupational health and safety and other industrial legislative issues for staff;
- service model/primary target group incompatible with certain clients (i.e. shared or independent accommodation);
- compatibility with other clients/residents;
- physical accessibility (i.e. of premises/location).

A lack of staff expertise and skills, and an inability of the service to provide adequate case management for the client, were also commonly stated reasons.[29]

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29 People we consulted also noted that another possible reason for exclusion was the difficulty in accessing interpreters and the lack of available staff who speak languages other than English.

> They are not our target group...We are not trained to take care of people with mental health or drug problems. We are not nurses or detoxers.
>
> *SAAP agency consultation*

> Clients with limited mobility cannot be accommodated due to the physical nature of the building and lack of facilities.
>
> *Agency survey #47*

> We also have to provide duty of care to residents and to meet increasingly tight OH&S compliance rules. In a communal situation there has to be a balance of meeting individual's needs and the needs of other residents and staff
>
> *Agency survey #30*

2.5   Circumstances leading to early exiting

Almost all agencies (95%) stated that in the event of evidence of violent conduct, or threats to other staff, client accommodation would be terminated. In addition:

- Over two thirds of agencies stated that where a client refused to obey the rules of the agency, committed a crime within the service, or damaged or stole property of the agency or another resident, accommodation would be terminated.

- Over half of agencies stated that evidence of substance abuse or intoxication would lead to termination of accommodation.

In the agency policies we reviewed, 33 of the 68 policies specified house rules. Further, 41 agencies either specified circumstances or rules which, if broken, would lead to early exit. The most commonly stated were:

- Violence/harassment/abuse   29 policies
- Use/possession of drugs/alcohol   27 policies
- Not paying rent   17 policies

Possible consequences of early exiting were the imposition of time bans or placement on blacklists. These practices could, in turn, affect future access to SAAP accommodation.

2.6   Extent of early exiting

Agencies responding to the survey estimated the number of people whose accommodation was terminated early in the six month period preceding the survey. Responses indicated that the majority of agencies (70.8%) terminated the accommodation of between one and 20 people, and a small number of agencies (4.0%) terminated the accommodation of between 21 and 60 people. One quarter of agencies reported they did not terminate anyone earlier than planned.

The data indicates that people were exited early on approximately 1,090 occasions by 205 agencies in the six month period.[30]

2.7   Reasons for early exiting

Agencies were asked to provide the main reasons for the early terminating of clients' accommodation in a specified six month period. The most frequently cited reasons provided were:

- physical safety of clients;

- physical safety of staff;

- agencies had helped the client as much as possible;

- lack of staff levels/expertise/skills to manage the characteristics of the person;

- service model/structure not compatible with client's needs.

In some cases people experienced a change of circumstance that affected eligibility and led to early exiting:

> Sam was exited from a SAAP family service because his father had left and disappeared. Sam couldn't stay there because he was under 18.
>
> Sam's dad disappeared two days before he was asked to leave. The caseworker wanted to wait till Sam got paid, but the boss said no because he was under 18, so they told him to pack his bags. They didn't try to find Sam any other accommodation. Sam didn't really feel like he could ask them for a place to go, as they were trying to hurry him out of the place.
>
> *Client interview, 17 years old at the time of exiting*

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30 As agencies used multiple methods to calculate early exits, these figures must be seen as approximate. Number is based on rounded numbers provided in AIHW Report Table 77.

3   Who is excluded?

3.1   Introduction

This section analyses our findings about people most likely to be excluded from SAAP in the context of relevant legislation, standards and program guidelines. We first consider broader aspects of global exclusion and how decisions are made about accepting or excluding clients. We then discuss the following specific groups of people and extent of their exclusion from SAAP accommodation:

- people who use or abuse drugs and/or alcohol;
- people with mental illness;
- people with disabilities;
- people who exhibit or who are perceived to have violent or other challenging behaviour;
- people who decline to cooperate with case management;
- people without a capacity to pay rent or service charges;
- pregnant women.

It should be noted that consultations identified specific additional issues for homeless Aboriginal and Torres Strait Islander (ATSI) people and people of non-English speaking backgrounds (NESB) which would be likely to exacerbate exclusion:

- lack of client knowledge of SAAP services;
- lack of services that are culturally appropriate;
- poor staff awareness and training in relation to ATSI and NESB people, leading to reluctance of some agencies to work with these groups.

Aspects of agency policies and procedures relating to access and exiting may impact more heavily on these groups.

3.2   Determining access to SAAP

3.2.1 Global exclusion

Global exclusion refers to the exclusion of individuals on the basis that they belong to a particular population group or share similar characteristics with a group. The Inquiry found that the extent of global exclusion in SAAP is significant and of concern.

Global exclusion of broad population groups was found to occur in a notable number of agencies (16.5% (40) of survey respondents). In the policies we reviewed, a number of agencies indicated that they would exclude all people – even those within their target group – with particular characteristics, such as a physical disability, people who use drugs or alcohol and/or people with intellectual disabilities. This indicates that a significant proportion of agencies are not basing decisions on considered assessment of current presenting behaviour or circumstances and/or the impact of this on the capacity of the agency to meet their needs. It also indicates that agencies are using exclusion as a primary risk management tool.

Even where agencies have indicated they will assess 'severity' of a condition to make a final determination of eligibility, the fact that groups are listed as 'exclusions' in service documentation is likely to present an initial barrier to approaching the agency for assistance.

The SAAP standards require that homeless people should have equitable access to services on the basis of need, within the constraints of allowable targeting of services. Criteria for eligibility and access should be known to all relevant people, including applicants, and entry processes should be clear and documented (Standard 1.1). In addition, Standard 1.2 requires that barriers to service access be eliminated. There is a clear intent that assessment regarding application and entry should be conducted on an individual basis, rather than on the basis of assumptions of behaviour associated with specific population groups.

Anti-discrimination legislation generally would apply in relation to discrimination on the grounds of disability, race, sex and pregnancy. Such legislation would also indicate that individual assessment rather than broad exclusion of groups should occur.

We note that the Women's Refuge Movement in NSW has endorsed a number of resolutions to encourage access to and equity in women's refuges and their peak organisation has issued guidance to refuges in this regard.[31] Significantly, the guidance endorses the principle that there should be no exclusions of particular groups of women, or of particular women on the basis that they share characteristics of a group, such as mental illness, pregnancy, or involvement in the criminal justice system.

It is our view that having established a target group, there should be no global or group exclusions from SAAP accommodation services and that decisions about access should be made through considered assessment of the circumstances and characteristics of an individual. This view is supported by SAAP legislation, anti-discrimination legislation and key program guidance. Policies and practices which could result in exclusion of individuals from assistance because they belong to a specific population group may be considered unlawful, discriminatory and in contravention of the aims and objectives of the program. SAAP agencies and DoCS should review their policies and practice guidance in this regard.

Respondents to the Preliminary Report generally supported, in principle, the contention that there should be no global exclusion. Most noted the link between such exclusion and lack of agency resources and/or access to specialised assistance. DoCS in particular provided qualified support:

> It is common ground that all SAAP services should operate in compliance with the Anti-Discrimination legislation, but the proposals in the preliminary report envisage arrangements that are much broader than this legislation would ever require. The report envisages that the SAAP service system be totally inclusive and responsive to the needs of all clients with mental illness, drug and alcohol abuse, disability and challenging behaviours. This is not appropriate.

This is not our view or intention. Agencies must have the capacity to allow for exclusion of people whose *predominant* need is health or disability related. Our contention is that such decisions must be considered and involve an individual assessment that has concluded that the person would pose a risk to the health and safety of others, and/or could only be appropriately accommodated by a health or disability support service.

We note that DoCS and the SAAP sector are involved in a process of review of the SAAP Standards and development of generic standards and program specific standards for a range of community service programs including SAAP, expected to be completed in late 2004. Associated with this, DoCS is developing a service monitoring and review framework.

DoCS has stated that it will continue to work with SAAP agencies to ensure that there is a prevailing commitment to fair and open access and adherence to non discriminatory intake and exit policies. DoCS indicates that SAAP Standards will have regard to statutory obligations, the purpose of the program, inter-governmental agreements and funding availability. Further the SAAP monitoring and review framework will 'ensure that SAAP agencies are operating within the standards set'.

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31 NSW Women's Refuge Working Party, *An Open Door: NSW Women's Refuge Movement Access & Equity Manual*, NSW Women's Refuge Resource Centre, 1999, reprinted 2003.

3.2.2 Assessment

Where access is determined on the basis of the presenting circumstances of an individual, the primary tool for determining whether assistance from SAAP is provided or denied is client assessment. Assessment is a fundamental aspect of service access and appears to be critical in regard to individual outcomes.

The *Case Management Resource Kit for SAAP Services* states that assessment may be undertaken with the client directly or with the client's referring agency.[32] The kit provides some guidance regarding matching of a client to the agency's target group and capacity and indicates the type of information to be collected, such as medical history, substance use and abuse, relevant legal/police history, special medical needs, and the state of the person's general health. The kit does not give direction on the skills or expertise required to make a decision regarding particular needs. The agency may rely on disclosure by the client about particular needs, however decisions may also be made based on presenting behaviour and past history with the client.

Our findings indicate that in some services, staff may have insufficient guidance or training to conduct assessments. Policies we reviewed often provided only minimal direction to staff in regard to information required in order to undertake informed assessment, for example, of a person's mental health status or level of drug or alcohol dependence. We are concerned about lack of clarity in terminology, and the impact of poor definition on consistency of decision making.

Through the policy review, we found that there were a variety of terms used to describe the characteristics of someone who is excluded from a service. While the words 'acute', 'unmanaged', 'obviously affected' and 'severe' were used in exclusion lists to describe the level of a person's drug or alcohol addiction, disability or mental illness, there appears to be a lack of guidelines as to what these terms mean, and ultimately how an assessment is made.

Exclusion is often related to the severity of the client behaviour or characteristic. This confirms the importance of the assessment process as a tool to inform conclusions about severity and, ultimately, access to support. The need for clear and consistent procedural guidance in regard to the conduct of assessments is an issue that requires further exploration and action by DoCS and SAAP agencies.

We note that a project conducted as part of the Victorian Homelessness Strategy aims to develop a common assessment form for application across a range of accommodation services.[33] The intent is to reduce duplication arising from multiple assessments and to improve the quality and consistency of assessments. The outcomes of this project should be critically examined by DoCS to determine the usefulness of such an approach in NSW. We note that training in assessment requires the development of adequate practice guidance. Training and application of improved individual assessment will also require some additional resources.

Gary is a young man with a mental illness. He was referred to a SAAP service on a Saturday, but once he arrived at the agency he was refused a place. He was told by the agency that this was because of his mental illness, even though Gary says he was not ill and was taking medication at the time.

As he couldn't find other accommodation, Gary rode the trains that night – to keep warm and get some sleep – before being referred to a single men's emergency shelter the next day and staying there the next two nights. Following advocacy by a youth worker, Gary was accepted into the service on the Tuesday.

Client interview

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32 National Case Management Working Group, 1997, op. cit.
33 Victorian Department of Human Services Housing and Community Building Division, *Victorian Homelessness Strategy*, DHS, Melbourne, 2002.

3.3 People who use or possess drugs and/or alcohol

Key findings

- 32 of 68 agency policies reviewed allowed for exclusion of people with drug or alcohol disorders

- 61% of agencies surveyed (140) had policies that allowed for the exclusion of people with drug and alcohol disorders

- In a six month period, there were 470 instances where people with drug and alcohol disorders were denied access to 70 agencies

- 33 of 68 agency policies reviewed allowed for termination of accommodation if a client used or possessed drugs or alcohol

- 60% of agencies surveyed (130) had policies that allowed for the termination of accommodation due to evidence of substance abuse

- In a six month period, there were 150 instances where people had their accommodation terminated by 51 agencies due to evidence of substance abuse

- 53% of agencies surveyed (115) had policies that allowed for the termination of accommodation due to evidence of intoxication

- In a six month period, there were 110 instances where people had their accommodation terminated by 40 agencies due to evidence of intoxication

3.3.1 Expectations and standards

Program policy and guidance provides an expectation that SAAP should be accessible to homeless people with drug and alcohol problems.

The *MOU* between the Commonwealth and states/territories requires that 'SAAP will…ensure the service system does not exclude people on the basis of complexity of need'.[34] The NSW Service Framework lists as one key client outcome that 'Clients with mental health or drug and alcohol issues are linked with appropriate health services'[35].

NSW priorities under SAAP IV, as outlined in the *Bilateral Agreement* between the Commonwealth and NSW, included a plan to integrate proclaimed places into SAAP. Proclaimed places were 'safe' places, established under the *Intoxicated Persons Act 1979*, for alcohol-affected people to eat, sleep and sober up.[36] The expectation was that following the conversion of proclaimed places into SAAP services, some generalist SAAP agencies would also add a component to their services to enable them to accept drug and alcohol affected clients. The legislation was amended to include drug-affected people. However, it appears that SAAP agencies have been reluctant to expand their services to accept intoxicated or drug affected people despite this policy shift.

The outcome appears to be a decrease in accessible assistance for people requiring accommodation and detoxification, particularly those not willing to participate in case management. This is a critical issue in the context of the *Intoxicated Persons Protocol*, which was signed off between NSW Health, the NSW Police Service and DoCS in mid 2000. Under the protocol police may take homeless non-violent intoxicated or drug-affected people to either a health service or to a SAAP service, whichever is deemed most appropriate. The same departments are negotiating the protocol at a regional level, but progress is slow with only about half the regions committed by mid 2003.

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34 NSW Department of Family and Community Services, 1999, op. cit., s. 4.5
35 NSW Department of Community Services, 2001, op. cit. p. 21.
36 This change was informed by problems identified in the proclaimed place system and recommendations made in the NSW evaluation of SAAP III: Thomson Goodall Associates Pty Ltd, for NSW Department of Community Services, 1998, *op. cit.*, pp. 110-111.

3.3.2 Exclusion based on drug and alcohol use and abuse

Early exiting from SAAP in relation to drugs or alcohol appears to occur due to both use, per se, and use which leads to unacceptable behaviour.

In the agency policy review, we found that there were some variations in the severity or nature of the drug or alcohol addiction that would lead to exclusion at the point of access. As can be seen from the table below, over half of the 36 agencies that excluded people with drug and alcohol disorders did so on the basis of the client being 'affected' at the time of entry, or being dependent on drugs or alcohol. The range of behaviours which could lead to exclusion under these criteria appears to be broad.

Exclusions in agency policies based on drugs and/or alcohol (No. of policies)

	Total
Obviously affected by drugs/drug affected/markedly intoxicated or drug affected/altered behaviour due to illegal substances/under the influence of drugs or alcohol/alcohol affected	10
Dependency/addiction	10
Drug and alcohol addictions that require a greater level of support than can be provided	4
Active/acute drug and alcohol abuse/addiction	3
Clients actively on drugs	2
Drug or alcohol dependency in the last 3 months	2
Possession	1
Currently using hard drugs	1
Have a condition that requires specialised medical and nursing assistance	1
Unmanaged drug and alcohol abuse	1
Primary diagnosis of substance abuse	1
Total (number)	36

Source: SAAP Agency policy review, NSW Ombudsman, 2002

Some agency criteria were more specific when identifying grounds for exclusion. Two examples of exclusions, drawn from the agency policy review, appear below.

> Ongoing use of drugs and/or alcohol, without adequate drug and alcohol rehabilitation, in the three month period prior to the application.
>
> *Target: Single women only*
> Model: Multiple
>
> Women…with an unmanaged drug and alcohol problem.
>
> *Target: Cross target/multiple/general*
> Model: Medium/long term

According to our survey, total abstinence from drug and alcohol use is a common requirement across agencies. Some policies we reviewed required that a person sign a contract specifying that they would not use any drugs or alcohol during their stay, or that they be fully 'detoxed' before admission. A view put to the Inquiry, however, is that an expectation that people with drug or alcohol addictions should abstain in order to obtain accommodation services is contrary to the current harm minimisation focus of drug and alcohol treatment and rehabilitation. This view is reflected in the comment below.

> When services assess people, it's an unrealistic expectation that they take people who aren't using...a lot of people want to get into accommodation so they can stop using.
>
> *Consultation with outreach worker*

Some concern was also expressed that while some agencies may interpret the abstinence rule flexibly, others treat any level of use seriously.

> We need more specialized services with skilled staff and realistic expectations of the clients. At (particular service) they don't have a curfew because they [clients] are sex working. They expect that people will use in the house, they give them safe injection material.
>
> *Consultation with outreach worker*

> The rules need to be looked at …Agencies should be looking at unacceptable behaviour arising from soft drug use and alcohol use, not just soft drugs or alcohol use itself.
>
> *Client focus group*

> Many youth refuges kick people out for drinking on the premises on one occasion, coming home drunk, or one smoke of dope on the premises – one breach of the rules leads to exiting. Rules tend to be very strict and are applied rigidly.
>
> *Consultation with youth worker*

NCOSS' response to the Inquiry's Preliminary Report however, noted that:

> *The positing of intoxication as an access and equity issue will raise difficult issues in the context of indigenous women's safe houses. These services are "dry" and have been set up to keep women and children safe from the harm caused by alcohol in their communities. The (sic) are well known in their communities as places where there are no alcohol or drugs, indeed it is this characteristic that defines them.*

Some agencies exclude people on methadone programs completely, while others impose conditions, such as requiring the client to be on a low dose. We recognise that there are issues about the safe keeping of any methadone issued on a take-away basis and a need to avoid any misuse or sale of such drugs on SAAP premises. However, it would appear to be contrary to SAAP policy and guidance and the best interests of homeless people to exclude those reliant on methadone. Such exclusion may also constitute disability discrimination. In a recent case, the Administrative Decisions Tribunal found that methadone addiction is a disability.[37]

> Jenny is a woman with mental illness who is on a methadone program. Jenny wants to access a specialist SAAP/Health program that may assist her with parenting issues so she can gain custody of her baby, who is in foster care. However Jenny believes she can't get in to the program while she is on methadone.
>
> *Client interview*

A strong view put to the Inquiry by some stakeholders was that it is not appropriate for generalist SAAP agencies to provide services to drug or alcohol affected clients. This is argued on the basis that specialist services are better placed to do so, and also on the basis that such clients pose risks to the safety of staff and other residents. For example:

> SAAP workers are not clinicians. Services see it [*exclusion*] as safe management. What happens to other clients if a drug or alcohol affected person is disruptive? There is a place for having places for people to be kept safe (like proclaimed places) but that is not necessarily in a SAAP service.
>
> *Peak agency representative*

There appears to be a strong perception amongst some providers that people with drug and alcohol disorders can only be managed by agencies with specialist expertise, and that key responsibility should lie with NSW Health. We acknowledge that many people with drug and alcohol problems require and want detoxification and/or rehabilitation services, best provided by specialists in those fields. However, SAAP has a responsibility to provide assistance to people who are homeless and have drug and alcohol problems, whether or not they choose or are able to access specialist programs, provided they do not pose an unacceptable risk to the agency. On the matter of cultural appropriateness, specifically 'dry' safe houses, we recognise that cultural imperatives will be a legitimate consideration in some agencies' approach to dealing with clients affected by alcohol.

Views about the need for health intervention were often focused on drug and alcohol use resulting in violent or otherwise challenging behaviour. It is clear that SAAP agencies must respond to ensure, as far as possible, the safety of the person, other residents and staff. This may be through a range of mechanisms, including behaviour intervention strategies and/or involvement of police, if necessary. We also acknowledge that criminal activity, such as drug dealing or possession of illegal drugs would need to be addressed, if necessary, through report to the police. Depending on the nature of the alleged criminal activity, this may not automatically equate to a decision to evict a client.

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37 L Lamont, 'First test for addict disability law', *Sydney Morning Herald*, 17 September 2003.

It is generally widely supported that SAAP agencies would benefit from improved linkages with drug and alcohol services, as indicated in the NSW evaluation of SAAP III.[38] However, our survey showed only around half the agencies had service linkages or agreements with drug and alcohol services. Improved formal links would assist in terms of referral of clients for treatment or rehabilitation, development of outreach assistance by drug and alcohol agencies and improved access by SAAP staff to consultancy advice and support of such specialist services.

The congregate accommodation model is also a factor likely to exacerbate difficulties in managing an intoxicated or drug-affected client than a model that is less reliant on communal space and shared facilities (see also section 4.6). A further problem, raised in consultations, was that a person may be excluded from access to a SAAP agency because their 'soft' drug use might be negatively influenced by being accommodated with people who have a 'hard' drug use history. This perceived problem is most applicable to congregate care models. The *Bilateral Agreement* has proposed that access to SAAP by drug and alcohol affected clients be increased through a range of service models, as distinct from relying on accommodation services only. These include case management, brokerage and outreach.[39] The Inquiry findings support the need for consideration of alternative models of support that may assist in decreasing the level of exclusion from SAAP of people with drug and alcohol issues.

3.4   People with mental illness and people with disabilities

Key findings: People with mental illness

- 54% of agencies (125) surveyed had eligibility policies that allowed for exclusion on the basis of mental illness

- In a six month period, there were 290 instances where people with a mental illness were denied access to 50 agencies

- 30 of 68 agency policies reviewed allowed for exclusion of people with a mental illness

Key findings: People with a disability

- Eligibility policies of 42% of agencies (95) surveyed allowed for exclusion on the basis of physical disability

- Eligibility policies of 33% of agencies (75) surveyed allowed for exclusion on the basis of intellectual disability

- Eligibility policies of 20% of agencies (45) surveyed allowed for exclusion on the basis of acquired brain injury

- 81 agencies surveyed stated acquired brain injury was a characteristic not applicable to their agency, 38 agencies stated that intellectual disability was a characteristic not applicable to their agency, and 39 stated that physical disability was a characteristic not applicable to their agency

- In a six month period, there were 30 instances where people with disabilities were denied access because of their disability.

- 11 of 68 agency policies reviewed allowed for exclusion of people with a physical disability.

- Nine of 68 agency policies reviewed allowed for exclusion of people with an intellectual disability.

People with mental illness and people with disabilities are recognised to be distinct in terms of their health and/or disability status, support needs and experiences of exclusion in the SAAP system. These groups are presented together in this section because similar program expectations, standards and legislation applies to both groups. Psychiatric disability, arising from mental illness, is a recognised disability under the *Disability Services Act 1993* and state and Commonwealth anti-discrimination legislation.

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38 Thomson Goodall Associates Pty Ltd, for NSW Department of Community Services, 1998, op. cit., p. 155, p. 250.
39 Department of Family and Community Services, 2000, op. cit., Schedule 7, part 2)

3.4.1 Expectations and standards

According to program legislation and policy, people with disabilities and people who have a mental illness and are homeless are clearly part of the SAAP target group. Under SAAP standards and anti-discrimination legislation, SAAP agencies should not discriminate against people on the basis of disability or mental illness.

The *Supported Accommodation Assistance Act 1994* (*SAA Act*) preamble refers to Australia's commitment to the protection of human rights through international instruments that are underpinned by anti-discrimination principles. Section 7 of the *SAA Act* provides that SAAP should assist homeless people to increase their access to health services and to disability and rehabilitation services.

One of the strategic themes in the *MOU* provides for the development of initiatives that are jointly planned and implemented across programs, for example, between SAAP and housing, drug and alcohol, mental health, education and training, income support or other health and community services (s5.7). The *MOU* at s4.5 requires that 'SAAP will…ensure the service system does not exclude people on the basis of complexity of need'. Some people with a disability and people with a mental illness are likely to present with complex needs and require a high level of service response. Further, the *MOU* provides that SAAP will frame service delivery around '…principles of access and equity'.

The SAAP Standards refer, in several places, to the need to make services accessible and appropriate to people with a disability and/or mental illness. For example, the standards and indicators require that:

- agencies ensure that all people within the target group have access to the service regardless of disability (1.1.3);

- agencies work actively to eliminate barriers to service access, as indicated by practices and strategies to support people with disabilities and people with mental illness (1.2.13, 1.2.14);

- support should not be withdrawn from clients on the grounds of disability (2.5.2);

- provision of physical access for people with disabilities to the agency as a whole and within the premises (4.5.6). Where agencies lack resources, at a minimum, they should consider access needs when services are designed or developed and make appropriate referrals to accessible services.

Exclusions on the basis of disability are likely to be in contravention of the NSW *Anti-Discrimination Act 1977* and the *Commonwealth Disability Discrimination Act 1992* (DDA), both of which have application to SAAP agencies. These laws prohibit discrimination on the basis of disability in the provision of 'accommodation services' and 'goods and services'. SAAP agencies are regarded as providing both accommodation and services and a complaint could be made in relation to the provision of either accommodation or services, under either the state or Commonwealth law.[40]

Under the DDA, disability is broadly defined and encompasses disabilities arising from a mental illness (psychiatric disability) as well as physical, sensory, neurological, intellectual and learning disabilities (s4). Disability discrimination occurs when a person with a disability is treated less favourably than a person without a disability (s5(1)). Discrimination may be direct or indirect, through the imposition of requirements or condition that a person with a disability is unable or less likely to be able to meet, compared to person without a disability (s6). The agency may need to make reasonable adjustments to accommodate the specific needs of a person with a disability.

Accommodation providers may discriminate *lawfully* where special services or facilities would be required and this would impose 'unjustifiable hardship' on the service provider. Unjustifiable hardship is often argued by providers on the basis of the cost and impact of providing special services or facilities and the effect of the person's disability on the agency. However, the benefit to the person and to others using the facility is also a consideration under the law.

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40 Accommodation includes residential or business accommodation, according to s.4 of the DDA, and is understood to encompass private rental, public housing, and community-based housing. Discrimination on the basis of disability in the provision of accommodation is unlawful under DDA s.25. Discrimination is not unlawful if it is for the provision of specific disability accommodation by a voluntary or charitable organisation, or if it is accommodation by a near relative.

3.4.2 Exclusion based on mental illness

The nature of the exclusion of people with a mental illness appears to vary widely across agencies. Our policy review found that agencies generally stated a person would be excluded if their mental illness was acute, severe or not managed. Some agencies stated specific grounds for exclusion, such as the lack of professional assistance, presenting a danger to themselves or other residents, or requiring levels of support that could not be provided by the agency.

Some policies stated conditions under which a person with a mental illness could access a SAAP service. These included the need to be able to self manage, to undergo an assessment with a health professional or be under the care of the mental health team. Some agencies required a person to be on medication and hand in prescription drugs for safe-keeping.

Examples of exclusion criteria from two agency policies appear below:

> Young people with severe psychological/psychiatric conditions, which require a greater level of support than can be provided by this service.
>
> *Target: Young people*
> *Model: Crisis/short term*

> Clients with a diagnosed illness or exhibiting signs of a mental illness and aren't currently taking medication.
>
> *Target: Women escaping domestic violence*
> *Model: Multiple*

Some agency requirements may demonstrate unrealistic expectations of other service systems. For example, an outreach worker told us that one agency required residents with mental illnesses to have a link with the local community health service, however the community health service would not allocate a worker if a person did not have an acute mental illness. Also, the requirement to take medication may not be appropriate in all cases:

> It is not illegal to not take medication unless you are under a community treatment order… There are some very good reasons they don't take medication (because of side effects).
>
> *Consultation with outreach worker*

> [Agency] requires 'clinical support' … there is not a requirement *(for clients)* to be on medication. As a SAAP service we are not clinical experts, so are not in a position to require medication.
>
> *Consultation with SAAP worker*

Referral agencies acknowledged the difficulties for SAAP in dealing with clients with certain types of mental illness:

> Women with a clearly defined and diagnosed mental illness are in a better position than the broader personality disorder group. The latter condition has no medication, therapists are not particularly interested, can only seek to manage the behaviour. These people can create havoc in refuges.
>
> *Consultation with referral agency*

Main reasons given by agencies for not accommodating people with a mental illness included safety considerations, insufficient staff expertise, and the client requiring a higher level of support than the agency could provide. While safety concerns in relation to people with mental illness may at times be evident, they may also be based on misconceptions:

> There is a perception that anyone who has mental illness is going to be violent or disruptive, but this is not true….People with mental illness are as frightened as other residents of people who are violent.
>
> *Client in focus group*

3.4.3 Exclusion based on physical disabilities

The Inquiry found that people with physical disabilities were most likely to be excluded from SAAP for reasons related to physical accessibility of premises. People with physical disabilities may also be excluded because they are thought to require a level of support too high for the agency to provide, and because staff lack specialised training.

A typical example of an exclusion based on physical disability appears in the policy extract below:

> People who have a disability that requires a wheelchair, have a condition that requires specialised medical and nursing assistance.
>
> *Target: Young people*
> *Model: Medium/long term*

Several survey respondents provided additional comments regarding issues of physical access and design. A typical example appears below:

> At this stage wheelchair access is limited due to lack of appropriate kitchen facilities.
>
> Agency survey #38

Ten people with physical disabilities were denied access in a six-month period by SAAP agencies we surveyed. While this relatively small number may indicate people with physical disabilities are not being denied access at the point of assessment, it may also indicate low referral to SAAP. Consultations with a number of referral agencies and advocacy groups suggested that people with disabilities, particularly those with physical disabilities, are not likely to be referred to or be accommodated in SAAP agencies, because it is assumed that SAAP agencies do not or are not able to cater for their needs:

> I have never encountered a person with a physical disability in a SAAP service in 20 years of youth worker experience.
>
> *Consultation with youth worker*

The Crisis Accommodation Program (CAP) provides funds to build, acquire, renovate, convert or lease accommodation specifically for homeless people and women and children escaping domestic violence. The focus of CAP is on provision of long term (exit) housing and support packages to assist clients to achieve housing stability. The CAP Delivery Plan 2003/2004 indicates that major disability modifications will only be considered in relation to availability of other accessible services in the area.[41] It is not possible from the CAP plan to determine what level of expenditure will address disability access problems in SAAP.[42]

However, modification of premises, or appropriate design of new premises, is essential to provide equitable access to SAAP for people with mobility problems or who use wheelchairs. There is a clear need for prioritisation of disability access in SAAP planning and resourcing of SAAP agencies to improve their accessibility.

Respondents to the Preliminary Report supported the need for action by the Department of Housing and DoCS to develop a plan to improve disability access in SAAP. In particular, DoCS and the Office of Community Housing (OCH), a business unit of the Department of Housing responsible for the CAP, supported this proposal. OCH noted it already consults with DoCS in recommending funding through CAP but the proposed joint plan of action would facilitate a more planned approach to the allocation of funds for this purpose. Further it stated:

> *You will appreciate that the amount of growth funds available each year through CAP…is limited. The joint plan of action would therefore have to identify the demand for access to CAP funded premises by people with physical disabilities and carefully target the use of available funds to achieve maximum benefit to users of the services. A joint plan of action with DoCS would assist in achieving this objective.*

Agencies also need to review their policies and approach in relation to people with physical disabilities. Exclusions should not be based on assumptions of dependence or inability to negotiate physical access. Unmodified premises may restrict wheelchair access, but this should not equate to exclusion of all people with a range of physical disabilities.

3.4.4 Exclusion based on acquired brain injury

People with acquired brain injury (ABI) are among those people with disability identified as experiencing exclusion from SAAP, although the extent of homelessness and use of SAAP services among people with ABI is not known.[43] Some research has indicated that young people with ABI are at risk of homelessness associated with family breakdown, while homeless women with ABI may also be struggling with alcohol or drug abuse issues.[44] Alcohol related brain injury was diagnosed in about one third of clients of a Victorian outreach program for homeless people.[45]

41 NSW Department of Housing Office of Community Housing, *Crisis Accommodation Program Delivery Plan 2003/2004,* NSW Department of Housing Office of Community Housing, Sydney, 2003, p.4.
42 For example, only 38% of NSW women's refuges have wheelchair access. Source: Women's Refuge Resource Centre, *Impact 21*, Women's Refuge Resource Centre, Sydney, 2003, p.15.
43 M Higgins 'Acquired brain injury – the linkages between homelessness and the criminal justice system', *Parity*, vol 13, issue 6, June, 2000, pp. 22-23.
44 F Rice, 'Acquired brain injury and youth homelessness', *Parity*, vol 12, issue 8, Sept 1999, p. 21; F Power, 'Acquired brain injury and homeless women' *Parity*, vol 12, issue 9, October 1999, p. 13.
45 F Rice, 'Working together for people with acquired brain injury', *Parity*, vol 14, issue 9, October 2001, pp. 16-17.

However, our survey found that eligibility policies of 45 SAAP agencies excluded people with ABI. Further, in response to a survey question regarding what the agency had, or needed access to, in order to assist people with ABI, 81 agencies indicated people with ABI bore no relevance to their agency. It appears that some agencies view this group as being the responsibility of NSW Health or other health services. For example:

> *(People with an)* acquired brain injury …would not apply to our accommodation centre as our government health office in [town] handles all people in their system, who exhibit this condition.
>
> *Agency survey #49*

An advocacy service reported to the Inquiry that some SAAP agencies respond mistakenly to the person's presenting behaviour or appearance, which may include unsteady gait and/or disordered thought and communication processes. According to the advocacy service, SAAP agencies sometimes assume the person has drug and alcohol addictions or a behavioural problem instead of acquired brain injury:

> Acquired brain injury is a huge area of misdiagnosis/bad diagnosis and poor understanding.
>
> *Consultation with advocacy worker*

In one consultation it was suggested that a number of people with ABI are Aboriginal people, who may have more than one disability and require additional service responses:

> … ATSI people….this group has high incidence of acquired brain injury and visual impairment due to alcohol abuse and poor health / living conditions.
>
> *Consultation with advocacy worker*

Justification for exclusion may be related to duty of care concerns for the person with ABI – that they may be vulnerable to exploitation by other residents – or because they exhibit antisocial behaviour such as aggression and/or disinhibition.[46]

People with ABI have varying levels of injury and functional impairment. Health services are most likely to be required at the point of acute treatment and during rehabilitation. Whether or not a person will need ongoing support from health or disability services, and the extent of such support, will depend on the individual.

An issue for consideration by the SAAP sector, as well as the health and disability service systems, is the responsibility of each system for crisis, medium and long term care, accommodation and support of homeless people, when acute care and rehabilitation services are no longer required.

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46 ibid.

3.4.5 Exclusion based on intellectual disability

Our Inquiry showed that exclusion on the basis of intellectual disability was a possibility in 33% of agencies surveyed, although it was only cited as the main characteristic of people actually denied access in a small number of instances. There is inadequate data collection in relation to intellectual disability. Although disability status of clients is not collected through national SAAP data collection, intellectual disability support services were requested in 200 closed support periods in NSW in 2001/2002, with 53% of requests not provided and 47% of requests being provided or referred to other organisations for assistance.[47]

One referral agency advised us that it had not observed intellectual disability to be a significant problem, although acknowledged that people with multiple disabilities are hard to place. Few consultations raised the issue of people with intellectual disabilities being specifically subject to exclusion from SAAP agencies. The Inquiry is unable to determine whether this means people with intellectual disabilities are accepted and supported appropriately, whether they do not approach or attempt to use SAAP agencies, or whether they are largely 'invisible' and not identified in terms of their disability, among SAAP clients.

The main issue for some SAAP agencies in relation to people with intellectual disabilities appears to be the need for residents to have self-management or independent living skills. This is largely related to the service model. For example:

> …for our service it depends on the severity of the problem and what we can access for resources. We try to be as flexible as possible. For example, an intellectually disabled person who can care for herself and her children and has some basic skills would cope with the program at our service – whereas a severely intellectually disabled person unable to care for herself/children would not cope at our services…
>
> *Agency survey #54*

The review of agency policies found that nine of 68 agencies noted that people with an intellectual disability would be excluded. However, this was accompanied at times by a qualification around severity of the disability. Examples from two agency policies appear below.

> Ineligibility:
>
> - Significant physical or developmental disabilities or conditions requiring specialised or constant medication and support or, who require specialised equipment or facilities
>
> *Target: Young people*
> *Model: Crisis/short term*
>
> Part of the assessment will include the need for support and whether this agency can assist:
>
> - Persons with mild-intellectual disabilities.
>
> *Target: Cross target/multiple/general*
> *Model: Medium/long term*

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47 Australian Institute of Health and Welfare, *Homeless people in SAAP*, 2002, op. cit., Table 7.1, p 26.

It was noted in one consultation that some people with intellectual disability may have difficulty understanding rules, unless information is presented in appropriate ways and accessible formats. This could impact on harmony within services, and may contribute to early exiting if the disability is not recognised.

3.4.6 Exclusion of people with mental illness and people with a disability

Assumptions appear to be made by many SAAP agencies about people with mental illness and people with disabilities, and their support needs and behaviours. These assumptions include:

- people with mental illness and/or people with disabilities require clinical support and/or medication;

- clients with disabilities require staff with specialist training or skills and high levels of staff assistance;

- there is a significant link between mental illness and violence;

- people with physical disabilities need modified premises, equipment or additional support, so they cannot be accommodated in premises that have not been modified;

- clients with a disability or a mental illness are not suited to communal living because of difficult or challenging behaviour.

These assumptions are contestable. People with disabilities and people with mental illness are not homogenous groups. There is wide diversity in the impact of a disability or a mental illness on a person's behaviour, capacities and/or support needs. Many people with disabilities, mental health problems or mental illness have few additional support needs, do not display particularly challenging behaviours and can live independently or semi-independently.

We acknowledge that some people with disabilities and some people with a mental illness require additional assistance or have particular needs and that this has implications for agencies. In some cases, other agencies or service systems have a role to play in meeting these additional needs, and without extra support a SAAP agency may have difficulties in catering adequately to some people with disabilities or people with mental illness.

We also acknowledge that SAAP agencies report significant difficulties in gaining appropriate levels of response from other service systems, such as community mental health teams or disability services. However, there is not a universally poor response. A number of agencies told us they have developed positive relationships with mental health services, for example, based on clear understanding of respective roles and limitations.

There are significant consequences for people with disabilities who are unable to access or who are exited from SAAP:

> People with disabilities often end up in boarding houses. People exited (from SAAP) are unlikely to be able to access community housing and are likely to end up incarcerated – replacement institutions. Twenty percent or more people in prisons have mental illness or intellectual disability.
>
> *Consultation with advocacy worker*

Whether or not people with a disability or people with mental illness have additional support needs or require a high level of service responses, there is no justification for exclusions of whole groups of people on the basis of their disability or mental illness.

SAAP services should be able to provide accommodation and support for most homeless people, including people with mental illness and disability, particularly if they have support and services from other agencies. The SAA legislation at s10(1) precludes the use of SAAP funds for the provision of a service, such as a health or disability service, that is correctly the responsibility of another government department. This does not preclude the purchase of a support service from other agencies.

Access to SAAP agencies by people with disabilities and mental illness may be increased through improved links with and support from disability support programs and services, including advocacy and support services, and improved links with and support from mental health services.

Training of SAAP staff in mental illness and disability issues is a critical requirement. Training in basic recognition and understanding of the range of impairments and capacities of people would assist in addressing misinformation and concern. Training in these areas is not evident in recent SAAP training programs, although it may occur in an ad hoc way or at a local level. As one SAAP worker we consulted identified, 'The biggest problem is ignorance and the reason for that is fear…there should be core compulsory training, including on disability and dual diagnosis.'

June has a personality disorder and drug and alcohol addiction. She arrived in Sydney from interstate and was refused entry to a psychiatric hospital. According to June, a refuge exited her due to her uncooperative behaviour. Following this June spent several months on the streets – she applied to various refuges, but was refused entry each time. She lost custody of her child during this time.

Client in a focus group

3.5   People with violent or challenging behaviour

Key findings

—29 of 68 agencies policies we reviewed allowed for exclusion on the basis of presenting or past violent behaviour

—Policies of 79% of SAAP agencies surveyed (180) allowed for exclusion on the basis of people exhibiting violent behaviour

—In a six month period, there were 275 instances where people were denied access by 60 SAAP agencies due to 'violent behaviour'

—Policies of 16% (35) of agencies surveyed allowed for exclusion on the basis of 'other challenging behaviour'

—In a six month period, there were 140 instances where people were denied access by 30 agencies for 'other challenging behaviour'

—Policies of 95% of agencies surveyed (210) allowed for the termination of accommodation because of evidence of violent conduct and 90% (200) because of threats to other residents or staff

—In a six month period, there were 175 instances where people had accommodation terminated by 68 agencies due to 'evidence of violent conduct'

—In a six month period, there were 125 instances where people had their accommodation terminated by 49 agencies due to 'threatening behaviour'

3.5.1 Expectations and standards

Legislation, program guidance and standards legitimately require that SAAP agencies maintain a safe workplace for staff, clients and other people using their premises. The SAAP Standards require that:

- the agency will provide a safe work environment for its staff (Standard 9.3);

- the agency will ensure the safety and security of clients (Standard 9.4).

Indicators of good practice focus on occupational health and safety policy and awareness, and procedures and provision of equipment to promote safety and security in regard to physical hazards. The standards specifically identify a good practice indicator regarding procedures and training of staff in order to minimise and promptly respond to aggressive behaviour or threat (Indicator 9.3.6).

There is no program guidance that indicates people who are considered violent or have other challenging behaviours should be automatically excluded from SAAP. In fact, the standards, as indicated above, recognise that people who are clients of SAAP may be aggressive or violent at times, by stating that appropriate responses will be needed (Indicators 9.3.1, 9.3.6. 9.4.1).

The NSW *Occupational Health and Safety Act 2000 (OHS)* and regulations are applicable to organisations with 20 or fewer employees from 1 September 2003.[48] The OHS legislation and regulations require that hazards be identified, assessed, eliminated or controlled.[49] Elimination of a hazard, through exclusion, is only one option available to a SAAP agency. The legislation involves criminal liability and allows for large financial penalties for proven breaches.

3.5.2 Exclusion based on violent or challenging behaviour

Some SAAP agencies appear to be interpreting the OHS legislation in a way which leads to exclusion of whole groups of people who exhibit violent or challenging behaviour, or who are perceived to be potentially violent. Some agencies appear to respond only in terms of eliminating the hazard, through exclusion or termination of accommodation, rather than to consider how the risk can be minimised or managed (refer to section 4.4 for further discussion of OHS issues).

Agencies often stated in the policies we reviewed that a person could be excluded if they had 'a history of violent behaviour'. Less often, agencies stated that a person could be excluded because they 'displayed violent behaviour'. The distinction here is that 'a history' may only be known by reputation or report, rather than by direct experience or knowledge. This may be an insufficient basis for exclusion.

Some agencies have also stated that a person could be excluded if they were a 'threat or a danger', while not elaborating on what 'threatening' behaviour means. Some policies we have reviewed stated that a person would be denied access or exited for being 'unco-operative' or 'disruptive'.

Some examples of policy exclusions on the basis of behaviour appear below:

> People who have a history of aggressive behaviour.
>
> *Target: Cross target/multiple/general*
> *Model: Medium/long term*

---

48 The laws were applicable to organisations with over 20 employees from 1 September 2002.
49 Hazard means anything (including work practices or procedures) that has the potential to harm the health or safety of a person. *Occupational Health and Safety Regulation 2001*, s.3.

> A demonstrated recent history of the tenant exhibiting on-going violent behaviour or the potential of placing allocated tenants or workers at risk.
>
> *Target: Single women only*
> *Model: Multiple*

> Persons who are a threat or a danger.
>
> *Target: Cross target/multiple/general*
> *Model: Medium/long term*

Reasons given for excluding people exhibiting violent behaviour or with a history of violent behaviour are mainly related to concerns for the safety of staff and residents:

> …if you're one worker on duty then you are putting yourself in danger. People are really scared. Young people have knives and weapons and we have had to take Apprehended Violence Orders out against a client.
>
> *SAAP agency worker*

There is some evidence that it is more likely to be difficult to accommodate a person who is violent or aggressive in a service run on a congregate model, than in one based on individual accommodation:

> Our service assesses on our service's ability to meet the client needs rather than the client having to meet strict criteria. We also have to provide duty of care to residents and to meet increasingly tight OH&S compliance rules. In a communal situation there has to be a balance of meeting individual's needs and the needs of other residents and staff.
>
> *Agency survey #30*

Most of the agency policies we reviewed did not provide guidelines for assessing risk of violence at the intake/assessment phase, or before deciding whether to terminate a client's accommodation early.

We accept that exclusion may be appropriate on the basis of violent behaviour exhibited at the time of assessment, where this would place others at risk. Recent observed violent behaviour where there is sufficient cause to believe that recurrence of violence is likely may also justify exclusion.

However, in all instances exclusion must be based on comprehensive assessment of the current behaviour and circumstances of the presenting individual. Agencies should be able to evidence how they come to a reasonable conclusion that the person poses a clear threat to the safety of others that could not be minimised by other forms of action. There must also be proper risk management policy and procedures in place.

> Jim was exited from a SAAP agency. He was involved in a violent incident with a staff member, which occurred due to Jim's mental illness. He was exited immediately and was on the streets. Jim says he was given no assistance or referral, nor any information on a complaints process.
>
> *Client interview*

3.6   People who decline case management

Key findings

- 47 of 68 agency policies reviewed stated involvement in case management was a condition of entry

- 26% of agencies surveyed (60) had policies that allowed for people to be denied access on the basis that they are not willing to enter into a case plan. A higher proportion of medium/long term agencies (41.8%) may exclude people not willing to enter in to a case management plan than crisis/short term agencies (17.7%)

- In a six month period, there were 65 instances where people were denied access because they were not willing to enter into a case management plan

- 25% of agencies surveyed (55) had policies that stated accommodation could be terminated because the client does not wish to continue in case management

- In a six month period, there were 50 instances where people had their accommodation terminated because the service required them to commit to a case plan

3.6.1 Expectations and standards

The 1992 evaluation of SAAP II led to the development and introduction of the case management approach. Case management is noted in the *SAA Act 1994* as an example of service activity and a provision that must be included in the SAAP agreements between the Commonwealth and states/territories, however the term is not defined in the Act.[50]

Case management is further mentioned in the *MOU* and *Bilateral Agreement* as a component of service provision. Case management is defined in the *MOU* as:

> *a collaborative planning approach to the achievement of individual client outcomes, and includes assessment. It may also include appropriate referrals, provision of direct assistance and the use of mainstream services for each client as appropriate. It may involve the development of a personal plan or support agreement developed in consultation with each client following assessment. It may include linking clients with the range of supports that they will require after leaving SAAP. Case management operates from the initial point of contact with the client to exit from the program. It may involve follow up of clients. (MOU, Schedule 1).[51]*

The *MOU* commits the Commonwealth and States to, among other things, 'evaluate and enhance the case management delivery approach' (s5.3). The *MOU* does not appear to require case management in order to promote independence, nor to limit promotion of independence to the use of case management as a tool.

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50 *SAAP Act 1994* at s(7)(a)(i), 8(a) and 9(2)(a)
51 Department of Family and Community Services, 1999, op. cit.

The *Bilateral Agreement* refers to early intervention and case management/brokerage services as an important focus of the SAAP IV change and reconfiguration process[52].

The *Case Management Resource Kit for SAAP Services* (1997) (the kit) also emphasises case management as a collaborative, client-focused approach aimed at empowering and working with clients to effectively meet individual needs. The kit acknowledges that the process of case management is client driven and depends upon the client's wishes and their level of commitment to the process. Further it states that

> *case management is appropriate in many, but not all, situations. It is flexible in application and timing in recognition of the many needs of individuals, and the limited control any one agency or worker has over client outcomes. However case management in SAAP occurs in the context of a transitional, time-limited framework for intervention.* [53]

SAAP standards, in relation to support planning, acknowledge that the client may choose not to participate in an assessment and planning process and that access should not be denied to a client who refuses to develop a support plan (Standard 2.2, Indicators 2.2.2 and 2.2.3). The standards also note that assessment may be limited to resolving immediate needs only in some services, such as high volume, overnight crisis accommodation (Standard 2.1, Indicator 2.1.2).

Agencies that provide rental accommodation covered by the NSW *Residential Tenancies Act 1987* cannot require case management as a condition of entry to, or continuation, of tenancy. According to Residential Tenancies Tribunal decisions, the imposition of such conditions is a form of 'contracting out' or reduction of the protections available to tenants and is illegal under the Act. Support agreements have to be negotiated separately from tenancy agreements.

3.6.2 Exclusion based on declining case management

It has been put to the Inquiry that case management is essential in order to meet the overall aim of SAAP and ensure that accommodation and support is 'transitional' and leads to independence from the program.

> We provide case management in order to maximise our effectiveness in helping each family and individual within that family to find healing, a new start in life and stable accommodation to move on from (service).
>
> *Target: Families*
> *Model: Multiple*

It has also been argued that while case management is essential, clients should be given time to 'engage' in a collaborative involvement. That is, willingness to enter case management should not be an immediate requirement on entry to a service.

While recognising the benefits of a case management and planning tool, denial of access or early exiting on the basis of willingness to enter in to or continue a case planning process raises questions as to whether a process intended to improve service provision for clients should be used to exclude people from receiving services:

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52 Department of Family and Community Services, 2000, op. cit.
53 National Case Management Working Group, 1997, op. cit. p.11.

> Women who just want a place to stay for the night may be excluded because they are not willing to commit to a case plan – the indigenous consultation highlighted the need for a 'safe house' model where women can go without any longer term expectation by either party…
>
> *Consultation with SAAP worker*

Case management is subject to wide interpretation.[54] This appears to have resulted in inconsistency in application. Case management can range from simply meeting with a worker to discuss client's needs and wishes, to a formal process of developing a written plan with goals and agreed milestones to indicate achievement of the plan. We are not aware of any evaluation of the case management approach, although the SAAP Training Unit in NSW and local interagency groups provide some case management training.

> There needs to be a new model that doesn't focus on case management. There needs to be a new terminology (other than case management) that means assisting someone. Perhaps 'individual service plans' should be used, as this puts the onus on the service.
>
> *Consultation with outreach worker*

While the intent of case management is positive, it is our view that agencies should not exclude people on the basis of their willingness or otherwise to agree to a specific form of case management or case planning.

Case management is not, nor should it be, a gate-keeping mechanism for entry to the program. This is clear in the standards. Case management should be seen as a two-way process, with voluntary involvement on the part of clients. Case management should be approached by agencies as one of a number of tools or strategies for service provision to clients that may assist their progress to independent living as far as possible.

NCOSS, in its response to the Preliminary Report, welcomed the proposal that case management be delivered in a more flexible manner.[55]

> *A fundamental principle of non-discriminatory human services delivery is respect for the client, including their right to say no to formalised case management. Whilst case management has been a strong theme of SAAP IV the goal of helping a person through transition towards independence is not and should not be solely reliant on a formal case plan.*

DoCS, however, regarded the proposal with caution:

> *Sound case management does not require active engagement of the client in the case planning process, but it does require a willingness of the client to address the issues that have resulted in their homelessness. Strong case management is fundamental as the tool to support homeless people to transition to independent living. This is the core aim of SAAP.*
>
> *It is acknowledged that not all clients will engage with case management and a key role of the support worker is to secure this engagement. Therefore clients should not be denied initial access to the Program if they won't commit to case management during the assessment process. However, there are limits to the length of time SAAP can support clients if they are not willing to work towards the ultimate goal of independent living.*

54 For example, Department of Family and Community Services National Evaluation Team, *National Evaluation of the Supported Accommodation Assistance Program (SAAP III) Case Management Literature Review* (Technical Paper 4), Department of Family and Community Services, Canberra, 1999.
55 Shelter NSW also supported the proposal, as expressed in Recommendation 4.

We acknowledge the importance of the program being focused on transition to independent living. However, we maintain that where this goal can be progressed, clients should not be compelled to enter a formal agreement or plan.

> Fiona has been staying at a medium/long term service for women escaping domestic violence for a short time. She has clear goals for herself and her children, and feels that she and her children are finally safe from her abusive partner. She says she doesn't understand why she needs to attend counselling. She feels the workers sometimes try to push her in to situations she doesn't want to be in.
>
> *Client interview*

3.7   People unable to pay rent or service charges

Key findings

- 16 of 68 agency policies reviewed stated that a condition of stay was access to an income to pay rent.

- 19% of agencies surveyed (45) had policies that allowed for access exclusion of people unable or unwilling to pay. 25% of medium to long term agencies compared to 9% of crisis/short term agencies allowed for exclusion on this basis.

- In a six month period, there were 25 instances where people were denied access by five agencies because they were unable/unwilling to pay.

- 19% of agencies surveyed (40) stated that the requirement for a financial contribution was a key reason for the termination of accommodation.

- In a six month period, there were 45 instances where people had their accommodation terminated because the agency required a financial contribution.

3.7.1 Expectations and standards

Program guidance indicates that exclusion is not justified on the basis of a lack of capacity to pay.

The *MOU*, at s4.5, requires that SAAP will ensure services are accessible and clients are not excluded on the basis of capacity to pay.[56]

SAAP Standard 1.3 reinforces this position, stating that access to and the level of service provided for clients will not be affected by the client's ability to pay. Indicators of good practice around client fees encourage the agency to have policies and procedures regarding client fees. Such policies should include equal access regardless of ability to pay; provisions for waiving fees; confidentiality around fee paying status; non automatic exclusion on the basis of past debts; not back dating fee charges beyond the time of the client receiving income support; not soliciting donations; and having appropriate administrative and accounting processes. According to the standards, clients and potential clients are to be informed of fee arrangements.

In addition, SAAP agencies covered by the *Residential Tenancies Act 1987* can only terminate the tenancy and/or evict people for non-payment of rent under the conditions set down by the Act.[57]

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56 Department of Family and Community Services, *SAAP 2002–2005 Memorandum of Understanding*, 1999, op. cit.
57 In the case of non-payment of rent, 14 days notice of termination must be given and the rent must be 14 days overdue.

3.7.2 Exclusion based on inability to pay

Most SAAP agencies require either the payment of rent or service charges to offset the cost of providing the service, with some having a strict approach to payment as shown in the example below drawn from the policy review:

Rents to be paid by 2pm on cheque day or you may be asked to leave…Anyone who leaves owing money will be given a Debit in their name. Rent is $84 a week which includes three meals a day. The client is required to pay on admission and either daily/weekly/ fortnightly.

Target: Single men only
Model: Crisis/short term

Further, it appears that some agencies consider payment of rent as part of 'living skills' development, as payment for accommodation is seen as a standard community responsibility:

Financial contribution is not necessary, but our program focuses on practical skills which include getting an income and rental practice. If a young person has an income but is unwilling to pay board, this could lead to them getting moved on.

Agency survey #45

Consultations reinforced the view that a lack of capacity to pay rent can be a barrier to access:

…Most hostels require clients to pay back money owed. People don't get in because they owe money. People are often given unrealistic time to pay, and there is a lack of flexibility. Compare this with the Department of Housing policy regarding time to pay arrears and direct deduction arrangements…

Consultation with outreach worker

According to some SAAP agencies the amount of funding they receive is insufficient to meet all costs. As one agency commented in their survey response:

Exclusion of certain groups/individuals occurs due to incapacity to pay: service providers justify this as they are only partly funded by SAAP dollars and rely heavily on client fees to make up operating costs. Do partly funded services have to comply with SAAP standards?

Agency survey #28

Some agencies reported they do subsidise a number of people with no income. However they noted difficulty in doing so for more than a limited number of clients.

We consider the requirement to pay rent or service charges is reasonable if people have a sufficient income. We accept that in instances where a client has income and has a demonstrated capacity to pay, but is unwilling to do so, this choice may lead to the termination of accommodation. In those cases where rental accommodation is provided, termination must be in accordance with the NSW *Residential Tenancies Act 1987* (RTA) provisions. Where the RTA does not apply, SAAP standards and program policy would indicate that agencies should consider adequate warnings and provision of opportunities for payment of arrears.

However, exclusions from SAAP on the basis of *incapacity* to pay appear to contradict the basic standard of equitable access to SAAP, especially when a homeless person has no income. A key consideration is how an agency determines whether or not a person has a capacity to pay, and what response it has to non-payment in such circumstances.

Considering the transient nature of homeless people and their high level of reliance on income support, it is likely that many SAAP clients may find it difficult to pay rent or service charges, particularly when they first present to an agency. In 2001-2002, while an estimated 81% of NSW SAAP clients were reliant on government pensions or benefits when they commenced receiving SAAP support, 10.5% of clients (approximately 3,250 people) had no income at all before SAAP support, and a further 1.5% had no income, but were awaiting a pension or benefit.[58]

A report by the AIHW explored the income status of homeless people in depth, utilising the 1999-2000 SAAP ongoing client data collection and the Incomes Issues Collection May/June 2000. In NSW, the main reasons why people stated they had no income were that they had been refused or were ineligible for benefits (38.7%), had not applied for benefits (33.0%) or had applied or were waiting for benefits (19.9%). Centrelink breaching was stated as a reason for no income in 6.3% of cases. Young people, people born in non-English speaking countries and women escaping domestic violence were highly represented among those people with no income.[59] In Australia, financial difficulties have often led to the loss of accommodation in private sector or public housing, with 18.4% of SAAP clients reporting that financial difficulty was the main reason for seeking help.[60]

We acknowledge that provision of ongoing income support to disadvantaged people is a Commonwealth responsibility and it is not appropriate to transfer that responsibility to the state government. However, SAAP is a joint Commonwealth / State program, so responsibility for the provision of supported accommodation is shared. Financial inability of agencies to accept any or more than a certain number of homeless people who cannot pay is a significant issue that needs to be addressed by DoCS and the Commonwealth Department of Family and Community Services.

We consider it to be a role of SAAP to provide accommodation to a person without income or without sufficient income, if they otherwise meet the entry criteria, whilst staff assist that client, if possible, to access income support. It is essential that SAAP agencies are able to meet standards and program expectations in regard to not excluding people on the basis of capacity to pay.

3.8 Pregnant women

Key findings

- Five agency policies we reviewed listed pregnancy as a reason for exclusion, some in all cases and others after a certain stage of pregnancy, or dependent on health status or vacancy of a downstairs room.[61]

- Consultations and information provided to the Inquiry indicates exclusion on the basis of pregnancy is an accepted practice by some providers.

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58 Australian Institute of Health and Welfare, *Homeless people in SAAP*, 2002, SAAP NDC Annual Report 2001-02 New South Wales Supplementary Tables, op. cit., Table 8.1, p.30.
59 Australian Institute of Health and Welfare *Income status of homeless people in SAAP 1999-2001*, Australian Institute of Health and Welfare, Canberra, 2002, Table 3.6, p.29.
60 Australian Institute of Health and Welfare, ibid., Table 3.3, p. 26.
61 The survey did not request specific information regarding access and exiting in relation to pregnancy.

3.8.1 Expectations and standards

Discrimination on the basis of pregnancy is unlawful in the provision of rental accommodation and the provision of goods and services, under both the Commonwealth *Sex Discrimination Act 1984* and the NSW *Anti-Discrimination Act 1977*.

Refusal of access to accommodation for all pregnant women or termination of accommodation at some point during a pregnancy may constitute unlawful discrimination. Under anti-discrimination laws there is no defence of 'unjustifiable hardship' for accommodation or service providers in relation to pregnancy, as there is in relation to disability discrimination. This means that discrimination cannot be considered lawful on the basis of the cost or hardship involved in providing a service.

3.8.2 Exclusion based on pregnancy

According to a number of welfare and youth workers we consulted, pregnant women find it difficult to access SAAP services. This can be an issue in agencies targeting women or young people. For example, exclusions identified in three agency policies appear below:

Exclusion: Females who are seven months pregnant or require specialist medical intervention in the early stages of pregnancy

Target: Young people
Model: Medium/long term

No pregnant women

Target: Young people
Model: Medium/long term

Pregnant applicant may be admitted if her current medical condition is stable.

Target: Single women only
Model: Medium/long term

The Youth Accommodation Association's directory, titled *Direct 2002/2003*, lists for each service whether young pregnant women are accepted.[62] A considerable number of services, listed in the directory as being open to females, indicate that young pregnant women are excluded. Many others qualify the acceptance to those women in the early or middle stages of pregnancy, with referral on or exclusion from access in later pregnancy.

It is not clear why some SAAP services do not accept pregnant women, or refuse them access after a certain stage of pregnancy. They may believe pregnant women require special services or support, cannot be accommodated because of the physical layout and/or may be vulnerable within the service. They may believe they cannot fulfil a duty of care to the pregnant woman and/or her unborn baby in certain situations or settings.

Some agencies do accept a pregnant woman until the birth of the child and then refer them on. We acknowledge that referral at that stage may be appropriate if the agency does not have facilities suitable for the care of babies.

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62 Youth Accommodation Association, *Direct 2002/2003*, Youth Accommodation Association, Sydney, 2002.

However, refusal to accommodate a pregnant woman in a service that she would otherwise be eligible for is unreasonable and may be unlawful, unless it is based on an individual assessment of the actual risk to the pregnant woman, unborn child or any other residents.

It is our view that if an agency is concerned about the safety of pregnant women, in relation to other residents, then the agency needs to consider management of any risk situation for all residents. Exclusion should not be an automatic or pre-determined response. This may also be an indication of the need for greater numbers of independent accommodation units, rather than congregate models of service provision.

Most pregnant women have few serious health problems during pregnancy. In cases where women have significant health issues related to pregnancy that require continual medical attention or supervision, referral to health services or more specialised accommodation services for pregnant women may be necessary and appropriate. Even in such cases, a SAAP agency may be able to provide an accommodation and support service with the negotiated and agreed support from a specialist health service.

3.9   Recommendations

Scope of exclusion

1.   DoCS, in service specifications, should require SAAP agencies providing accommodation
     services to ensure that access to services is inclusive of all persons within an agreed target group
     as provided for in s13(1) of the *Supported Accommodation Assistance Act 1994*, and that any
     exclusions are based on considered assessment of the presenting circumstances of an individual
     and reasonable attempts by the agency to manage identified risk. In particular, service specifications
     should indicate that individuals should not be denied access to services **solely** on the basis that
     they:

     • have a mental illness or disability, including an acquired brain injury or intellectual disability;

     • are pregnant, if women are part of the target group of the agency;

     • have a drug or alcohol dependence per se, or are affected by illegal drugs or alcohol, or are
       receiving treatment for substance abuse or are not receiving treatment, unless this exclusion is
       supported by an assessment of the current risk presented by that individual;

     • have previously exhibited violent or challenging behaviour, unless this exclusion is supported by
       an assessment of the current risk presented by that individual;

     • have previously been banned or blacklisted by their own or another SAAP agency;

     • decline to enter a formal case management or planning process, where services can be provided
       in such a way that the goal of transition towards independence can be progressed informally;

     • do not have the capacity to pay bond, rent or service charges.

2.   SAAP agencies providing accommodation services should ensure that their eligibility and access
     policies, procedures and practices are inclusive of all persons within the target group identified in
     the agencies' service specifications, and that any exclusions are based on considered assessment
     of the presenting circumstances of an individual and reasonable attempts by the agency to manage
     identified risk. In particular, individuals should not be denied access to services **solely** on the basis
     that they:

     • have a mental illness or disability, including an acquired brain injury or intellectual disability;

     • are pregnant, if women are part of the target group of the agency;

     • have a drug or alcohol dependence per se, or are affected by illegal drugs or alcohol, or are
       receiving treatment for substance abuse or are not receiving treatment, unless this exclusion is
       supported by an assessment of the current risk presented by that individual;

     • have previously exhibited violent or challenging behaviour, unless this exclusion is supported by
       an assessment of the current risk presented by that individual;

     • have previously been banned or blacklisted by their own or another SAAP agency;

     • decline to enter a formal case management or planning process, where services can be provided
        in such a way that the goal of transition towards independence can be progressed informally;

     • do not have the capacity to pay bond, rent or service charges.

SAAP standards

3. In the process of revising the SAAP standards, currently underway, DoCS should ensure that the standards address specific expectations regarding non-discriminatory and fair policies and practices regarding client eligibility, access and exiting. In particular, standards and practice indicators should provide clear guidance on:

    • legal and ethical obligations regarding anti-discrimination, residential tenancy and privacy legislation;

    • policies and practices which are based on inclusion rather than exclusion, with exclusions beyond broad target groups based on individual assessment;

    • occupational health and safety and risk assessment and risk management approach to clients;

    • the application and limits of duty of care in the context of accessible and non-discriminatory service provision;

    • parameters and processes for early exiting of SAAP clients, including the preclusion of the use of time bans and black lists;

    • requirements for a client's voluntary involvement in case management and options for service delivery in cases where case management is declined or involvement is ceased by the client;

    • requirements that agencies do not restrict access where clients do not have a capacity to pay.

4. The revised SAAP standards should prescribe minimum standards in order to ensure a common understanding of minimum expectations and requirements, in addition to articulating best practice aspirations.

Review of SAAP agencies' policies, procedures and rules

5. All SAAP agencies providing accommodation services should undertake a review of their policies and procedures in relation to eligibility, access and early exiting. The review should focus on ensuring that the operations of the service clearly reflect program policy and guidance and legal obligations, particularly in relation to equitable and non-discriminatory access and fair and transparent exiting.

Accessibility of premises

6. DoCS and the NSW Department of Housing should develop a joint plan of action to improve access to SAAP by people with physical disabilities. In particular, the plan should consider the role of the Crisis Accommodation Program in increasing access to funds for:

    • modification of existing SAAP premises;

    • purpose building, acquisition or leasing of accessible premises; and

    • use of alternative, appropriate accommodation through brokerage.

Case management

7. SAAP accommodation agencies should not deny access, nor should accommodation be terminated, on the basis of an applicant's or client's refusal to enter into or continue in case management, when services can be provided in such a way that the goal of transition towards independence can be progressed informally.

4   Key systemic issues

4.1   Introduction

Beyond issues identified in the exclusion of specific groups, our Inquiry indicates a number of broader systemic issues that affect individuals across the range of SAAP client groups.

These issues are:

- the role of SAAP in relation to other service systems;
- implications of occupational health and safety and duty of care obligations;
- agency resource limitations;
- limitations of the congregate care model;
- the potential for rules to place unreasonable expectations on clients; and
- the existence of time bans and black lists

4.2   The role of SAAP and other service systems

> SAAP services are not dumping grounds for all other service providers to get rid of their difficult clients
>
> *Agency survey #5*

A significant issue raised by many people during the Inquiry is that exclusions reflect the necessarily limited role of SAAP in the context of other service systems. The argument posed is that SAAP was not established, nor should be expected, to cater to people whose predominant needs are best met by other service areas. Specifically, that it is not the 'core business' of SAAP to deal with problems such as substance abuse, mental health and other complex issues. For example:

> SAAP services are for homeless young people not for dealing with mental health and drug and alcohol issues….The expectation on SAAP services are enormous. We are expected to cope with high needs clients and to take on more responsibilities - ie mental health issues. Each government department have their roles and responsibilities within the wider community – if this was done properly – SAAP services could focus more on case management.
>
> *Agency survey #6*

> Women's refuges are now the 'dumping ground' for the most vulnerable in society. The government has taken away services and institutions, etc. and families and SAAP services are struggling to cope with the consequences. Domestic violence is not seen as a high priority by others due to the increase in people presenting with multiple complex needs.
>
> *SAAP agency consultation*

> At times we find it really difficult to accommodate high needs clients, who present with mental health issues, drug and alcohol issues; challenging behaviours; cultural issues; sexuality etc. More and more high needs clients are being referred to SAAP services, we are not resourced to cater for these clients and are expected to do so as other services aren't picking up their load, ie substitute care services; specialised services such as mental health and drug and alcohol rehabilitation.
>
> *Agency survey #25*

Responses to the Preliminary Report from NCOSS, NSW Shelter and the Youth Accommodation Association all highlighted the view that SAAP is not appropriate for many clients. For example, NCOSS stated:

> *It is the view of the SAAP sector that systems failures in mental health, drug and alcohol, correctional services and housing are fuelling increased demand from people who are homeless that have needs that are beyond the capacity of SAAP services to meet….These clients often require 24 hour monitoring and very few services have the staffing levels to meet this requirement. Often these clients have a cyclical relationship with the correctional system and urgently need access to services provided by NSW Health. However, to date the whole of government response has been fragmentary.*

We acknowledge that there are gaps and inadequacies in other service systems, such as drug and alcohol detoxification and rehabilitation services and community-based mental health services. The additional $77 million over five years for mental health initiatives, announced by the NSW Government in October 2003 as part of the Medicare Agreement, may assist in addressing some of the gaps in relation to mental health. Other mainstream projects may flow from the NSW Summit on Alcohol Abuse. Both these developments are welcome, but may not specifically address the nexus between homelessness and alcohol or mental health issues.

We accept that it is not the 'core business' of SAAP to provide primary health services to people who are acutely ill and who require health, mental health or drug and alcohol services in the first instance. It is also not SAAP 'core business' to provide disability accommodation for those people with disabilities who require specialised assistance as a result of their disability.

It is important to reiterate that this Inquiry does not suggest that SAAP shift to becoming a primary provider of health or disability services. According to DoCS, in its response to the Preliminary Report, to comply with s10(1) of the *Supported Accommodation Assistance Act 1994*[63]:

> *SAAP services must clearly maintain their focus on the provision of **transitional support and accommodation** (DoCS emphasis) and not stray into an area that is the primary responsibility of specialist health, drug and alcohol and/or disability services.*

In our view s10(1) does not prevent the provision of SAAP services to people who also need to access other service systems for support while using SAAP. It would also not prevent the purchase or negotiation of additional support for certain clients by SAAP. Indeed, this occurs in many SAAP agencies.

However, it is not sufficient for SAAP to consider these groups of people to be outside its responsibility. It is the role of SAAP, in conjunction with other service systems, to cater to a diversity of individuals who are homeless, including people with mental illness, disabilities and/or substance abuse issues. This means they may need to develop skills, undertake training, and review and amend policies and practice.

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63 S10(1): 'Except with the joint written consent of the Minister and the State Minister of each participating State, a form of agreement specified in an instrument under section 6 must provide that SAAP will not replace or duplicate a service that is already provided by, or is the responsibility of, any other, government, program or organisation.'

4.2.1 Specialist services

The view that the program should incorporate a range of specialist services targeted to specific groups of homeless people, particularly those with substance abuse issues, mental health issues or challenging behaviours resulting from other characteristics, was a common response of some agencies we consulted.

Specialist services may be an effective way in which to increase capacity in the program, and we are aware of a number of existing specialist SAAP agencies that appear to have good outcomes for some specific client groups. Specific gaps in the existing service system identified in consultations were, for example, those of therapeutic services for young people with challenging behaviours and services for young sex offenders, who cannot be appropriately placed in generalist services run on a congregate model, but who require a level of supervision and support post-release from juvenile justice or correctional services:

> There needs to be more specialist programs, particularly for people who act out violently and are sex offenders… a lot of our clients are really dangerous…and they need specialist services…They need a therapeutic community…we need the residential treatment model to be available in the community.
>
> *Consultation with referral agency worker*

We note a specific proposal by NCOSS, supported by NSW Shelter and the Youth Accommodation Association, in their responses to our Preliminary Report, for the establishment of three specialist services jointly funded by NSW Health and DoCS to each accommodate up to six clients with either mental health, drug and alcohol (post-detoxification) or dual diagnosis problems. Such services may be an appropriate response for a small number of clients. The extent of need for specialist services should be closely considered by the NSW Health and DoCS in the context of interagency links and collaboration.

However, we make the observation that the establishment of such services may raise significant boundary issues and create further gaps in service delivery to certain groups of people. For example, issues may arise from geographic inequity, determining eligibility criteria for a diverse range of people, and limited places. Moreover, allocation of specialist places would not ameliorate the level of exclusion identified through this Inquiry or affect mainstream SAAP agencies' obligations to assist people who may have additional needs related to mental health, disability or substance abuse.

Development of specialist SAAP services for people with disabilities, mental health issues or drug and alcohol issues may also be contrary to the principles and policy of community integration and access to mainstream services for people with disabilities and the ethos of an inclusive SAAP service system:

> It is important not to specialise – for lots of reasons – cost – integration – main stream services should deal with a range of young people, including those with complex needs…would be good to have some specific services for people with mental illness, but not necessary in all cases….the key is support – linking in with other services to get the support needed by the young person.
>
> *Consultation with youth worker*

> We would be reluctant to support specialist services for people with specific disabilities – too much like an institution. Rather mainstream services should improve their responsiveness….Disability is such a significant group of consumers using SAAP…...
>
> *Consultation with advocacy worker*

4.2.2 Interagency and interdepartmental agreements

Strong collaboration between different service systems has long been understood to be a key to addressing the range of needs of homeless people.

The NSW evaluation of SAAP III noted there had been some progress in the development of linkages between SAAP and other relevant service systems, but that this development was inconsistent. In particular, the evaluation noted there was a need for protocol development regarding referrals and provision of non-SAAP services. Efforts to develop links at a service delivery level had not been adequately supported at Commonwealth and State levels and resource implications had not been adequately acknowledged.[64]

An important aspect of SAAP IV is the emphasis on collaborative work with other service systems to encourage shared responsibility to address client needs.[65] Priority areas for action in NSW include the development of better links to other services and the development of a continuum of care framework in collaboration with key stakeholders.[66]

Our survey results show that the most predominant type of organisations with whom SAAP agencies have links or agreements are other SAAP agencies. While almost three quarters of SAAP agencies had links with local mental health teams, just over half had links with drug and alcohol services and there was a low level of links with disability services.[67] The survey indicated a high reliance on informal linkages with other service systems.[68] While agencies may find that informal linkages work well for their clients, sustainability of such arrangements may be an issue. The efficacy of informal, as opposed to formal, documented and endorsed agreements, needs to be considered.

At a systems level, a number of initiatives are underway in NSW to foster and improve inter-agency and inter-departmental collaboration in service provision to homeless people. These initiatives may assist in the development of positive and practical collaboration at a regional and local level. They include:

- the Joint Guarantee of Service (JGOS) protocol and framework revision to include some SAAP outreach services;

- the cross-government Partnerships Against Homelessness strategy;

- the Intoxicated Persons Protocol between DoCS, the NSW Police Service and NSW Health;

- the Links Project, auspiced by Youth Accommodation Association, which aims to strengthen the linkages between SAAP and mental health services.

A summary of these strategies is at Appendix 4. These initiatives, although positive, are mostly pilot projects and/or are limited to certain geographic areas, to date.

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64 Thomson Goodall Associates, 1998, *op. cit.,* pp.155, 160.
65 Department of Family and Community Services, 1999, op. cit., ss. 4 & 5.
66 Department of Family and Community Services, 2000, op. cit., Schedule 7, part 3.
67 AIHW report, Table 51.
68 AIHW report, Tables 48-49. Over half the agencies had only informal linkages, 3% had written agreements, while 9% had no linkages or agreements with other organisations

We note also that as a result of work commissioned by the Supported Accommodation Advisory Council (SAAC) in 2002, a group of senior officers from the Departments of Health, Housing and Community Services and SAAC representatives, is meeting to consider possible models and joint approaches to addressing clients with complex needs in SAAP[69].

It is apparent, however, that improved formal collaboration between SAAP and other service systems has not progressed to the degree that would enable a comprehensive joint service response to homelessness.

While acknowledging the resources required to be invested by agencies, we consider that the development of formal and comprehensive frameworks for interagency and inter-departmental collaboration at state, regional and local levels remains a critical issue for the program. These are particularly required in relation to clarifying responsibilities regarding mental health, drug and alcohol and disability support. We support the concurrent development of central agency agreements, mirrored at the regional / local level by inter-agency protocols and tools for implementation and evaluation. DoCS, as program administrator for SAAP, should play a lead and coordinating role in this regard.

4.3   Occupational Health and Safety and Duty of Care

The Inquiry has identified the requirements of NSW *Occupational Health and Safety Act 2000 (OHS Act 2000)* legislation as a key reason given by agencies for exclusion of many people, particularly those who exhibit or are assumed to be capable of violence or challenging behaviour. Physical safety of clients and physical safety of staff were put forward by a significant number of agencies as key reasons to deny assistance to an individual.

Program standards require that SAAP agencies comply with OHS requirements to maintain a safe workplace for staff and other people using their premises. While the SAAP standards provide guidance on safety and security (standard 9.1), this relates predominantly to the physical environment, rather than risk assessment and management in relation to client behaviour.[70] The standards do not provide direct guidance regarding duty of care, although it may be an assumption underlying particular standards around accompanied and unaccompanied children and young people.

4.3.1 Occupational Health and Safety (OHS)

The OHS legislation and regulations, applicable in terms of compliance to employers of fewer than 20 employees from September 2003, requires that hazards be identified, assessed, eliminated or controlled and that employees be consulted on OHS matters (*OHS Act 2000*, ss8, 13).[71]

Risk assessment requires employers to:

- identify factors that may contribute to the risk;
- review health and safety information that is reasonably available from an authoritative source and is relevant to the particular hazard;
- evaluate the likelihood of an injury occurring and likely severity of an injury or illness that may occur;
- identify the actions necessary to eliminate or control the risk;
- identify records that it is necessary to keep to ensure that risks are eliminated or controlled.[72]

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69 The Supported Accommodation Advisory Council is a body comprising government and non-government members with SAAP expertise that provides advice to the Ministers for Housing and Community Services on SAAP and CAP matters.
70 Indicator 9.3.6 does note procedures to respond to 'aggressive behaviour or physical threat', and training for staff in how to assess and manage such situations.
71 The Act and Regulation were proclaimed to commence 1 September 2001 (NSW Government Gazette no 129, 24.8.01). A transitional period was allowed for employers to prepare for implementation during which WorkCover inspectors took and education and awareness raising approach. Employers of more than 20 employees had to comply with the Act and Regulations by 1 September 2002, and those with 20 or less employees had to comply by 1 September 2003.
72 WorkCover NSW, *Risk Assessment Code of Practice 2001*, WorkCover NSW, Sydney, 2001.

Much of the guidance available on OHS obligations refers to physical or environmental workplace hazards arising from equipment, plant or processes and focuses on engineering controls, for example providing ventilation and using less hazardous substances. One publication provides some guidance in respect to managing violence in the workplace.[73] In relation to individuals whose background, characteristics or behaviour may pose a potential risk, elimination of such risk through exclusion is only one option. 'Hazards' in this context could be controlled through, for example:

- sufficient staff/client ratios to enable provision of a safe workplace (for example, through fewer staff working in isolation and adequate numbers of staff to pay sufficient attention to individual clients' needs);

- changes to policy or practice (for example, behaviour intervention and critical incident policies);

- education and training of staff (for example, training in behaviour management and de-escalation techniques; awareness and appropriate responses to people with particular disabilities or conditions, such as mental illness or drug and alcohol disorders);

- adequate support and supervision of staff (including contactable backup staffing in the event of an emergency, debriefing and professional supervision);

- improved physical and security measures (including lockable staff offices, where appropriate, and alternative exits, fitting of duress alarm systems, provision of mobile phones).

Few agency policies provided to us included a comprehensive risk management policy and procedure (only two of the 68 policies reviewed). Those that were provided, however, indicate the potential for positive guidance for agencies. For example, one policy canvassed in detail risk management, application of duty of care principles, assessing and minimising the risk of violence, critical incident management and staff training. The agency environment and communication systems were also considered.

The OHS legislation and regulations are a major concern for a wide range of community services, including SAAP agencies. A key concern is that there is an absence of guidance about the scope and limits of employers' duties under the new legislation. A number of recent prosecutions of state government human services departments have resulted in substantial fines imposed for breaches of the OHS legislation.[74] Most of these cases related to assaults of employees by clients. The Industrial Relations Commission found, generally, in these cases that the employers failed to recognise and control or eliminate risks posed by clients known to be recently or potentially violent, which they should have reasonably foreseen. However, they generally did not find that clients involved in violent incidents should be excluded from receiving services, per se. Such cases have added considerably to the concerns of small community organisations.

A special forum between Council of Social Service NSW (NCOSS), the Australian Services Union, DoCS and WorkCover, held on 31 July 2003, canvassed a wide range of issues relating to OHS legislation and its impact on the non-government sector. WorkCover made a commitment at the meeting to take a supportive approach in the non-government sector for the twelve months from September 2003. Further meetings will examine the full cost implications of compliance by the non-government sector.

4.3.2 Duty of care

Duty of care is a fundamental common law principle that applies to the provision of SAAP services and is related to civil liability and the law of negligence. While SAAP agencies need to be aware of this concept and to exercise duty of care, SAAP guidance does not appear to contain detailed information to assist agencies understand their duty of care obligations.

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73 WorkCover NSW, *Violence in the workplace Guide 2002*, WorkCover NSW, Sydney, 2001.
74 For example: WorkCover Authority (NSW) *Inspector Stewart) v The Crown in the Right of the State of NSW (Department of Education and training, Department of Juvenile Justice and TAFW)* [2002] NSWIRComm 259; *Inspector Keniry v The Crown in the Right of the State of NSW (Department of Community Services)* [2002] NSWIRComm 349; *Gordon Tuckley v The Crown in the Right of the State of NSW (Department of Community Services)* [1999] NSWIRComm 402.

Duty of care is the legal obligation to avoid causing damage or loss that could have been reasonably foreseen.[75] The usual requirement of duty of care is that a person should exercise the same care as a reasonable person.[76] In effect it means that a person providing a service such as accommodation must act in the best interests of clients and take all reasonable steps to ensure clients' safety. The level of duty of care varies according to the skills and professional experience of the person exercising the duty.

Negligence is defined as a failure to take reasonable care to avoid foreseeable harm to other people or property.[77] To establish negligence it must be shown that:

- a duty of care existed;
- there has been a breach of duty, meaning that the incident could have reasonably been foreseen, and the agency failed to take reasonable steps to prevent the incident from occurring, and
- that harm has been suffered, which was caused by a breach of the duty of care.[78]

Duty of care has been stated by some SAAP agencies as a reason for the exclusion of various groups or individuals from SAAP accommodation, namely:

- pregnant women;
- people with intellectual disability, who cannot live independently/semi-independently, either in congregate care or individual accommodation;
- people who cannot speak English, when no speakers of their own language or when no staff are on duty. For example, a referral agency reported it had experienced difficulty in referring clients with limited English speaking skills, due to a concern by some SAAP agencies that they could not meet their duty of care to the client when no staff were available on the premises, at nights and weekends;
- people who are violent or aggressive, where duty of care to others leads to a decision to deny access or terminate accommodation;
- people who use or possess drugs or alcohol;
- people with physical disabilities where premises or location are not appropriately designed, such as with internal stairs or steep driveways.

4.3.3 Exclusion on the basis of OHS and duty of care

It is our view that exclusion on the basis of OHS and duty of care obligations should only occur following individual assessment of risk to health and safety that may be posed by an individual, and consideration of strategies to manage risk through methods other than exclusion or termination of accommodation. Individuals should not be excluded solely because they belong to a group with characteristics or behaviours generally considered to constitute some risk.

This is not an argument that people who pose an assessed and real risk to staff or clients should not be excluded. There may be clear grounds for exclusion on the basis of violent behaviour exhibited at the time of assessment, or recent observed violent behaviour and cause to believe that recurrence is likely.

However, a decision to exclude must be based on a comprehensive assessment of the current behaviour and circumstances of the presenting individual. Agencies should be able to evidence how they came to a reasonable conclusion that the person posed a clear threat to the safety of others that could not be minimised by other forms of action.

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75 R Barry, (ed) *The Law Handbook. 8th edition* Redfern Legal Centre Publishing, Redfern, 2002, p. 1180
76 ibid., p. 431.
77 ibid., p. 1182.
78 Ageing and Disability Department, *Standards in Action: practice requirements and guidelines for services funded under the Disability Services Act*, Ageing and Disability Department, Sydney, 1998.

SAAP agencies have identified a need for comprehensive education and training for both management and staff in order to understand their obligations under the Act, and to correctly fulfil those responsibilities. To date, accredited OHS training has been offered in a number of regions, coordinated through the SAAP Training unit or organised and funded by agencies themselves. The SAAP Training Unit has for many years included training on violence and safety in the workplace, the module having a focus on understanding and dealing with violent behaviour.

SAAP agencies are required under the OHS legislation to develop policies and procedures regarding OHS, hazard identification, risk assessment, violence prevention and response. In order to progress this, unclear criteria for exclusion such as 'other challenging behaviour' or 'threatening behaviour' should be reviewed and revised, in order that assessments can properly be made of risk of harm to staff or residents.

Although primary responsibility under the legislation rests with employers and employees, DoCS noted in response to the Preliminary Report that it has played an advocacy role on behalf of SAAP agencies with Workcover NSW, through the health and community services Industry Reference Group (IRG). It has advocated to secure an improved appreciation of the need for Workcover to strengthen the sector's understanding of risk management in the SAAP operating environment.

DoCS should continue its efforts in this regard in order to support agencies to fulfil their responsibilities. Moreover, there is a need for DoCS to determine with agencies whether current resources are adequate to enable SAAP to meet duty of care and OHS obligations without the use of exclusion as the primary risk management response.

Ensuring the safety of clients and staff in tandem with providing an inclusive service is a challenge for SAAP providers. There is a need for comprehensive education and assistance strategies for both management and staff in SAAP agencies in order to assist understanding of their obligations under the OHS Act, and how to meet these responsibilities.

4.4   Agency resources

SAAP agencies argued strongly to the Inquiry that lack of resources is a significant reason for exclusion at the point of access and a primary barrier to meeting the needs of people who require high levels of support or specialised assistance. They pointed out that extra resources are also required to meet OHS and duty of care obligations. A lack of resources may also limit their capacity to offer an active referral service to people who are excluded.

Responses to the Preliminary Report of the Inquiry reiterated these views. The Youth Accommodation Association stated:

> *Whilst the SAAP IV agreement placed significant emphasis on providing services to high and complex needs clients there has been no significant increase in funding to build this capacity within SAAP.*

NCOSS noted that:

> *Those clients with high needs require and deserve specialized health services and appropriate accommodation. They will not receive that level of specialized support in an average, under-funded SAAP service.*

Calls for increased funding to existing services, as well as for the establishment of new services, were a common theme of our consultations. Many SAAP agencies stated that plans for greater innovation, efficiency and change would have little impact if the government does not sufficiently resource agencies to implement such changes.

The agency survey provided an indication of the extent to which agencies thought they needed access to additional resources to serve particular groups of clients. In relation to every group, access to more funding was the most needed element. For example, 170 agencies reported they required access to more resources to assist people with mental illness and 165 agencies required more resources to assist people with drug and alcohol issues. Other commonly identified needs were access to alternative housing options and appropriate exit points.

Examples of SAAP agency views on resource issues appear below:

> …Would like to do more and meet more needs, but lack of money and resources prevent this; SAAP is not resourced sufficiently to comply with all legislative requirements *(SAAP Act, Children and Young Persons (Care and Protection) Act, OHS Act* etc,) and with SAAP Standards.
>
> *Agency survey #50*

> The interpreter service is currently free. However some services in the women's refuge movement have received notices that they cannot obtain exemption. This will be an issue in future for our services that need to work with women and children who do not have English skills. The cost to the service will be enormous.
>
> *Agency survey #39*

> The high needs people eat the resources – *(the agency)* can't afford to take those clients.
>
> *Consultation with SAAP agency worker*

The *Bilateral Agreement* between the Commonwealth and NSW states that the SAAP IV reform agenda is not being used to redistribute funds, as change is incremental and voluntary, but states that:

> *the focus of any additional funding in SAAP will be based on results and on agencies being able to demonstrate a capacity to deliver a flexible range of client focused services to achieve these results … SAAP growth funds will be used to facilitate the development and implementation of NSW priorities and change directions. (Schedule 7).* [79]

The SAAP Budget increases every financial year with the addition of indexation, and in some years the Superannuation Guarantee Charge to its base funding allocation.[80] DoCS advice to the Inquiry is that the SAAP IV Agreement delivered $4.71 million growth dollars on 1 July 2000, of which $1.956 million was available as uncommitted reform dollars.[81] As at July 2002, an additional $1,625,835 was identified as 'untied' recurrent dollars, accrued over the years mainly from indexation on unallocated reform dollars. Therefore, the available recurrent dollars for SAAP IV reforms were $3,581,835.

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79 Department of Family and Community Services, 2000, op. cit., sub-section 'Challenges and barriers to change' (pages unnumbered).
80 Information provided by DoCS, dated 4 November 2003.
81 Committed funds went to the NSW share of the National Research & Development Program, program administration, SAAP training, the Crisis Accommodation Strategy, the Women's Refuge resource Centre and the Orana Far West Safe House.

According to DoCS, a Statewide SAAP IV service system review and planning process undertaken between February 2001 and February 2002 informed the allocation of these funds. Initiatives have been funded across the state, including some projects to address service gaps and improve service delivery to people with complex needs. Specifically, $200,000 has been identified as DoCS' share of a potential joint-government strategy to address complex needs, arising from work undertaken by the SAAC. DoCS has stated that remaining funds are to be allocated through a second round process against remaining priorities through SAAP IV planning.

We note DoCS advice and that SAAP IV funds are largely expended or committed. Therefore we acknowledge that a number of the issues raised in this report that may require additional resourcing may not be able to be addressed prior to the finalisation of the SAAP V agreement in mid 2005.

It is clear that the Program and its clients would benefit from an enhanced level of resources. We recognise that inadequate levels of funding and the subsequent impact on staffing levels and agency capacity can pose a significant barrier to improved service provision. However, the key issue identified through this Inquiry – the extensive level and nature of exclusions in SAAP – needs to be recognised as an issue *irrespective* of funding levels, in that agencies have a responsibility to administer whatever resources are available fairly.

Our view is not that SAAP should provide a service to people who require specialised accommodation and support that is beyond the funding capacity and scope of this Program. Our view is that decisions about a person's eligibility for assistance must be made equitably and transparently, on the basis of individual assessment, and in the context of current program standards and expectations. For example, while it may be reasonable for an agency to exclude an individual on the basis that they need intensive supervision or professional intervention that is beyond the funding capacity of the service to provide, it is not reasonable to exclude groups of individuals – for example people with a mental illness or an intellectual disability – on the assumption that they would be likely to require a level of assistance beyond the service's capacity.

4.5   Congregate care

Accurate data is not available on the prevalence of congregate models among SAAP accommodation services, but we understand that the majority of crisis/short-term services still operate on this model. Some medium/long term services may also provide a mix of congregate, cluster and independent, geographically dispersed accommodation. Some larger services operate only congregate accommodation, with dormitories or shared bedrooms for unrelated people.

The congregate model appears to have a particular impact on exclusion, both at the point of access and through early exiting. Inquiry findings that may indicate a problem with the congregate model of accommodation are summarised below:

- Seven of 68 policies reviewed noted the client must fit in with/not impact on current residents in order to access a service;

- 47.6% of survey responses (110 agencies) identified compatibility with other clients/residents as a reason for denial of access;

- an average of 37% of agencies surveyed (80) stated they may terminate a client's accommodation on the basis of the client's incompatibility with others;

- in a six month period, 40 clients had their accommodation terminated due to incompatibility with other residents;

- exclusion on the basis of having dependent children may occur more often in congregate arrangements, due to concerns about risk of harm to children from other residents, or risk of harm to other residents from children, especially older male children in a women's refuge;

- management of intoxicated or drug-affected clients is difficult in a congregate model of accommodation. The congregate model may also be used to justify exclusion of a person with a 'soft' drug use problem, as they might be negatively influenced by being accommodated with people who use 'hard' drugs;

- it is likely to be more difficult to contain the behaviour of a person who is violent or aggressive in a congregate setting, thus possibly compromising safety of other residents and staff.

Previous research has identified problems with congregate accommodation models.[82] Arising from this, the *Bilateral Agreement* proposed that there be increased flexibility in SAAP agencies through a shift away from reliance on accommodation and reconfiguration into case management, brokerage and outreach models.[83] A number of agencies in NSW have pursued such change and reconfigured services away from congregate towards independent or semi-independent/ clustered models, such as The Crossing, 20/10 (a service for gay and lesbian young people) and Kendall House, with reportedly positive results in terms of numbers of clients served and improved safety of clients and staff. We are not aware of any independent evaluations, to date, of the merits or success of the reconfigured services compared to congregate models.

The Inquiry findings indicate that the development of alternative models of support to congregate care may assist in decreasing the level of exclusion of some people from SAAP, in particular those whose behaviour or characteristics impact on others, and/or make it difficult for them to function well in a shared living environment.

4.6   Rules, time bans and blacklists

> Kel has been asked to leave three different refuges because she had on-going contact with her violent partner. Each time she has returned to live with her partner, however the violence has not stopped.
>
> Kel has been given an ultimatum by the refuge she is staying in – either go home and stay with him or stay here, do not stay overnight with him. Kel said she wouldn't have minded sorting out some more stuff with her partner before she goes back this time. She has to leave the refuge tomorrow.
>
> *Client interview*

Appendix 2 details the survey and policy review findings regarding breaches of rules, the practice of time bans and exclusion on the basis of blacklisting. The following considers whether or not these processes, leading to denial of access or early exiting, or as a consequence of early exiting, are fair and reasonable.

4.6.1 Breaches of rules

Breaking house rules may lead to termination of accommodation and support, either immediately or following a number of warnings. House rules generally cover a service's expectations of clients, in regard to acceptable behaviour and attitudes; allowable activities; adherence to house routines; and requirements to assist with domestic chores. Rules often stipulate consequences for failure to comply with these expectations. The following example of rules is generally typical of those found in the agency policy review:

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82 Ecumenical Housing & Thomson Goodall Associates Pty Ltd., 1999, op. cit., p. 109. Thomson Goodall Associates, 1998, op. cit., pp. 140, 156. Social and Economic Research Centre & Australian Housing and Urban Research Institute, 1999, op. cit., p. 76, p. 86.
83 Department of Family and Community Services, 2000, op. cit., Schedule 7, part 2.

> Following factors constitute reasons for eviction: client returns to refuge under influence of alcohol/in possession of alcohol, client found to have in possession drugs/implements for use of an illicit drug, client displays/threatens physical violence, an illegal activity is observed, client repeatedly breaks rules they have agreed upon in the house rules agreement, where the client refuses to follow a worker's reasonable directions, where a client repeats an action for which a 'first and final warning' has been given, where a client is found to be in possession of a weapon.
>
> *Target: Young people*
> *Model: Crisis/short term*

We recognise the need for clients to accept a level of responsibility in receiving a service and also acknowledge the complexity of decisions regarding termination of assistance where clients continually disregard reasonable expectations placed on them, for example actions that continue to compromise other people's safety. We also acknowledge that some SAAP agencies are flexible with regard to compliance with rules.

However, it is of concern to us that agencies have widely varying approaches to the establishment and operation of rules. Some agencies appear to incorporate expectations, which are possibly unreasonable, and/or appear contrary to SAAP standards. In addition, some rules may be reasonable, such as a requirement to share household chores, but a response to a breach of the rule may be out of proportion to the problem caused by the breach:

> The most extreme early exiting example: he was thrown out because he would not wash up the dishes.
>
> *Consultation with referral agency*

In our consultations, a youth worker stated he had observed many instances of young Aboriginal people being exited or self-exiting for breaches of rules or because of behaviour issues. The inflexibility of rules and high demand for places may also affect continued access to SAAP by Aboriginal young people in instances where they stay with family for a night or two and as a consequence lose their place. Consultation with a representative of the women's refuge sector also indicated service barriers for Aboriginal women, including policies and rules that are restrictive and do not take into consideration cultural practices and community activities.

The potential for clients to breach rules can be high, particularly where rules are extensive. Clients who have substance abuse problems, mental illness or certain disabilities may be particularly vulnerable to exiting on the basis of a breach of the rules.

It is difficult to make external assessment of the appropriateness of rules in accommodation services. However, we would urge that DoCS work with agencies to develop and disseminate guidance about what agencies should reasonably expect from clients, what rules are reasonable for specific service types and what consequences are reasonable for breaches of rules. In the context of such guidance, agencies should review their rules to ensure that termination of accommodation earlier than planned is only effected as a last resort because of serious or persistent breaches of reasonable rules or violence or other behaviour that puts the resident, staff or others at risk. Early termination should be subject to fair and transparent processes that recognise individual rights and dignity and comply with legislative requirements.

We note the DoCS response to the Preliminary Report:

> Clients in transitional or exit SAAP services already have access to the Residential Tenancies Act. This means they have the same rights of appeal as those tenants renting through the private or public housing market…Clients are often required to leave SAAP crisis services because of a critical incident (sometimes following Police intervention). These incidents often occur out of business hours when only one support worker may be on duty.

NCOSS also expressed concern that

> If a client is asked to leave a SAAP service for violence, a period of notice may not be appropriate as this may expose the SAAP service to liability for potential future acts by that person that can be reasonably foreseen.

NCOSS also noted that referral may not be an option for some clients as there is simply nowhere for them to go.

In light of these comments, we accept that provision of warnings and a period of notice may not be appropriate in every instance, although we contend that they should be provided where possible and appropriate.

4.6.2 Time bans

The practice of time bans that restrict access to accommodation and support for people who are homeless is of significant concern. A time ban is temporary exiting for a specific period of time, as a penalty for breaking rules or as part of a behaviour modification strategy. Among the agency policies we reviewed, 14 of 68 agencies had a documented policy or procedure on the use of time bans. Some agencies had developed a form that would be attached to the client's file with information on the number of bans given to the person and the date they would be able to apply to re-enter the service.

One example drawn from the agency policies appears below:

In some instances a client may be requested by the manager to undertake agreements before being admitted to the service. Dependant on the nature of the breach a client may receive a ban being placed on her for a period of time.

Target: Women escaping domestic violence
Model: Medium/long term

Time bans are in effect punishment through withdrawal of accommodation and support. It is our view that this practice is not appropriate.

As noted above, clear guidance is required for agencies in relation to the development of reasonable rules and service expectations; reasonable grounds for termination of assistance; and comprehensive assessment procedures and practices to assist decisions around access. A person should either continue to receive assistance from an agency, or be denied further assistance for clear reasons. Should a person be evicted, they should have the right to request, and be assessed for, a further occasion of assistance at any time.

4.6.3 Blacklisting

Blacklists are used to list the names of previous clients who the agency excludes from future assistance, generally those people whose breaches of rules are considered to be serious. Many SAAP agencies admit that they have policies that allow for exclusion because of blacklisting and that they do deny access to people on that basis. Agencies may also inform other agencies of clients who have been blacklisted during background checks.

The agency survey showed that 29.9% of agencies surveyed (70) had policies that state people who are blacklisted would be denied access. In a six month period, 130 people were denied access to 35 agencies because they were blacklisted.[84] We have also been informed that, in early 2003, over three hundred people were named on ban lists by four major SAAP agencies in a particular metropolitan area.[85]

The reasons people have been reportedly placed on blacklists vary widely, and may not be subject to independent scrutiny or appeal processes:

> Robert was staying in a shelter for single men about 18 months ago. One night Robert was almost asleep when he saw another resident standing over him and going through his belongings. Robert scared him off. The next day Robert challenged the man about his behaviour – there was an altercation witnessed by the manager. The manager got upset with Robert and banned him. The other person was not exited. Robert felt he wasn't able to put his side of the story. That was 18 months ago and Robert thinks he is still banned.
>
> *Former SAAP client, Client focus group*

People may not be aware they are on blacklists and may not be informed honestly that the reason they are refused access is because they are blacklisted. SAAP workers and referral agencies at times express concerns about the operation of blacklists:

> An applicant would be told (on the phone) that the worker would check if there was a bed available, making out that she may not know whether there was a vacancy – then the applicant would be put on hold – the list would be checked and if the person was on the list, they were told there was no bed available.
>
> *Family support worker (former SAAP worker)*

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84 Survey results do not provide information on how many of the people whose accommodation was terminated in the six month period under review were placed on a blacklist.
85 We note that some individuals may be represented on all four lists.

> A service will ask "what refuges have they been to before." – then they ring the refuge and check him out, and they call us and say they cannot take him…..you have a little dance around thing – "Do you have any vacancies?' "Well who is it for?"
>
> *Consultation with referral agency*

Processes leading to people being placed on blacklists are not readily apparent. It appears that some agencies may pay insufficient attention to the principles of natural justice in placing people's names on a blacklist.

While blacklisting is not explicitly prohibited in program legislation, guidelines and standards, it would appear to be contrary to principles of equity, fairness and client rights. SAAP Standards indicate that:

• criteria for eligibility and access should be known to all relevant people, including applicants, and people not accepted should be given reasons for their non-acceptance with a record being kept of all applications and outcomes (Standard 1.1);

• there should be provision of reasons for termination where relevant, the opportunity to appeal a decision and the maintenance of records on cessations of service including reasons. There should be clear and transparent exit and appeal processes (Standard 2.5).

It is our view that blacklists are neither appropriate nor ethical in SAAP. Agencies need to have in place assessment procedures and policies that provide clear guidance in denying access and/or terminating assistance to a person. An individual who is exited early should have the right to be provided with a fair assessment process in the future, should they request further assistance from the agency. In effect, the request should be considered afresh.

DoCS stated in its response to the Preliminary Report that it does not support blacklists. NCOSS expressed concern that a service may not be able to defend a negligence claim if previous conduct in a service is not included in a risk assessment. Further, NCOSS believed that each request for assistance being considered as a new request may not be practical for effective risk assessment and minimizing SAAP service exposure to potential legal claims.

In proposing that each request for assistance should be considered as a new request, we do not intend that past experience with a person should not be taken into account. Rather we believe that there should not be an arbitrary and automatic denial of entry on the sole basis of a blacklist or history of previous conduct.

4.7 Recommendations

Interagency agreements

8. In the context of the planning for SAAP V, DoCS should review the scope and status of protocols and interagency agreements between SAAP and other service systems. The review should specifically consider:

• the efficacy of existing state-wide protocols and interagency agreements in achieving outcomes for SAAP clients at the local level;

• gaps in the existing range of state-wide protocols and interagency agreements and priority areas for future initiatives;

• supports required by SAAP agencies at the local level to assist them to develop close linkages and collaborative initiatives with other service systems.

DoCS to develop clear guidance

9.   DoCS, through its role with the Industry Reference Group, should continue to pursue action to address the need for the provision of clear guidance and tools in relation to client risk assessment and risk management, appropriate for use in SAAP accommodation services.

10.   As part of a quality improvement strategy, DoCS should develop, in consultation with SAAP agencies providing accommodation services, clear guidance and tools in relation to service policy and practice governing client eligibility, access and exiting. Guidance should emphasise an inclusive, rather than exclusive, approach to eligibility, access and exiting, and should:

   •   reflect program standards and expectations and legal obligations;

   •   clarify the meaning and practical implications of the statement in the Memorandum of Understanding that no person should be excluded on the basis of complexity of need;

   •   incorporate model operational policies and good practice strategies to assist agencies to implement policies and practices which reflect equitable and non-discriminatory eligibility and access and fair and transparent exiting.

Training

11.   The DoCS SAAP Training Unit should develop and provide, or coordinate the provision of, training for SAAP agencies in the areas of:

   •   discrimination law and non-discriminatory policy and service delivery;

   •   awareness of issues regarding people with specific or complex needs, in particular:

      —people with mental illness

      —people with intellectual or physical disability

      —people with acquired brain injury

      —people with dual diagnosis

   The focus of such training should incorporate effective service responses where individuals with such needs are appropriately receiving assistance from SAAP; ensuring effective referral to relevant services; and fostering interagency coordination;

   •   appropriate eligibility and access assessment processes;

   •   duty of care, in the context of equitable and accessible service delivery.

   The unit should continue to provide training on 'Alcohol and Other Drugs', 'Safety and Security', culturally appropriate service delivery in relation to clients from Aboriginal and Torres Strait Islander backgrounds and culturally and linguistically diverse communities, and coordinate the provision of accredited training on occupational health and safety legislation.

12. SAAP agencies providing accommodation services should ensure that all staff are provided with training in the areas of:

- occupational health and safety requirements, with a particular focus on client risk identification and risk assessment, violence prevention and responses that seek alternatives to exclusion;

- discrimination law and non-discriminatory policy and service delivery;

- awareness of and appropriate service responses to people with specific or complex needs, in particular:

  — people with mental illness

  — people with intellectual or physical disability

  — people with acquired brain injury

  — people with dual diagnosis

  — Aboriginal and Torres Strait Islander people

  — people from non-English speaking backgrounds;

- appropriate eligibility and access assessment processes;

- duty of care, in the context of equitable and accessible service delivery.

Agency Resources

13. DoCS in the process of negotiating the SAAP V agreement with the Commonwealth Government should negotiate enhancement funding for the program, to areas where the need for increased resources is indicated:

- to meet SAAP agencies' costs of compliance with increased occupational health and safety (OHS) responsibilities, including: additional staffing, if it is determined to be necessary to meet OHS requirements while maintaining current service capacity; provision of emergency/back up staff support; mobile telephones and alarm/call systems; equipment testing and tagging; and provision of accredited OHS training for staff;

- to allow agencies to contract additional and/or specialist assistance to meet the support needs of people requiring a high level of support or service response

- to enable agencies to accommodate people who have limited capacity to pay rent or service charges.

Provision of report to the Commonwealth

14. DoCS should provide a copy of this report to the Commonwealth Department of Family and Community Services.

Early exiting / termination of accommodation

15. DoCS should ensure that SAAP Standards and service specifications provide guidance in relation to reasonable grounds and appropriate processes for early termination of accommodation and support. The basis for guidance should be that termination of accommodation and support earlier than planned should only be effected as a last resort because of serious or persistent breaches of reasonable rules, or violence or other behaviour that puts the resident, staff or others at risk. Guidance should specify that early termination should be subject to fair and transparent processes that recognise individual rights and dignity and legislative requirements and that should include:

   • provision of warnings, where possible and appropriate;

   • a period of notice, where possible and appropriate;

   • opportunity to appeal the decision;

   • emergency assistance and referral to alternative accommodation or other services, if the client is willing to be referred.

16. SAAP agencies providing accommodation services should ensure that termination of accommodation and support earlier than planned is only effected as a last resort because of serious or persistent breaches of reasonable rules or violence or other behaviour that puts the resident, staff or others at risk. Early termination should be subject to fair and transparent processes that recognise individual rights and dignity and legislative requirements and include:

   • provision of warnings, where possible and appropriate;

   • a period of notice, where possible and appropriate;

   • opportunity to appeal the decision;

   • emergency assistance and referral to alternative accommodation or other services, if the client is willing to be referred.

Ban lists / blacklists

17. SAAP agencies providing accommodation services should not operate time bans or blacklists. Early termination of accommodation and support should not be applied as a punitive measure, and reasons for such termination should be transparent. Requests for assistance should be considered as new requests and assessed in accordance with agency access policy and procedure.

4.8 Reporting and monitoring of recommendations

DoCS reporting on acceptance and implementation of recommendations

18. Three months from the date of receipt of this report, DoCS should advise the Ombudsman, in writing, regarding its response to the recommendations directed to or involving DoCS in a lead role, and advice regarding plans and a timetable for implementation of those recommendations.

Monitoring of SAAP agency acceptance and implementation of recommendations

19. Within twelve months of agencies receiving this report, the Ombudsman will instigate a monitoring strategy to assess the response to recommendations directed to or requiring involvement of SAAP agencies and progress toward the implementation of those recommendations.

Appendices

Appendix 1   Inquiry methodology

1.1   SAAP agency survey

In early 2002 we contracted the Australian Institute of Health and Welfare (AIHW) to develop, design, pilot and distribute a survey to SAAP agencies. AIHW received responses and collated results, providing a report to the Commission in October 2002. Inquiry staff and a sub-committee of the reference panel informed the survey development process.

The participation rate was 79%, based on 302 responses of 382 SAAP agencies that were sent the survey. Of the 302 agencies, 231 provided accommodation services (76% of responses) so these responses were analysed. We received responses from a cross section of SAAP agencies across primary and secondary target group, service delivery model and geographical location.

1.2   SAAP agency policy review

In March 2002 we asked all SAAP agencies in NSW to provide us with relevant policy documentation. We requested:

- policies and procedures relating to eligibility; access; and exiting;
- the assessment protocol/process used in determining applicant eligibility/entry;
- the proforma /schedule for recording people turned away by the service;
- complaints procedure;
- appeals process;
- service rules;
- other documents/policies that might be relevant to the Inquiry.

A total of 71 agencies sent in policies, of which 68 were reviewed in depth against 'good practice' standards as identified in the SAAP Standards and (NSW) SAAP Service Framework.[86] The sample of policies received was broadly representative of NSW agencies according to primary and secondary target group, service delivery model and geographical location.

1.3   Consultation meetings

We consulted people working in key government and non-government agencies that use or refer to SAAP agencies.

- Department of Community Services Directors of Partnership & Planning
- Department of Juvenile Justice
- Department of Corrections
- Aboriginal Housing Office
- Office of Community Housing
- Department of Community Services Domestic Violence Line
- Centre for Mental Health
- Homeless Persons Information Centre
- Youth Accommodation Association Vacancy line
- Department of Housing – after hours call service
- Head Injury Council
- Non-government agencies, including youth, disability advocacy, outreach, family support and welfare services

86 Three responses were excluded from analysis. Two were sent from the head office level, so were duplicates of specific agency responses and one consisted of photocopies of SAAP national policy documentation.

The consultations focused on the identification of groups of people that the organisations perceived as likely to be excluded or exited early from SAAP agencies, the barriers for SAAP agencies in accommodating such groups of people and possible solutions to address the barriers and better meet clients' needs.

We also held meetings or consultations with a number of SAAP providers and peak organisations:

- Youth Accommodation Association
- NCOSS Rural Forum
- Women's Refuge Resource Centre
- Women's Refuge Movement Conference
- B. Miles Women's Housing

We held other meetings to provide information about the Inquiry, gather information on program developments and discuss issues. These included:

- Workcover Health and Community Services Team leader
- DoCS SAAP and Legal Services staff
- DoCS SAAP training unit
- Supported Accommodation Advisory Council

1.4   Client perspectives

We aimed to reach a cross section of individuals with experience as SAAP service clients, in terms of age group and gender. In order to do this we visited a number of SAAP services and community organisations used by SAAP clients in metropolitan Sydney.[87]

Interviewees either self-selected or were approached by local staff and asked to participate. The interviews were opportunistic and, to some extent, random. Participants provided informed consent to their participation. We offered no payment to potential interviewees, although reimbursement of expenses was available.

A total of 15 interviews were conducted, two with couples and 13 with individuals who were either single men or single mothers. Eight interviewees had experiences related to access to and unplanned exit from SAAP services.[88] We also held two focus groups with current or former users of SAAP services.

We reviewed Commission/Ombudsman complaint files for the period 2002-2003.

1.5   Review of legislation, policy and other research

We used secondary data to supplement the primary data collection and provide a context and a framework for interpretation of survey data and agency policies. Key sources are footnoted throughout the report.

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87 Client interviews were intended to be illustrative of the experiences of individuals, rather than to be representative of NSW SAAP clients, therefore only metropolitan clients or former clients were interviewed.
88 People under 18 years of age were excluded because of issues relating to gaining informed consent from both young people and those people who exercise parental responsibility for them.

Appendix 2 : Findings – Policy and practice in SAAP

List of Tables

2.1   Introduction

This appendix summarises the key findings of 231 responses to the SAAP agency survey, and the review of relevant policies and procedures of 68 SAAP agencies.

Tables are derived from the survey and policy review.

Differences in survey responses among service delivery models and primary target groups have been highlighted.

2.2   Groups that face access exclusions

2.2.1 Survey Findings

A key survey question sought to identify the characteristics that constituted grounds for exclusion in eligibility policies, results of which appear in Table 1 below. The vast majority of agencies responding to the survey indicated that people exhibiting violent behaviour are excluded. Almost two thirds of agencies stated that people with drug and alcohol disorders are excluded, and approximately half of the agencies stated that people with a mental illness are excluded.[89] Over one third of agencies excluded the following groups in their eligibility policies:

- People with a physical or an intellectual disability;
- People unable to live independently/ semi-independently.

A high number of agencies (29.9%) stated that people who have been blacklisted would be excluded.[90]

Agencies do not necessarily exclude all people with a specified characteristic. Three quarters of the agencies we surveyed stated they would accept people from groups excluded by policy depending on the severity of the characteristic. However, a reasonable number of agencies (16.5% or 40 agencies) indicated that all people with the identified characteristic would be excluded.

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89 The majority (over 74%) of these agencies excluded on the basis of exhibiting symptoms or as identified by the agency.
90 'Blacklisting' is a practice whereby an agency will keep a keep a list of clients who are not to be accommodated at the service.

Table 1: SAAP agencies: client characteristic groups excluded in eligibility policies, NSW 2002

	Total (%)	Total (number)
People exhibiting violent behaviour	78.8	180
People with drug & alcohol disorders	61.0	140
People with mental illness	53.7	125
People with male accompanying children[91]	46.3	105
People with a physical disability	41.6	95
People with female accompanying children[92]	39.8	90
People unable to live independently/ semi-independently	35.5	80
People with an intellectual disability	33.3	75
Clients who have been black listed	29.9	70
People not willing to enter in to a case management plan	26.4	60
People with acquired brain injury	19.5	45
People unable/ unwilling to pay	19.0	45
People with other challenging behaviours	16.0	35
People with health issues[93]	15.6	35
People in the juvenile justice system	14.7	35
People not prepared to access specialist services offered by the service	8.2	20
People with criminal convictions	5.2	10
People who are temporary visa holders	4.8	10
Other	12.1	30
No exclusions made	3.5	10
Not applicable, no policy	0.9	—
Total (number)	. .	230

Notes

1. Number excluded due to errors & omissions: 0

2. Survey respondents were able to tick more than one option, so percentages do not total 100.

3. Figures have been rounded.

Source: AIHW, NDCA SAAP Access & Exiting Project Collection NSW 2002, data from Table 6 (see Tables 6-9: cross tabulations by service delivery model, primary target group, secondary target group, and geographical location.)

91 While 46.3% (105) of agencies excluded people with male accompanying children in their eligibility policies, agencies for single men and for young people made up over two thirds of this response (clients with children are generally not part of the primary target group of these agencies). 25% of agencies for families and 16.7% of agencies for women escaping domestic violence excluded people with male accompanying children.
92 While 39.8% (90) of agencies excluded people with female accompanying children in their eligibility policies, nearly all were agencies for young people or single men. Less than five agencies for families or for women escaping domestic violence excluded people with female accompanying children.
93 In the review of 68 agency policies, 13 agencies stated that people with health issues would be excluded. This included people who require intensive medical support, have acute or severe medical illness or contagious disease, or refuses treatment for a chronic or severe medical illness.

2.2.2 Survey: differences according to agency type and target group

Compared to crisis/short term agencies, a higher proportion of medium/long term agencies excluded the following people in their eligibility policies:

- People not willing to enter in to a case management plan (41.8% compared to 17.7%)

- People unable/unwilling to pay (25.4% compared to 9.4%)

There are also some differences across primary target group:

- Compared to other target groups, a higher proportion of agencies for young people (40.0%) and families (37.5%) indicated they would exclude people not willing to enter into a case management plan.

- A comparatively higher proportion of agencies for single men (60.0%) indicated that clients who were blacklisted would be excluded.

Only ten agencies surveyed indicated they had no exclusions in their policies. It is possible though that even in these agencies people could still be excluded in certain circumstances.

> Exclusions are not listed as part of our policy, but we do exclude if we don't think we have the capacity to assist the client.
>
> *Agency survey comments #60*

2.2.3 Policy Review Findings

The policy review of 68 agencies also found the same three groups most highly represented in exclusion policies: people with drug and alcohol disorders (32 agencies), people with mental illness (30 agencies), and people exhibiting violent behaviour (29 agencies). A number of agencies excluded the following people in their eligibility policies:

- People with health issues (13)

- People with a physical disability (11)

- People with other challenging behaviours (11)

- People who have been blacklisted (10)

Some agencies whose policies we reviewed positively discriminated in favour of particular groups, such as people from NESB or people with low incomes.[94]

In the policy review, we found that exclusions are sometimes global, but agencies generally specified the 'severity' of a characteristic. Agencies often stated that if a person's needs are too high due to a particular characteristic, such as a mental illness, the agency would not be able to support them and they would be excluded.

The review of agency policies also found that 'Access and Equity' statements are often contradictory to exclusion policies.

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94 However, in consultations for this Inquiry, some agencies reported that there are access problems for indigenous people and people from NESB.

The following two examples from agency policies include some of the commonly stated exclusions:

…the following criteria is used in deciding whether to reject an applicant:

- A person does not arrive for three scheduled appointments (no notice)

- The sole need is accommodation

- Previous placement in the program

- Needs are assessed at a crisis level (referral to a more appropriate service is provided – i.e. drug detox unit)

- Past debts are substantial and unaddressed

- Drug use three months prior to the application

- Violent behaviour that would place others at risk

Target: Single women
Model: Multiple service delivery

1. Persons with diagnosed psychiatric illnesses who aren't medication compliant or who are psychotic

2. Persons obviously affected by drugs

3. Persons who have been previously evicted and who cannot indicate there has been, or is likely to be a change in the behaviour leading to their previous eviction

4 . Persons who have a known history of violent behaviour

Guests who have previously left (agency) owing money and have not made good their debt (might also have limited stay).

Target: Cross target/multiple/general
Model: Crisis/short term

2.3   Extent of access exclusions

2.3.1 Survey Findings

Agencies were asked in the survey to estimate the number of people turned away and therefore denied access for reasons other than unmet demand (that is, lack of accommodation capacity) in the six month period preceding the survey. We also asked agencies to indicate the main characteristics that led to those particular people being denied access.[95]

The majority of agencies (57.0%) turned away between one and 20 people, and 11.3% turned away over 40 people. 16.7% of agencies did not turn away any people.

The data indicates that people were turned away for reasons other than unmet demand on 2,249 occasions from 165 agencies in the six-month period prior to the survey.[96]

The main characteristics recorded as leading to these particular people being turned away in the six month period are listed in Table 2. The most frequent instances where people were turned away were:

• People with drug and alcohol disorders (470)

• People with a mental illness (290)

• People exhibiting violent behaviour (275)

This totaled 1,035 instances of being turned away for people in these three groups.[97] This result mirrors the trend set by the exclusions specified in agency policies. That is, practice appears to be consistent with agency policy.

95 AIHW has advised that the survey responses to counting questions have limited reliability. Agencies may have provided estimates, checked records or used a combination of methods when responding. People may be counted more than once if they were turned away on more than one occasion. Our data does not allow us to determine the size of the agency, nor to contrast the numbers turned away with the numbers of people accepted. Agencies reported they found it difficult to identify a main characteristic that led to a person being turned away. A number of characteristics may have contributed equally to the decision.
96 Number based on totals of rounded numbers provided in AIHW report Table 41, 2,940, minus 691 entries from 'Other' category that indicated some respondent error, most notably some people were turned away due to unmet demand/lack of capacity, people declining the offer, not attending interviews or were outside the eligibility criteria, such as age, target group. Please note, these may not be separate individuals, as a person may have been denied access more than once in one agency or may have been turned away by more than one agency.
97 Number based on rounded numbers provided in AIHW report Table 41.

Table 2 illustrates that people are denied access based on the basis of a range of characteristics.

Table 2: SAAP agencies: number of people turned away for reasons other than unmet demand in the last six months, NSW 2002

	Total (number)	No. of agencies
People with drug & alcohol disorders	470	70
People with mental illness	c290	50
People exhibiting violent behaviour	275	60
People with female accompanying children	195	25
People with other challenging behaviours	140	30
People who have been 'black listed'	130	35
People unable to live independently/ semi-independently	115	25
People with male accompanying children	65	20
People not willing to enter in to a case management plan	65	15
People unable/unwilling to pay	25	5
People not prepared to access specialist services offered by the service	25	5
People in the Juvenile Justice system	20	5
People with a physical disability	15	10
People with criminal convictions	15	5
People with an intellectual disability	10	5
People with health issues	10	5
People who are temporary visa holders	5	—
People with acquired brain injury	5	5
Other	1065*	
No exclusions made	5	20
Unknown	10	
Total agencies (number)		165

Notes

1. Number excluded due to errors & omissions: 0
2. Survey respondents were able to tick more than one option, so percentages do not total 100.
3. Figures have been rounded.

Source: AIHW, NDCA SAAP Access & Exiting Project Collection NSW 2002, data from table 41 (see Tables 39-40: cross tabulations of the numbers turned away by the service delivery model and target group.)

* A breakdown of the 1065 'other' category revealed some 691 responses that indicated some respondent error. Apart from error, notable other reasons included: out of area 68, drug or alcohol related issues 50, no DoCS support 13, concerns about partners 10

2.3.2 Survey: Differences according to agency type and target group

Crisis/short term agencies denied access to people on more occasions than medium/long term agencies and multiple agencies in relation to all but one characteristic. Crisis/short term agencies denied access to people on 1,045 occasions (55.7% of total) while medium/long term agencies denied access to people on 435 occasions (23.2% of total).[98]

This may be explained in part by the fact that crisis/short term agencies made up the largest group of agencies who were surveyed, according to service model:

- 70 Crisis/short term agencies (41.7% of total)

- 50 Medium/long term (30.1% of total)

- 35 Multiple model agencies (20.2% of total)

Difference may also be due in part to higher accommodation capacity in crisis/short term agencies, and lower referral rates to medium/long term agencies.

In the one exception, medium/long term agencies turned away people unable to live independently/ semi-independently more frequently (95 occasions), compared to crisis/short term agencies (10 occasions).

The turn away rate per agency differed between the different target groups. Agencies for single women only, families, and women escaping domestic violence had lower turn away rates compared to agencies for single men only and cross/multiple target group (Table 3).[99] The turn away rate per agency for agencies for young people was similar to the overall turn away rate per agency for all target groups. Accommodation capacity of different agency types may account for some of these discrepancies.

Table 3*: SAAP agencies and SAAP clients: number of people turned away for reasons other than unmet demand in the last 6 months and number of agencies by primary target group, NSW 2002

	Agencies (number)	People (number)	Turnaway rate/ agency
Young people	65	820	12.6
Single men only	15	290	19.3
Single women only	5	25	5
Families	10	55	5.5
Women escaping DV	40	237	5.9
Cross/multiple/general target	20	430	21.5
Total	**165**	**1857**	**11.3**

Derived from: AIHW, NDCA SAAP Access & Exiting Project Collection, NSW, 2002. Table 42

> * Numbers in table based on rounded numbers provided in Table 42. Numbers of people exclude entries in 'other' category and 'unknown' category

Agencies for young people excluded the vast majority of certain characteristics, 82.1% of people excluded on the basis of challenging behaviours, and 73.9% of people excluded on the basis of being unable to live independently/semi-independently. And while agencies for single men made up 9.8% of agencies, they denied access to 27.7% of people with drug and alcohol disorders who were excluded, and 20% of people exhibiting violent behaviour who were excluded. None of the agencies for women escaping domestic violence excluded people who were not willing to enter into a case plan.

98 Results based on rounded numbers provided in AIHW report Table 41. Results exclude 'Other' and 'Unknown' categories.
99 Cross/multiple/general target group agencies denied access to 44.8% of people with a mental illness who were excluded, and 53.8% of people with female accompanying children. These agencies also excluded the greatest number (38.5%) of people who had been blacklisted.

2.4 Assessment

2.4.1 Survey findings and differences according to agency type[100]

Factors that may influence whether a person gains access to a SAAP agency is the level of skill and experience of the person making the access decision and whether they make the decision alone or in consultation with others.

Such decisions are often made autonomously by a staff member and with limited review by another person. Through the survey we found that overall, agencies stated that the staff member on duty at the time (39.8%), or the team (31.3%) had responsibility for client access decisions on a weekday.

There are some differences between service delivery model. In crisis/short term agencies, the staff member on duty usually had responsibility for making access decisions during the week (58.1% of agencies). However in over half of medium/long term agencies (53.1%), the team usually had responsibility for making access decisions during the week.

At the weekend, there was an increase in responsibility for access decisions being delegated to the staff member on duty at the time, and a decrease in team responsibility for access decisions.

The survey showed that just over half the agencies conducted their own assessment of a person who had been assessed and referred by another agency. A further one third reassessed, as well as sought a third party assessment or opinion. Only a small number relied on the assessment of the referring organisation.

Almost half of all agencies (46.5%) indicated that the usual timeframe for making decisions about client access was 'Immediately'. However, while the majority of crisis/short term agencies (60.0%) indicated access was decided upon immediately, a lower proportion (17.2%) of medium/long term agencies indicated this, while almost half (45.3%) indicated the usual timeframe was over 24 hours.

2.4.2 Policy review findings

The agency policy review showed that most agencies had a standardised assessment procedure. However, we also found little evidence of specifications of the type or qualification of staff member who could assess applications. Policies about the types of people who would be excluded often included a simple statement (eg 'Person with severe psychiatric problems', 'Women with drug or alcohol dependency'), and in the main there are no specific procedures for assessment of these characteristics. The assessment process generally consisted of one or two interviews, and background checks, which often incorporated phone calls to refuges the client had resided in previously.

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100 Results in this section are based on AIHW report, Tables 23-28 and 44-45.

Examples drawn from two agency policies regarding assessment appear below:

Exclusions:

Accommodation may be refused if:

- The client if actively using drugs and also using drugs in the refuge
- The client is unable to self-manage her illness

Assessment:

An assessment interview should take place as close to the initial contact as possible. The attached Admission form will be completed for all assessments. The assessment is between the worker on duty and the client. Wherever possible, multiple assessments should be avoided through negotiation and coordination with other agencies involved in providing services to the client. Where possible and with the client's permission, assessment information obtained by other agencies should be used and assessments completed by other agencies respected.

The admission form asks for details about: Personal details, income source, address, country of origin, medical history, reason for admission, source of referral, partner's details, car details, legal proceedings.

Target: Women escaping domestic violence
Model: Crisis/short term

Exclusions

- Young people with drug and alcohol addictions,

- Young people with a history of violence, or habitual offences which are determined to be a threat to staff or existing residents,

- Young people with known serious behavioural problems which are dangerous or offensive to other residents,

- Young people with psychological or psychiatric problems which require a greater level of support than (the agency) can provide.

Assessment

Referral to the Service:

Details required:

- Name

- Referring Agent/Body

- Is referral from the local area?

- Date of birth/Age

- Has the resident resided at (the agency) before?

- If not, has the referral resided at other refuges?

- Reasons for needing assistance/accommodation

- Income details

If referral arrives at the door and there is a vacancy:

1. Interview and assess for eligibility

2. Collect details as mentioned above

3. If eligible, follow admission procedures

4. If ineligible, assist referral to locate other accommodation options, if appropriate.

Target: Young people
Model: Medium/long term

2.5 Access conditions

2.5.1 Policy Review Findings

Some of the conditions placed on clients entering a service, as detailed in the agency policies we reviewed, can lead indirectly to exclusion from a service. In about three quarters of agency policies we reviewed, we found certain 'conditions of entry' or 'conditions of stay'.

A summary is contained in Table 4 below. Of particular note, the condition that a person must commit to a case plan was specified in 47 agency policies. Other conditions included the requirement to attend meetings and participate in shared duties (18 policies), and to have income and/or pay rent (16 policies). A reasonable number of agencies stated that a client must be committed to making a change in their lives, have a certain level of independence, or wish to develop skills.

Table 4: SAAP agency policies: number of policies with conditions, NSW 2002

	Policies (number)	Policies Total (%)
Clients must commit to a case plan	47	69.1
Clients attend meetings /do chores/participate in share house	18	26.5
Clients have income/must pay rent	16	23.5
Clients must be committed to making a change in their lives	12	17.6
Clients required to have links with/assess by professional/other	12	17.6
Clients have a certain level of independence	11	16.2
Clients wish to develop skills	11	16.2
Clients must not use/possess drugs/alcohol	9	13.2
Clients completed/undertaking/will undertake rehab program	8	11.8
Clients must take medication	8	11.8
Clients must fit in with/not impact on current residents	7	10.3
Clients must be from within the geographical area	5	7.4
Policies with no stated conditions	18	26.5
Total	**68**	–

Source: SAAP agency policy review, NSW Ombudsman, 2002.
Note: Policies could contain more than one condition so percentages do not total 100%

Some examples of conditions in agency policies appear below:

- Significant connections to (local) area DoCS/Health Region
- Ability to live independently within the guidelines of "Support Agreement" provided
- Ability to live independently within the support context provided by our services
- Receipt of 'Independent Income" no less than $140 per week
- Is willing (the client) to enter in to a Support Agreement with (agency).
- Is willing to participate in setting positive goals and participating in appropriate daytime activities.

Target: Young people
Model: Crisis/short term

You will be asked to sign the following support agreement:

By agreeing to participate in (agency) and by accepting support and housing from the Project, I understand that:

1. I agree to have regular visits with my assigned worker to work on my problems and the goals stated in my support plan

2. I give permission for my assigned worker to visit me in my home on a regular basis. I understand that these visits will, as far as possible, be at a prearranged time that is convenient to my worker and myself, but that on some occasions such prearrangement may not be possible

Target: Women escaping domestic violence
Model: Medium/long term

Indicators of inappropriateness of (this agency):

- Long term welfare assistance or past involvement with many agencies

- Lack of basic living skills, eg not able to physically look after herself or children

- Woman is used to and accepts survival by depending on others eg charities, parents, husband, etc.

Target: Women escaping domestic violence
Model: Medium/long term

Agencies also often specified limited hours of admission that could also contribute to access problems.

2.6 Reasons for access exclusions

2.6.1 Survey findings

The survey requested information about the reasons for an agency's stipulation of exclusions in their policies (Table 5). The vast majority of agencies surveyed indicated that physical safety of clients and staff are reasons for exclusion in agency policies. In addition, approximately half of agencies stated the following as reasons for exclusion:

- limited staffing levels;

- Occupational, Health and Safety and other industrial legislative issues for staff;

- service model/primary target group incompatible with certain clients (i.e. shared or independent accommodation);

- compatibility with other clients/residents;

- physical accessibility (i.e. of premises/location).

A lack of staff expertise and skills, and an inability of the service to provide adequate case management for the client are also commonly stated reasons[101].

Table 5: SAAP agencies: reasons for exclusion of client characteristic groups stipulated in policies, NSW 2002

	Total (%)	Total (number)
Physical safety of clients	80.1	185
Physical safety of staff	74.9	175
Limited staffing levels	57.1	130
OH&S and other industrial legislative issues for staff	48.5	110
Service model/primary target group incompatible with certain clients (ie. shared or independent accommodation).	47.6	110
Compatibility with other clients/residents	47.6	110
Physical accessibility (ie. of premises/location)	45.5	105
Lack of staff expertise/skills	38.5	90
Service cannot provide level of case management required for client	33.8	80
Operating hours of service not compatible with clients needs	29.9	70
Limited money or brokerage funds available to the service	29.0	65
Limited access to specialist services (ie. disability, mental health)	26.4	60
Service requires client to commit to case plan	19.0	45
Legal barriers	13.0	30
Limitations imposed by external accommodation providers [a]	10.4	25
Insurance barriers	7.4	15
Person not from within the geographical boundary of service	6.9	15
Client's capacity to make a financial contribution	6.5	15
Other	3.5	10
No exclusions made	2.2	5
Not applicable, no policy	0.4	—
Total (number)	. .	230

(a) e.g. Community Housing, private accommodation, partnership agencies

Notes

1. Number excluded due to errors & omissions: 0

2. Survey respondents were able to tick more than one option, so percentages do not total 100.

3. Figures have been rounded.

Source: AIHW, NDCA SAAP Access & Exiting Project Collection NSW 2002, data from table 12 (see Tables 12-14 for cross tabulations by service delivery model, primary target group, and geographical location.)

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101 People we consulted also noted that another possible reason for exclusion was the difficulty in accessing interpreters and the lack of available staff who speak languages other than English.

2.6.2 Survey: Differences according to agency type

While a third of medium/long term agencies indicated that 'Service requires client to commit to a case plan' was a reason for exclusion (32.8%), a lower proportion of crisis/short term agencies (10.4%) stated this as a reason. A higher proportion of medium/long term agencies (40.3%) than crisis/short term agencies (25.0%) stated that operating hours of services are not compatible with client needs as a reason for exclusion.

2.6.3 Policy review findings

43 of the 68 agency policies provided some reasons for access exclusions. These reasons were generally around the needs of the client being too high, the service being unable to provide the appropriate level of support, safety considerations of existing clients and staff, or that desirable client ratios or dynamics had been achieved.

The following example of reasons for exclusion is an excerpt from the policy document of an agency that includes pregnant young women and young mothers with children:

Exclusions:
Clients who are not eligible for service are those:

- With no children/someone who doesn't have their children with them (eg they are in DoCS care),

- With an unmanaged psychiatric illness,

- With an unmanaged drug and/or alcohol problem,

- Over 25 years of age.

Reasons:
The limitations to service are:

- Young women with a minimum age 14yrs and nine months up to a maximum age 25yrs.

- The service can accommodate a maximum of five young women sharing a bedroom with their children.

- Referrals will be assessed and accepted dependent on the current household and case management of existing clients.

- Unmanaged psychiatric illness and unmanaged drug/alcohol addiction.

The reasons for these limitations are:

- Effective case management is dependent on manageable client numbers eg household mix of adults with accompanying children will all need case management.

- Available space in communal living area,

- Budget restricts number of staff in duty at any one time.

- Psychiatric issues and drug/alcohol issues require specialist expertise,

- Duty of care to residents and babies/children,

- Safety issues for residents and staff.

- Access and equity issues for all residents in relation to complex needs clients.

Target: Cross target/multiple/general
Model: Medium/long term

2.7 Circumstances leading to unplanned or early exiting

2.7.1 Survey Findings

According to the survey, agency policies provided for a range of circumstances that could lead to early exiting, as shown in Table 6 below. Almost all agencies stated that in the event of evidence of violent conduct, or threats to other staff, client accommodation would be terminated. Over two thirds of agencies stated that in the circumstance that a client refused to obey the rules of the agency, committed a crime within the service, or damaged or stole property of the agency or another resident, accommodation would be terminated. Over half of agencies stated that evidence of substance abuse or intoxication would lead to termination of accommodation.

Table 6 SAAP agencies: circumstances in which client accommodation will be terminated, NSW 2002

	Total (%)	Total (no.)
Evidence of violent conduct (emotional, physical, sexual, verbal)	95.0	210
Threats to other residents/staff	90.4	200
Refusal to obey the rules of the agency	74.4	165
Criminal conduct within the service	74.4	165
Theft or damage of residents or agency's property	74.0	160
Evidence of substance abuse	59.8	130
Evidence of intoxication	53.0	115
Client no longer meets eligibility or access criteria	42.0	90
Agency is no longer able to assist the client (client needs have changed)	41.1	90
Client not compatible with other residents in the service	37.0	80
Client does not wish to continue case management agreement	24.7	55
Other	9.6	20
Total (number)	. .	220

Notes:
1. Number excluded due to errors & omissions: 0
2. Survey respondents were able to tick more than one option, so percentages do not total 100.
3. Figures have been rounded.

Source: AIHW, NDCA SAAP Access & Exiting Project Collection, NSW 2002, data table 59.
(see Tables 59-61 for cross tabulations by service delivery model, primary target group, and secondary target group.)

However it is clear that some SAAP agencies can be flexible with regard to compliance with the rules, as shown in three responses to the agency survey:

> …Once a young person is in our service we will stretch the rules (even major ones) where possible to accommodate the client – we are constantly trying to allow for these clients in order to help them maintain their accommodation….
>
> *Agency survey #61*

> This service will terminate for intoxification or drug use, but not on first instance, support will be offered, warnings will be given before the person is terminated.
>
> *Agency survey #31*

> While we might move on a resident who crossed the service boundaries indicated, such an eviction would not happen at the first instance and efforts would be made to find ways not to violate service boundaries.
>
> *Agency survey #45*

2.7.2 Survey: Differences according to agency type and target group

'Evidence of intoxication' and 'evidence of substance abuse' are more often listed as circumstances leading to termination of accommodation in the policies of crisis/short term services (73.6% and 76.9% respectively) than in other service delivery models. Compared to other target groups, a higher proportion of agencies for women escaping domestic violence (70.0%) stated that a client's accommodation would be terminated in the event of intoxication.

Compared to medium/long term agencies (31.3%), a higher proportion (48.4%) of crisis/short term agencies indicated that if a client was not compatible with other residents in the service then accommodation would be terminated.

A higher number of medium/long term agencies (35.9%), compared to crisis/short term agencies (19.8%) stated accommodation would be terminated if a case management agreement was not continued. Compared to other target groups, a higher proportion of agencies for young people (38.1%) indicated that accommodation would be terminated if the client did not wish to continue the case management agreement.

2.7.3 Policy Review Findings

The decision to exit a person from a service is often due to a 'house rule' being breached. In the agency policies we reviewed, 33 of the 68 policies specified house rules. Further, 41 agencies either specified circumstances or rules, which, if broken, would lead to early exit. The most commonly stated were:

- Violence/harassment/abuse   29 policies
- Use/possession of drugs/alcohol   27 policies
- Not paying rent   17 policies

Breaches of rules that could lead also to exiting also included:

- Smoking in certain areas

- Antisocial/disruptive/distressing behaviour

- Damage/theft

- Having guests at the refuge

- Hygiene/untidiness

- Not doing chores/rising/retiring at specified times

- Not exercising responsibility for children

- Not complying with curfew.

Examples of rules found in agency policies we reviewed appear below:

Following factors constitute reasons for eviction: client returns to refuge under influence of alcohol/in possession of alcohol, client found to have in possession drugs/implements for use of an illicit drug, client displays/threatens physical violence, an illegal activity is observed, client repeatedly breaks rules they have agreed upon in the house rules agreement, where the client refuses to follow a workers reasonable directions, where a client repeats an action for which a 'first and final warning' has been given, where a client is found to be in possession of an weapon

Target: Young people
Model: Crisis/short term

Not negotiable rules. Residents who break the following rules will be required to leave the house immediately. These rules are not negotiable and will be enforced.

1. No use of non-prescription drugs or alcohol, at all while a resident of this house, that is, on or off the property. This is considered to be a safe house so residents must abstain while accommodated at the agency.

2. No drugs or alcohol to be brought back to the house

3. No verbal or physical violence

4. No stealing from the house or other residents

5. No breaking of any special conditions of stay

Target: Cross target/multiple/general
Model: Medium/long term

The breaking of these rules will result in you and your family being asked to leave the refuge:

Visitors

You cannot have people visiting you at the refuge, unless they are workers from other agencies, please check this out with the [agency] workers before you make any appointments. You need to arrange to be picked up and dropped off by friends away from the refuge.

Violence or discrimination

Threats, intimidation, physical and/or verbal abuse directed at workers, or other people, including children, is not permitted at any time, ever.

Alcohol and illegal drug use

You are not allowed to keep or use alcohol or illegal drugs on the premises. Don't return intoxicated by either drugs or alcohol. Any misuse of prescribed medications is considered illegal drug use.

Smoking

Smoking is not permitted in any of the refuge buildings or cars.

Pets

Sorry, no pets allowed

Medication

You are responsible for any medications you or your children need. Workers cannot hold on to or give out medication. You need to keep all medication in a safe place out of reach of children.

Borrowing

Please do not ask to borrow money, cigarettes, or other things belonging to other residents

Target: Women escaping domestic violence
Model: Crisis/short term

2.8   Extent of early exiting

2.8.1 Survey Findings

Agencies responding to the survey estimated the number of people whose accommodation was terminated early in the six months preceding the survey. This showed that the majority of agencies (70.8%) terminated the accommodation of between one and 20 people, and a small number of agencies (4.0%) terminated the accommodation of between 21 and 60 people.[102] One quarter of agencies did not terminate the accommodation of anyone earlier than planned.

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102 The agencies that terminated the accommodation of 21-60 people were agencies for young people, single men and cross/multiple/general target. The service delivery model of these agencies was crisis/short term or multiple.

Table 7 presents the numbers of people and the main circumstances leading to termination of their accommodation in that period. This data refers to the main circumstances in which people had their accommodation terminated early on 1,090[103] occasions from 205 agencies in the six month period.

Table 7: SAAP agencies: main circumstances leading to the early termination of client accommodation, NSW 2002

	Total (no. occasions)	Total (no. agencies)
Evidence of violent conduct (emotional, physical, sexual, verbal)	175	68
Refusal to obey the rules of the agency	160	65
Evidence of substance abuse	150	51
Client threatening other residents/ staff	125	49
Evidence of intoxication	110	40
Agency was no longer able to assist the client (client needs too high)	50	31
Client no longer met eligibility or access criteria	45	13
Theft or damage of residents or agency's property	45	28
Client not compatible with other residents in service	40	17
Criminal conduct within the service	25	17
Client did not wish to continue case management	25	8
Other	120	21
Unknown	20	8
Total (number)	1090	205

Notes

1. Number excluded due to errors & omissions: 0
2. Figures for no. of occasions have been rounded.

Source: AIHW, NDCA SAAP Access & Exiting Project Collection, NSW 2002 Table 77.
(see Tables 77 and 78: cross tabulations by service delivery model, and primary target group)

31.7% (345) of instances of early termination were a result of violence, threatening behaviour, and theft or damage to property.

23.9% (260) instances of early termination were a result of evidence of substance abuse or intoxication.

2.8.2 Survey: Differences according to agency type

A higher proportion of medium/long term agencies (34.4%) did not exit any clients early, compared to 17.9% of crisis/short term agencies.

For each circumstance, crisis/short term agencies generally exited early three times as many clients as medium/long term services, despite a similar number of agencies responding to this question.[104] This difference is due in part to higher accommodation rates of crisis/short term agencies.

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103 Number based on rounded numbers provided in AIHW report Table 77
104 Crisis/short term agencies exited people early on 590 occasions (54% of total exited early) and medium/long term exited people early on 170 occasions (16% of total exited early)102. However a similar number of crisis/short term agencies (80 agencies) responded to this question compared to medium/long term agencies (65 agencies).

Agencies for single men had a much higher turn away rate per agency than the other target groups (Table 8). Most of these people were exited early from single men's services in circumstances of evidence of violent conduct, intoxication, substance abuse, or 'Other' circumstances. Again, this may be due in part to greater accommodation capacity in single men's services.[105]

Table 8*: SAAP agencies and SAAP clients: circumstances leading to the termination of client accommodation in the last 6 months and number of agencies by primary target group, NSW 2002

	Agencies (number)	People (number)	Termination rate/agency
Young people	80	335	4.2
Single men only	20	200	10
Single women only	10	28	2.8
Families	15	50	3.3
Women escaping DV	55	215	3.9
Cross/multiple/general target	25	120	4.8
Total	**205**	**948**	**4.6**

Derived from: AIHW, NDCA SAAP Access & Exiting Project Collection, NSW, 2002. Table 78

· Numbers in table based on rounded numbers provided in Table 78. Numbers of people exclude entries in 'other' category and 'unknown' category

2.9 Reasons for early exiting

The reasons given by agencies to explain the early termination of client accommodation appear in Table 9. This data refers to the main reasons for 930 instances of termination of accommodation in a six month period.[106] The two most frequently reported reasons were inability to ensure the safety of clients (250 instances) and inability to ensure the safety of staff (170 instances).[107] In 10.2% (95 instances) of early exits, agencies indicated that they had helped the client as much as possible. Lack of staff levels/expertise/skills to manage the characteristics of the person, and an incompatible service model were also indicated as reasons for termination of accommodation in a number of circumstances.

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105 Total counts for each primary target group based on rounded numbers provided in AIHW report Table 87.
106 Number based on rounded numbers provided in AIHW report Table 79. There is a discrepancy in that the number of people recorded as having their accommodation terminated is 1,090, while the reasons given in each instance of termination amount to 930. This is due to some respondent error, and the multiple methods used by agencies for calculating termination rates. These results are approximations.
107 Number based on rounded numbers provided in AIHW report Table 79.

Table 9: SAAP agencies: main reasons for the termination of client accommodation, NSW 2002

	Total (number)
Service not able to ensure physical safety of clients	250
Service not able to ensure physical safety of staff	170
Service has helped client as much as possible	95
Service lacks staff levels/ expertise/ skills to manage characteristics of person	60
Service model/structure is not compatible with client's needs (ie. shared or independent accommodation)	60
Service not able to provide appropriate/ required level of support	50
Service requires client to commit to case plan	50
Service requires financial contribution from client	45
Referral information was misleading	30
Service is legally unable to support client	25
Service not able to access required specialist services (ie. disability, mental health)	10
Barriers with partnership agency(s) (ie. brokerage falls through)	0
Service lacks case management to assist client	—
Local community/ neighbours not supportive	—
Other	75
Unknown	10
Total (number) of agencies	205

Notes

1. Number excluded due to errors & omissions: 0
2. Figures have been rounded.

Source: AIHW, NDCA SAAP Access & Exiting Project Collection, NSW 2002, data from table 79 (see Tables 79-80 for cross tabulations by service delivery model, and primary target group.)

2.10 Early exiting processes

2.10.1   Survey findings

The locus of decision-making about early exiting may have an impact on how easily or quickly a decision is made. There appears to be a degree of shared responsibility in many agencies for decisions about termination of accommodation. In about half the agencies we surveyed, staff made termination decisions at staff meetings, while a quarter made recommendations to the manager who made the decision. However, the staff member on duty had the discretion to terminate accommodation in 12.9% of agencies surveyed.[108]

When a client's accommodation is terminated, they were verbally informed of the reasons for termination in half the agencies surveyed. Written reasons were provided by the other half of the agencies.[109] The majority of agencies who responded to the survey kept the decision and review process around early exiting in-house. There was no review process, either internal or external, in place in 7.4% of agencies.[110]

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108 see AIHW report Tables 66-67.
109 Results derived from survey data, question 40. No cross tabulation was prepared by AIHW, so results do not appear in the AIHW report.
110 See AIHW report, Table 85-86.

2.10.2   Policy review findings

The review of agency policies illustrated a wide variation in unplanned exiting procedures. Most of the 36 agencies that provided an early exit procedure either did not state timeframes around the exit (16 agencies), or stated that the exit would be in 24 hours or less (18 agencies)[111]. Fifteen of those 36 policies gave details of a warnings system. The 18 agencies that specified termination of accommodation within 24 hours usually did this on grounds of:

- unreasonable behaviour;

- violence;

- intoxication;

- causing a threat or danger to self, other residents or staff;

- consumption or possession of drugs or alcohol, drug implements on the premises;

- stealing from the house or other residents; and

- use of illegal drugs inside or outside the refuge

Examples of agency early exit procedures, below, show a wide variation in the policies:

> Any failure to comply with these rules will mean immediate eviction of that resident, no referral will be given. Failure to leave willingly will mean police involvement.
>
> *Target: Families*
> *Model: Crisis/short term*

> The staff reserve the right to evict any young person from their residency at the Youth Refuge for any for any of the following reasons:
>
> - Violence, either verbal or physical towards staff or residents.
>
> - Sexual harassment, either verbal or physical towards staff or residents
>
> - Serious drug or alcohol abuse on the premises or bringing drugs or alcohol on to the property
>
> - Disruptive behaviour which is constant
>
> - Offending or breaking of the law which impacts upon the service or other service users.
>
> The amount of notice given will depend on previous behaviour, threat or danger to other residents or staff.
>
> *Target: Young people*
> *Model: Crisis/short term*

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111 Five of these agencies stated that longer exiting timeframes would be employed in the event of breaching less serious rules.

In the following circumstances residents will be asked to leave the premises:

1. Physical violence towards another resident or staff member

2. Severe verbal violence towards another resident or staff member

3. Drinking alcohol or using illicit drugs on the premises

4. Rent arrears (to be first discussed with the manager)

    - Any other infringement of the rules will result in two warnings for a similar offence the second one will be in writing, if no remedy for the situation occurs and the incident occurs a third time the resident will be asked to leave.

    - In extreme cases the police will be called and charges laid.

    - An incident report is to be filled out and a copy attached to the residents file

Target: Single men
Model: Crisis/short term

Any 'at risk' behaviour to household may result in the resident being asked to leave. Where the worker on duty feels that a resident's behaviour has warranted being asked to leave, it is the worker's responsibility to contact as many staff as possible to assess the situation and then act accordingly ensuring that the resident is assisted in finding alternative accommodation wherever appropriate.

However, where worker feels threatened for self or residents, calling the police may also be an option.

Target: Young people
Model: Medium/long term

A time ban is temporary exiting of a person for a specific period of time, as a penalty for breaking rules or as part of a behaviour modification strategy. Among the agency policies we reviewed, one fifth of agencies had a documented policy or procedure on the use of time bans. Some agencies had developed a form that would be attached to the client's file with information on the number of bans given to the person and the date they would be able to apply to re-enter the service.

The length of time bans may be imposed for individuals appears to vary markedly, both between agencies and within agencies in relation to the type of rule being breached. One detailed example appears below:

Policies on Time Bans

Physical abuse of staff or client:
Intimidation of staff or client:

1 to 5 years depending on the severity of the incident and the circumstances surrounding it.

Verbal abuse (swearing and obscenities):

1 week to 6 months after they had been issued with three written warnings from the manager

Drugs/Drug implements on premises:

1 to 2 years depending upon the incident that has taken place

Drug supplying on premises:

5 years to lifetime

Alcohol on premises:

3 to 6 months depending upon the incident that has taken place.

Damage to property:

6 months to 2 years depending on what they have damaged and the extent of that damage.

Stealing:

3 months to 1 year depending on the incident that has taken place

Pornography:

1 month to 3 months

Target: Single men only
Model: Crisis/short term

It also appears that time bans may be considered as part of a program to modify client behaviour:

Residents of the service are occasionally suspended for periods of up to 2 weeks or evicted from the service for inappropriate behaviour and as part of the service behaviour modification program. Suspended residents are eligible to return on or after the date deemed for their return. Residents are able to appeal their suspension and have it reviewed. The (service) has a duty of care for young people under 16 years old who are suspended from the service. Upon suspension the staff refer the young person to another Youth Service or another alternative care placement eg their family, short term foster care through the Department of Community Services.

Target: Young people
Model: Crisis/short term

2.11 Support and referral

If an agency does not accept a person or terminates the accommodation of a client earlier than planned, the provision of referral to alternative accommodation and/or other support may reasonably be expected. While this appears to occur in most instances, we found that it does not occur in all cases.

According to the agency survey, if a person is denied access, most agencies specified in their policies that assistance in the form of information (77.1%) or referral for accommodation (77.1%) would be provided. However, some 16.9% (40) agencies we surveyed did not specify in their policies what assistance would be provided.[112]

While most agencies kept some records on the numbers and reasons that people are denied access, just over half kept a record of alternative support provided to the person who was turned away. A small percentage of agencies (12.1%) kept no records on clients turned away.[113] Only a quarter of SAAP agencies 'always' or 'often' monitored whether the needs of people turned away are met elsewhere. Monitoring occurred 'sometimes' in 60.0% of agencies and 'never' in 16.1% of agencies.[114]

It is common for SAAP agencies to provide some support or referral to clients whose accommodation is terminated, although 5.2% of agencies said they provided no support. The most common types of support usually provided after termination are referral to alternative forms of support and assistance finding housing/accommodation.[115]

When a client had their accommodation terminated, one third of the agencies 'always' or 'often' followed up to ensure clients needs are met elsewhere. Just over half 'sometimes' followed up. 9.6% of agencies never followed up.[116]

Through the agency policy review, we found less than a third of agencies stated that support would be provided during or after an unplanned exit. Agency policy would generally specify the need to make referrals for the person who is being exited early and provide transport.

However, referral or follow up support was not evident in the experiences of some clients who were consulted in the course of the inquiry.

112 See AIHW report, Tables 15-16.
113 See AIHW report, Tables 29-30.
114 See AIHW report, Tables 46-47.
115 See AIHW report, Tables 70-71.
116 See AIHW report, Tables 72-73.

Appendix 3   Inquiry Reference Panel

A reference panel, consisting of individuals and key stakeholder representatives who had expertise and or interest in SAAP and related issues, was established in early 2002 and met on two occasions to inform and provide feedback to the Inquiry team. A sub committee was also formed to provide feedback in relation to the development of the agency survey.

The Preliminary Report was provided to members of the reference panel in November 2003, with an opportunity to comment by mid-December 2003. Responses from six agencies were taken into account in preparing this final report.

The reference panel did not direct or manage the Inquiry. Members were not asked to endorse the findings or recommendations of the Inquiry, and panel members may hold different views to those expressed in this report.

The Reference Panel comprised:

Mr Adam Farrar, Supported Accommodation Advisory Committee (SAAC)

Ms Danielle Fisher, Centre for Mental Health, NSW Health

Mr Damien Griffis, People with Disabilities NSW

Ms Annette Houston, then Mr Drew Roberts and Mr Alby Dunn, Aboriginal Housing Office

Ms Janice Jones, NSW and ACT Association of Homeless Persons Services

Mr Peter McCarthy, Drug and Alcohol Policy Unit, NSW Health

Ms Catherine Mahony, Council on Social Services NSW (NCOSS)

Ms Cheryl Nelson, then Ms Cara Kirkwood, Women's Refuge Resource Centre

Ms Mary Perkins, NSW Shelter

Mr Adrian Pisarski, then Ms Mel Rosman, Youth Accommodation Association of NSW (YAA)

Mr Allan Raisin, Department of Community Services (DoCS)

Dr Lyndal Trevena, University of Sydney

Ms Alison Wannan, then Ms Lynne Ready, Office of Community Housing (Department of Housing)

Appendix 4   Interagency coordination

This appendix provides a brief summary of a number of NSW initiatives that aim to enhance cooperation and coordination between service systems.

4.1   Joint Guarantee of Service

Originally signed in Sept 1997 by Director Generals of Housing and NSW Health, the Joint Guarantee of Service (JGOS) 'guides coordinated service delivery for people with mental health problems and disorders with ongoing support needs that are living in social housing'.[117]

JGOS contains principles, guidelines and attachments to assist local implementation and action.[118] It defines roles and responsibilities and outlines procedures to enable both Departments to work together. The JGOS is implemented through local committees, however there has been no evaluation of their operation or outcomes, and mixed reports regarding their effectiveness.

The JGOS has been undergoing revision and its scope has been extended to include SAAP. The revised JGOS was published in September 2003. The launch was to be accompanied by regional workshops and a resource kit. The non-government sector was not a party to the revision process, undertaken primarily by government officers.

According to DoCS, the extension of JGOS to SAAP is limited initially to outreach services, and is 'voluntary and staged'.[119] The extent to which SAAP outreach services will participate is not yet evident.

Under the revised JGOS it appears that SAAP outreach services will be involved in providing support to people with mental illness in forms of social housing other than SAAP. The Department of Health's Centre for Mental Health in its response to the Preliminary report also noted that the JGOS requires mental health services to work collaboratively with SAAP services to ensure coordinated service provision and that individuals receive appropriate housing and mental health care. The JGOS may positively benefit SAAP agencies by providing better access to appropriately supported long term housing and/or maintenance of long term housing tenancies for people with mental illness, so that these people do not become homeless and require or return to SAAP accommodation services.

4.2   Links Project[120]

This project, jointly funded by DoCS and NSW Health, is auspiced by Youth Accommodation Association, but covers all SAAP target groups. The project aims to strengthen the linkages between SAAP and mental health services and to improve the continuity of mental health care for residents of SAAP services.

Links has involved consultations with SAAP and mental health providers in three regions – Riverina/ Murray, Hunter/Newcastle and Western Sydney. Consultations generally found poor communication, dissatisfaction with the adequacy of mental health responses to crisis in SAAP services and a lack of understanding of roles and limitations on both mental health services and SAAP. The action phase of development and testing of local protocols in underway and expected to take through to the end of 2003.

Transferability of the work in three regions to the whole state will be a critical issue. The development work in each area has taken a long time, so it would be expected that it would also take time in other areas, even when local protocols are developed in the trial regions that may be useful as models.[121]

117 S Goh, 'Joint Guarantee of Services (JGOS) Fact Sheets & Principles.' *Grapevine: newsletter of the Youth Accommodation Association,* Dec 2002, pp. 18.
118 NSW Department of Housing and NSW Health Department, Joint Guarantee of Services (JGOS) for people with a mental illness, NSW Health Department, Gladesville, 1999.
119 S Goh, op. cit., p. 19.
120 Sources for this section: 'Links' articles in *Grapevine: newsletter of the Youth Accommodation Association*.
121 The project started in late 2001 and is due for completion by the end of 2003.

4.3 Intoxicated Persons Protocol[122]

NSW priorities under SAAP IV, as outlined in the *Bilateral Agreement* between the Commonwealth and NSW, included a plan to integrate proclaimed places into SAAP. It was expected that some generalist SAAP agencies would add a component to their services to enable them to accept drug and alcohol affected clients. Proclaimed places were 'safe' places, established under the *Intoxicated Persons Act 1979*, for alcohol-affected people to eat, sleep and sober up. The conversion of proclaimed places into SAAP services aimed to provide a service that involved the client in addressing issues contributing to homelessness, through a case management approach. The legislation was amended to include drug-affected people.

Government signed off a protocol between NSW Health, the NSW Police Service and DoCS in mid 2000. The same departments are negotiating the protocol at a regional level, but progress is slow with only about half the regions committed by mid 2003. Under the protocol police may take homeless non-violent intoxicated or drug-affected people to either a health service or to a SAAP service, whichever is deemed most appropriate. While proclaimed places have either closed or been converted into 'SAAP services' through a negotiated process, mainstream SAAP agencies appear to have been reluctant to expand their services to accept intoxicated or drug affected people.

Concerns have been raised that not all people with drug or alcohol issues who need accommodation and support services are able to fit into the case management model.

4.4 Partnerships Against Homelessness

The NSW Partnerships Against Homelessness (PAH) comprises representation from NSW government departments including: Community Services; Housing; Health; Ageing, Disability and Home Care; Juvenile Justice; Corrective Services; Women; and Fair Trading, together with the Aboriginal Housing Office and The Cabinet Office. PAH seeks to improve housing and support services for homeless people by ensuring that services respond to needs in a more integrated, timely and flexible manner. PAH does not involve any non-government representation at the broad planning level, although there is consultation in planning local projects.

Key outcomes to date have been the establishment of the Homelessness Action Team (HAT) within the Department of Housing, and the development of the Inner City Strategic Implementation Plan (ICSIP) under the management of the Department of Community Services.[123]

Originally the role of HAT was to work with SAAP/CAP services in the Sydney metropolitan area to improve clients access to long term housing. The HAT is now known as the Homelessness Action Team Support and Outreach Service (HATSOS). The changed role is to engage with rough sleepers and influence them to engage with service providers. HATSOS also seeks to work with service providers to make access easier.[124]

The ICSIP was developed in 2001 by government and non-government stakeholders and provides a strategic integrated response to improve services for homeless people in Sydney inner city. SAAP contribution is funding of a project officer for two years to coordinate implementation of this plan.[125]

PAH was extended from Inner Sydney to Western Sydney and New England in 2001-2002. 'Change agents' have been appointed to develop and implement agreed cross-jurisdictional planning processes.[126]

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122 Sources for this section: Bilateral Agreement, Supported Accommodation Assistance Program National Coordination and Development Committee, *SAAP Annual National Performance Reports 2000-2001* and *2001-2002* and verbal information from Inquiry informants.

123 Supported Accommodation Assistance Program National Coordination and Development Committee, *SAAP Annual National Performance Report 2000-2001*, Commonwealth of Australia, Canberra, 2002, p.45.

124 T Champion, 'Changed role of the Homelessness Action Team (HAT)', *Grapevine*, April 2003, p.14.

125 ibid.

126 Supported Accommodation Assistance Program National Coordination and Development Committee, *SAAP Annual National Performance Report 2001-2002*, Commonwealth of Australia, Canberra, 2003, p.45-46, p.88.

List of Acronyms

ABI	Acquired brain injury
AIHW	Australian Institute of Health and Welfare
ATSI	Aboriginal and Torres Strait Islanders
CAP	Crisis Accommodation Program
CS-CRAMA	Community Services (Complaints, Reviews and Monitoring) Act 1993
DDA	Disability Discrimination Act
DoCS	Department of Community Services
HAT	Homelessness Action Team
HATSOS	Homelessness Action Team Support and Outreach Service
ICSIP	Inner City Strategic Implementation Plan
IRG	Industry Reference Group
JGOS	Joint Guarantee of Service
MOU	Memorandum of Understanding
NCOSS	NSW Council of Social Services
NESB	Non-English speaking background
OCH	Office of Community Housing
OHS	Occupational Health and Safety
PAH	NSW Partnerships Against Homelessness
RTA	NSW Residential Tenancies Act 1987
SAA Act	Supported Accommodation Assistance Act 1994
SAAC	Supported Accommodation Advisory Council
SAAP	Supported Accommodation Assistance Program
YAA	NSW Youth Accommodation Association