



Summary Report:

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

Explanatory Note

The attached document is the executive summary of a special report to Parliament about the Supported Accommodation Assistance Program.

The executive summary conveniently highlights the main points made in the full report.

We have not attached a copy of the full report. However, for your assistance we have included a table of contents. If you wish to access the full report, it is available on our website, www.ombo.nsw.gov.au. If required, a printed copy can be obtained by contacting this office on 9286 1000.

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6 May 2004

The Hon Meredith Burgmann MLC
President
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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

A handwritten signature in black ink, appearing to read "B. Barbour".

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.

A handwritten signature in black ink, appearing to read 'B. A. Barbour', written in a cursive style.

Bruce Barbour
Ombudsman

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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.

