It's safe to say the legal system has a bad reputation in conversations about people, poverty and power.

It is seen as an expensive, inaccessible and often punitive system, which reinforces existing inequalities and imbalances of power. As a specialist legal service for Victorians experiencing or at risk of homelessness, Homeless Law would be the first to admit the legal system impacts harshly and unrelentingly on vulnerable Victorians.1

We also see, however, the role that targeted, holistic, free legal services can play in addressing or preventing a range of social and personal hardships, including homelessness and the social dislocation that accompanies it.

Despite this, the law and the legal system continue to be seen as a largely independent creature, isolated from other social services that are accepted as crucial ingredients for a fairer, more equal Victoria. By way of example, contemplations of effective strategies for addressing homelessness look to social services and housing supply — both essential — but rarely position access to legal representation as an important feature of the homelessness prevention framework.

While legal services alone will never be the magic wand for social inclusion, to omit them from policy and service design aimed at preventing and reducing poverty and inequality leaves a yawning gap in these strategies.

Community legal centres and other legal services run a range of projects across Victoria to improve people’s access to legal services, using the law to assist people facing disadvantage rather than punish them, reduce people’s level of poverty rather than exacerbate it, and empower, rather than disempower people. The following are a few examples out of many such initiatives.

1 See, eg, C Coumarelos and J People, Law and Justice Foundation of NSW, Home is where the heart of legal need is: A working paper on homelessness, disadvantaged housing and the experience of legal problems, April 2013, which showed that legal need amongst homeless people is almost double that of the rest of the population: 85% of homeless people experienced at least one legal problem over a one-year period, compared to 49% of people living in non-disadvantaged housing.
Preventing evictions into homelessness for women and children

The figures regarding homelessness among Victorian women and children are becoming increasingly well-known: almost half of Victorians experiencing homelessness are women, and one-sixth are children under 12. Family violence is the most common cause of homelessness in Victoria. There are more than 35,000 people on the waiting list for public housing in Victoria and less than 0.1 per cent of all private rental properties in and around metropolitan Melbourne are affordable for single parents on low incomes.

It is in this context that the Women's Homelessness Prevention Project (WHPP) aims to prevent the eviction of women and children into homelessness. It is a holistic, integrated model of providing legal services, which focuses on preventing homelessness by addressing both legal and non-legal issues. It keeps women and children in housing through a combination of legal representation and social work support.

In the WHPP's first 12 months, 62 women were provided legal representation (including advice, negotiation with landlords and representation at the Victorian Civil and Administrative Tribunal (VCAT)), and intensive social work support (including links with family violence counselling, financial counselling, employment, housing and mental health services). Along with assisting these 62 women, the 102 children for whom they cared and who were also at risk of homelessness and its long-term effects, were assisted as part of the program.

Ninety-five per cent of the women helped had experienced family violence.

At the 12-month point, through the WHPP's combination of legal representation and intensive social work support, 81 per cent of finalised matters resulted in women maintaining safe and secure housing, or resolving a tenancy legal issue (such as a housing debt) that had been a barrier to them accessing or maintaining housing.

What this figure tells us is that evictions happen too easily in Victoria, and that early access to legal representation and appropriate supports is vital in preventing unnecessary evictions.

In describing the difference that having legal representation made, Kelly* - a victim of family violence who was facing a $6000 compensation claim from a former landlord for damage and arrears caused by her violent ex-partner - said:

"Before that appointment I was struggling, sometimes I couldn't even get out of bed before 1pm. It was a really low point...after that appointment though, I felt like there was a plan in place and that I had people on my side ... It was great to have legal representation at the hearing. When things got complicated and technical, the lawyers would speak for me. I think it would have been difficult without that. And when the judge told the real estate agent that it was unfair to ask me to pay for everything, I think the agent agreed in the end ... Both of us [Kelly and her daughter] are a lot happier. Just spending time with her every day – it's a lot happier now. The first year didn't feel so happy, when it should have been the happiest of my life, but we got through it and my daughter has changed dramatically, in a good way. Now we're both doing really well."

As the results of the WHPP show, when combined with a range of other services and supports, legal services can play an important role in preventing avoidable evictions and homelessness, and reducing barriers to safe housing.

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3 99,892 people sought assistance from specialist homelessness services in Victoria 2013–14. 28% of these people cited domestic or family violence as the main reason they needed assistance: 25,104 people in total; 2,892 male; 22,213 female. See Australian Institute of Health and Welfare, Specialist Homelessness Services: 2013–2014 (AIHW Report), 'Table VIC2.14: Clients, by main reason for seeking assistance, 2013–14, adjusted for non-response'.
4 See Department of Health and Human Services, Public Housing Waiting and Transfer List December 2015; Anglicare Australia, Anglicare Australia Rental Affordability Snapshot, 2015 (Anglicare Snapshot), 88 (using a snapshot taken on 11–12 April 2015).
In 2014, Homeless Law started the Debt and Tenancy Legal Help for Prisoners Project. Over 12 months of providing targeted legal assistance to 96 Victorian prisoners, Homeless Law learned that 60 per cent of our clients were homeless prior to entering prison. This is even higher than prior research on the link between homelessness and imprisonment, which shows that 35 per cent of Australian prisoners are homeless prior to entering prison and 43 per cent exit into homelessness. Unsurprisingly, research regarding Victorian and NSW prisoners also found that former prisoners are more than twice as likely to return to prison within nine months of release if they are homeless.

Through the prisoners project, Homeless Law provides a monthly legal clinic for prisoners at Port Phillip Prison, and delivers legal assistance via phone appointments and appearances via video link for other Victorian prisoners in partnership with pro bono law firms. These services have helped 25 Victorian prisoners to avoid eviction, meaning these 25 people have returned, or will return, to their homes instead of being homeless upon their release from prison. Homeless Law has also assisted eight clients with debts to the Office of Housing, totalling around $58,000. Of the five files that have been resolved, with these debts totalling around $31,000, Homeless Law was successful in clearing about $22,000 of this debt (i.e. 72 per cent), either through negotiation with the Office of Housing, or through representation of clients at VCAT hearings.

Knowing that Victoria’s imprisonment rate has increased by 40.5 per cent in the last five years, that our recidivism rate is at an all-time high, with 45 per cent of released prisoners re-entering prison, and that incarceration costs approximately $98,000 per prisoner, per year, sustaining tenancies and improving people’s chances of successful reintegration into society when released from prison is an important component of tackling Victoria's costly imprisonment rate.

Based on the evidence and insights gained from providing legal representation to almost 100 clients, Homeless Law understands that improving access to justice has an important role to play in preventing homelessness, reducing disadvantage and improving chances of successful reintegration for people being released from Victoria’s prisons.

Since Homeless Law was established in 2001, fines and infringements for public space offences have prevailed as one of the most common legal issues affecting our clients. Homeless Law clients find themselves relentlessly caught up in the legal system for conduct directly related to their homelessness, including not having a ticket on public transport, public drunkenness, begging, feet on seats, littering, using offensive language or overstaying the parking limit while sleeping in their car. In 2013, one of Homeless Law’s clients described what it’s like to be issued with thousands of dollars in fines that you have no prospect of paying:

“I’ve been homeless since my mid-teens, living mainly in the inner city. I’ve been squatting for ages so I kind of don’t feel like part of society anymore.

... Public transport obviously is a big a thing for everyone living in the inner city, especially for poorer and homeless people. Even just to get on the train and sleep for an hour or two, ride out to Hurstbridge and back. For me, through drug use and mental illness I got worse and worse and soon I had a few fines. They were pretty much all public transport fines. It ended up being about $13,000 worth. The stress and anxiety of the debt was something I kind of felt already, the fines just added to that.

... There is no way I could’ve dealt with the fines by myself, the only way I did was with the help of workers and a lawyer. The letters kept coming and to deal with them there was lots of writing, it was all a bit much. On clearing the fines the judge took into account the fact that I haven’t had any fines for almost two years. The way I stopped getting fines is that I stopped catching the tram. I have to ride or walk everywhere. I only buy tickets for appointments.

It is beneficial for the community to change the system because with the fines, it’s like throwing paper at a fire. I don’t know whether it has to do with training but also setting guidelines. If it does become that you can’t get on public transport without a ticket, that’s going to keep people from getting public transport to their doctors and to their appointments. It puts additional strain on the health system, the legal system and the welfare system.

Getting the fines sorted was like a weight lifted, like going to the dentist and having the pressure released. It’s a good feeling. It encourages me to get my stuff a bit more organised and together, start working again.”

The then-Attorney-General, Robert Clark, launched this story and five others as part of the project, *In the Public Eye: Personal Stories of Homelessness and Fines.* The project recognised that, while people in legal and community service organisations had been discussing the ineffectiveness and inefficiency of Victoria’s infringements system for over a decade, it was very rare to hear the perspectives of people directly affected by the system.

These six consumer stories were an empowered, candid commentary on the flaws of the legal system, which effectively punishes people for their homelessness, exacerbates personal and financial hardship, and drains the resources of services and the state, which could be more effectively directed to a service-based response.

To add to these consumer voices, Homeless Law and many other community legal centres collated our data and evidence in detailed submissions to the Sentencing Advisory Council. What followed was significant legislative reform, which aims to address the heavy-handed impact of the fines system on those least equipped to cope with it.

While legislative reform alone is not enough, it has the potential to foster changes in practices, culture and outcomes that will transform the operation of Victoria’s infringements system. In this way, through assisting individual clients to navigate a flawed system and compiling evidence about the nature of these flaws and how to rectify them, the legal system has slowly but surely started to move away from a punitive approach to homelessness and disadvantage.

Many members of the legal assistance sector, including legal aid and community legal centres, continue to work on providing innovative, integrated services that play an effective role in meeting the legal and non-legal needs of our clients. In doing so, we hope to work side-by-side with community and social services on the frontlines of helping to build a fairer, more equal community, where fewer people slip through the cracks.

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