

# Specialist homelessness services: helping people with high or complex needs

A special report under section 31 of the *Ombudsman Act 1974* (NSW)

31 August 2022

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Dear Mr President and Mr Speaker

Pursuant to section 31 of the *Ombudsman Act 1974*, I am providing you with a report titled *Specialist homelessness services: helping people with high or complex needs*.

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 the report public forthwith.

Yours sincerely

A handwritten signature in black ink, appearing to read "Paul Miller". The signature is fluid and cursive.

Paul Miller  
**NSW Ombudsman**

31 August 2022

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# 1. Executive summary

## 1.1 Introduction

The NSW Government's Homelessness Strategy 2018-2023 aims to give people in need more than just a bed in crisis. As the Strategy puts it, homelessness is not just a housing problem.<sup>1</sup> A shortage of affordable and available rental housing, domestic and family violence, poverty, unemployment, mental illness, drug and alcohol abuse, financial crisis, exiting state care and/or prison, and economic exclusion are all factors that contribute to homelessness.<sup>2</sup>

The response in NSW is built around Specialist Homelessness Services (SHS). SHS are community service providers that receive funding from the NSW Government.<sup>3</sup> In 2020/21 there were 335 SHS agencies providing some form of assistance in NSW.<sup>4</sup>

Each SHS specialises in assisting different client groups including young people, single women and single men, families, women and children escaping family and domestic violence, and people sleeping rough.<sup>5</sup> Some of these people may have complex needs and challenging behaviour. Providers may experience difficulties in attempting to provide services to these clients, while meeting their contractual and duty of care obligations to their staff and other clients.

SHS are designed both to assist people to deal with their immediate needs and to address the underlying factors that contribute to their homelessness. SHS operate via a 'No Wrong Door' approach, which means, when a person first presents to an SHS, an initial assessment is required to be conducted by that SHS at that point of first presentation.

That assessment is intended to answer three key questions:

- Is this person eligible for SHS services because, first, they are experiencing homelessness or are at risk of it?
- Second, when they present to a particular SHS, do they fit into the client group that the SHS is funded to support?
- Third, if they do, does the SHS have a vacancy or the necessary skills and resources to meet the person's needs and to address any risks that they may pose to themselves or others?

If these questions are answered affirmatively, then the person should be provided with the service by the SHS to which they have presented. The 'No Wrong Door' approach means, however, that if the answers to the second and/or third question are negative, the provider is required, at a minimum, to provide information, advice and a referral to an appropriate SHS service.

However, separate to that assessment process, some providers also impose other conditions of access for their services, and consider whether the potential client meets those other conditions before providing a service.

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<sup>1</sup> NSW Homelessness Strategy 2018-2023 p4 [NSW Homelessness Strategy 2018-2023](#).

<sup>2</sup> Key issues for the 57<sup>th</sup> Parliament, the NSW Parliamentary Research Services, April 2019 p92, [Key Issues for the 57th Parliament.pdf \(nsw.gov.au\)](#)

<sup>3</sup> The Department of Communities and Justice annual report 2020-21 states that \$291 million was allocated in that period to Specialist Homelessness Services, other homelessness programs and referral services, vol 1 p48. [Annual reports \(nsw.gov.au\)](#)

<sup>4</sup> Australian Institute of Health and Welfare Specialist Homelessness Services 2020-21, infographic [NSW \(aihw.gov.au\)](#). The Department of Communities and Justice told us that as of July 2021, it had issued 195 SHS contracts comprising 326 "agency workgroups".

<sup>5</sup> Specialist Homelessness Services Program Specifications June 2021, 7. Specialisation p28. [Specialist Homelessness Services - Program Specifications | Family & Community Services \(nsw.gov.au\)](#)

These other conditions can act as barriers to access or result in subsequent eviction from services. Some of these conditions are contrary to current departmental policy requirements. Other conditions are not covered by any departmental rules at all, such as the imposition of client behaviour codes or prescriptions about how clients should work with SHS to address their own needs. In this context, factors that contribute to people's homelessness – like addiction or mental illness, or a history of difficult or violent behaviour – may influence decisions about whether eligible people (as referred to above) will actually receive a service.

It is therefore vital that there are clear, robust and comprehensive rules to govern decisions about any conditions of access to SHS for some of the most vulnerable and marginalised people in NSW.

This report examines whether the Specialist Homelessness Services system is as accessible as intended for people who are experiencing homelessness or at risk of it, and particularly for those with complex needs.

## 1.2 What prompted this report

The issues raised in this report are not new. In 2004, we conducted a detailed inquiry into access to supported accommodation (as it was then known) under the joint Commonwealth/State program.<sup>6</sup> We found that the level and nature of what we termed 'exclusionary practices' in supported accommodation were extensive. In some cases, the practices appeared to be unreasonable, and possibly in contravention of relevant legislation, including anti-discrimination legislation, as well as relevant policies and guidelines.

Groups affected by exclusions included:

- people who used, were affected by, or were dependent on drugs and/or alcohol
- people who exhibited, had previously exhibited, or were assumed to be capable of violence or other challenging behaviour
- people with mental illness
- people with disabilities, including people with physical disabilities, intellectual disabilities and acquired brain injury.

Individuals affected by exclusions included:

- people not willing to enter into a case management plan
- people unwilling or unable to pay for their accommodation
- pregnant women
- people who had been 'blacklisted' by agencies and
- people who were unable to meet other eligibility restrictions set by agencies.

We found that a significant proportion of exclusions were based on 'global' policies of turning away all individuals belonging to a particular population group or sharing similar characteristics with a group.

We noted that people with high and complex needs were likely to be highly represented in these groups, but that not all people in those groups necessarily had high and complex needs.

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<sup>6</sup> NSW Ombudsman *Assisting homeless people – the need to improve their access to accommodation and support services 2004*

Our key recommendations included:

- the former Department of Community Services should require that homelessness agencies ensure inclusive access to their services
- exclusions should be based on considered assessment of individuals
- there should be no global or group exclusions
- the agencies should review policies and procedures for eligibility, access, and early exiting.

In the wake of our report, the department implemented initiatives including a sector-wide common risk assessment tool, good practice guidelines, and training on intake and assessment for homelessness agency staff.

Our 2004 report is accessible on our website in two versions – a summary and full report at:

[www.ombo.nsw.gov.au/\\_data/assets/pdf\\_file/0019/125605/Assisting-homeless-people.pdf](http://www.ombo.nsw.gov.au/_data/assets/pdf_file/0019/125605/Assisting-homeless-people.pdf)

### **A recent complaint**

More recently, we dealt with a complaint over several years about the homelessness of a young woman we will call Anna.<sup>7</sup> When Anna first came to us, she was in her teens, with significant disabilities, behavioural problems, and a history of involvement in the child protection system. Anna was repeatedly declined services, evicted by some SHS because of aggression or violence, and then later denied access by other SHS because of her past behaviour and/or their apprehension about her possible future behaviour. In the same period, the Department of Communities and Justice (DCJ) withdrew Anna's entitlement to temporary (motel-style) accommodation that is available to homeless people, because she allegedly breached the access rules.

At times, Anna slept on the streets. Sometimes, the only available bed was in hospital, where discharge was delayed because no other accommodation could be found.

Despite the efforts of some individual homelessness providers, the system that aims to provide person-centred, integrated supports was unable to give Anna the assistance that she needed.

### **The need for a review**

Anna's case raised questions for us as to whether, despite the significant reforms since 2004, the kinds of exclusionary practices we identified back then have persisted, or are emerging again, in the homelessness system.

Rather than repeat the extensive deep-dive inquiry we did in 2004, we decided to undertake a review focused on the SHS that were involved in Anna's case, and on the policies of a select number of other providers to ascertain whether it is likely the problems still exist and, if they do, what else can be done to address them.

## **1.3 What did we consider?**

We reviewed the contemporary policy and service context, as much of this has changed since 2004. There is now a much more explicit commitment in the homelessness support system for both person-centred wrap-around service supports and a 'No Wrong Door' approach. We particularly wanted to know if the current policy framework provided sufficient guidance for SHS on the use of exclusions.

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<sup>7</sup> Not her real name.

We also wanted to test with DCJ and the SHS sector the extent to which non-compliant or unjustified exclusionary practices continue to exist. We issued a discussion paper, and put our questions to DCJ, homelessness peak groups and nine of the SHS that we had already made inquiries of as part of dealing with Anna's complaint. Appendix A sets out the questions we asked of the SHS providers. The feedback we received is reflected in this report.

We sought clarification from DCJ on several issues and requested data about homeless people who are prevented from accessing temporary (motel-style) accommodation for periods of time because they are alleged to have breached DCJ's rules.

Because our focus on Anna's situation meant we were initially dealing primarily with youth homelessness providers, we then asked a broader, more representative group of homelessness services to give us the policies they used to determine client eligibility and access to services. This group of 26 agencies included some that specialise in assisting single adults, Aboriginal clients, women (with or without children) who experience domestic and family violence, and agencies that specialise in supporting homeless people with drug or alcohol dependency.

Finally, we took account of various published information relating to access to services, including the Australian Institute of Health and Welfare (AIHW) Specialist Homelessness Services collection, the Productivity Commission's Reports on Government Services, reports of the NSW Auditor General, NSW Parliament Budget Estimates hearings 2021-22, and peak organisation surveys and reports.

## 1.4 What did we find?

### **Anna was locked out of the SHS system**

Anna's history of homelessness combined with her challenging behaviour illustrates the difficulties that can confront SHS in responding to people's complex needs. She was accommodated and supported by some providers, only to be repeatedly evicted because of behaviour that reportedly included threats, assaults, and property damage. When multiple providers subsequently began pre-emptively declining to assist (or even to assess if they could assist) Anna, because of her past behaviour, this was inconsistent with a fundamental aim of the SHS program – to provide person-centred, integrated supports that address homeless people's complex needs.

### **Rules on exclusions are fragmented and limited**

There is no single policy that provides comprehensive information about when homeless people may – and may not – be excluded or evicted by SHS providers. The providers are required to comply with the Specialist Homelessness Services Program Specifications 2021, but these are silent on allowable exclusions and identify just two that are *prohibited* – refusing service on the grounds of a homeless person's inability to pay for it, or because of a person's citizenship or residency status. As for evictions, there are no rules or requirements to govern how providers make these decisions. The contracts that providers signed previously with DCJ prohibited exclusion of eligible homeless people unless the SHS first assessed the current risk posed by a potential client and could demonstrate that it had tried to address it. New contracts introduced recently do not include this requirement. In this way, protection against unjustified exclusion of eligible homeless people may be even weaker than before.

### **Providers set their own rules on exclusion**

Our review showed that instead of common requirements, there is a patchwork of disparate approaches to provider decision-making about access, exclusion, and eviction. The providers have common obligations in relation to duty of care and to assist eligible homeless people, but each SHS has determined its own threshold for the risk, behaviours and/or characteristics they will accept when making decisions about the clients they will accept. We found some of the access-related rules that individual SHS use contravene existing DCJ requirements and some focus on the characteristics of specific groups of homeless people as grounds for exclusion. Some providers are also imposing conditions of access on potential clients that appear unrelated to risk, such as requiring them to sign a code of conduct or agree to participate in specified activities such as case management.

### **DCJ also excludes homeless people**

DCJ funds another type of crisis accommodation known as temporary accommodation (TA) – such as low-cost motels or caravan parks. However, it too will exclude clients for reasons that may relate to their complex needs. In DCJ’s policy, the grounds for exclusion from TA include anti-social behaviour, damage to property, being under the influence of drugs and/or alcohol, or failing to adhere to specified responsibilities. Eligible homeless people are entitled to 28 days TA annually but, if evicted, DCJ can also withdraw the entitlement for up to a year. Anna lost her access to TA for a period of six months. Nothing in DCJ’s policy explains how it decides on the duration of these lengthy exclusion periods. DCJ is unable to say how many people are affected by such exclusions and for what periods of time. What happens to homeless people who are denied access to TA is also unknown.

### **System limitations also affect access to SHS**

Both the providers and DCJ report that there are many gaps, waiting lists and service shortages in the wider service system. Such obstacles necessarily limit the ability of SHS to facilitate access for their clients to required support. The same gaps and barriers may also influence access to the homelessness services. In fact, many SHS policies expressly provide for exclusions of clients with complex needs who require services that are in short supply. For example, some SHS will not accept clients with unmanaged mental health problems. Effectively, access to at least some homelessness services is contingent on the availability of other mainstream or specialist services. The SHS agencies also point to their own capacity and resource limitations, and to a shortage of refuges that specialise in accepting and assisting clients in particular categories; for example, women who have both mental health issues and children in their care. The Homelessness Strategy contains commitments to address service system gaps and barriers, but DCJ has published no information about progress in this area. We discuss this further in section 3.5.

### **More monitoring and public information are needed**

Currently there is no public information about the nature, number, prevalence or patterns of exclusions and evictions of homeless people. There is also an information gap about where excluded homeless people go. SHS agencies do provide various data for a national annual report, including reasons requests for services are not met and support periods are ended, but this does not include numbers of homeless people excluded and evicted, nor information about the reasons. This is discussed further in section 3.6. Without public information about those who are excluded, it is difficult to know whether the SHS safety net is working as intended, and the No Wrong Door approach of minimum service is being upheld, particularly for people whose complex needs may make it harder for them to satisfy conditions for entry to homelessness services.

## COVID-19 has suggested opportunities for systemic improvements

DCJ has identified some service system improvements arising from its COVID-19 experience but has yet to indicate how it would deal with another pandemic or other crisis affecting highly vulnerable homeless people. DCJ told us that its approach during the pandemic – involving significantly expanded access to temporary accommodation, and increased supports for rough sleepers – is not economically or socially sustainable in the long run. DCJ said its COVID response identified a need to improve systems to support homeless people in temporary accommodation and to capture information about them. DCJ also said the COVID response reinforced the need to address service gaps in the homelessness and mainstream service sectors. However, if the temporary accommodation approach to COVID-19 is not an option for the future, there is a need for public information about alternative strategies.

## 1.5 Our recommendations

1. DCJ should:
  - a. within three months of the tabling of this report in Parliament, publish a plan that outlines what DCJ will do, and by when, to implement each of our recommendations below; the plan should extend no further than December 2023, and
  - b. provide the NSW Ombudsman with a final outcomes report on its implementation of the recommendations by no later than two years after the tabling of this report.
2. DCJ should:
  - a. map the SHS sector to determine the supply of services by specialisation that are physically accessible to people with disabilities, and
  - b. assist relevant SHS to undertake necessary modifications to provide physically accessible facilities for people with disabilities.
3. DCJ should:
  - a. In consultation with the SHS sector, develop comprehensive and consolidated policy and contractual requirements on access, exclusion, eviction, and withdrawal of services for eligible homeless people. The policy and contractual arrangements should clarify the scope and process for allowable conditions of access, exclusion, and eviction, including in relation to:
    - client risk, characteristics, and circumstances
    - client codes of conduct
    - participation in case management
    - commitments to address specified behaviours
  - b. Undertake regular auditing of SHS policies and practices in relation to access, exclusion, eviction, and withdrawal of service to ensure they do not allow for exclusions, evictions or withdrawal of services that are not supported by Specialist Homelessness Services Program requirements.
4. DCJ should:
  - a. Introduce in the Rentstart Assistance Policy:
    - criteria for decisions about the duration of exclusions from Temporary Accommodation
    - a requirement that access to Temporary Accommodation is not contingent on a client's ability to contribute to accommodation costs or their citizenship or residency status

- a requirement that people excluded from Temporary Accommodation are not exited into homelessness.
  - b.** Publish information annually about exclusions from Temporary Accommodation, including:
    - the number of people excluded against each of the Rentstart Assistance Policy criteria,
    - the number of people subject to more than one exclusion, and
    - duration of exclusion per person.
- 5.** DCJ should:
- a.** As part of the SHS Outcomes Framework, collect and report publicly on the number of homeless people subject to exclusion, eviction and withdrawal of services, reasons for these, and the outcomes for those people.
  - b.** Set a timeframe for public reporting on outcomes data for homeless people.

## 2. Key background

### 2.1 Provision of homelessness services

#### 2.1.1 A safety net for those with complex needs

For some people, homelessness can be an isolated event that happens for a short time; for others it can be recurrent or chronic. But anybody who lacks safe and secure housing is vulnerable. The nature of individual vulnerability – and the marginalisation that goes with it – can be inferred from the homelessness risk factors listed in the NSW Homelessness Strategy<sup>8</sup> – unemployment, financial stress, family breakdown, domestic and family violence, trauma, mental health issues, drug or alcohol dependence, and a history of contact with state institutions.

The Strategy notes the prevalence of these factors, in different combinations, among different groups of people who experience homelessness. For example, most young homeless people have witnessed violence at home, many have been in out-of-home care and half have a reported mental health issue. People who sleep rough exhibit high rates of health problems, mental disorders, trauma, cognitive impairment, and suicide and other premature deaths. Aboriginal people experience homelessness at a disproportionate rate.<sup>9</sup>

The primary purpose of the SHS program is to ensure people who are experiencing homelessness, or who are at risk of homelessness, are supported to achieve safe and stable housing in the community. Some of these people will at times present services with complex and challenging issues. Given the nature of the program as a last-resort safety net, SHS have a responsibility to do all they can to mitigate any potential risk posed by the behaviours of an individual who needs assistance, and if a person cannot be assisted, find appropriate alternative services.

#### 2.1.2 Demand for services

The Australian Institute of Health and Welfare (AIHW) annual Specialist Homelessness Services collection shows that SHS assisted 70,600 people in NSW in 2020-21. Of these people, 59% were female, 31% were Aboriginal or Torres Strait Islander, and 56% were returning clients.<sup>10</sup>

The top 3 reasons for clients seeking assistance were:

- housing crisis (37%, compared with 34% nationally)
- financial difficulties (37%, compared with 39% nationally)
- family and domestic violence (36%, compared with 39% nationally).

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<sup>8</sup> NSW Homelessness Strategy 2018-2023 p6 [NSW Homelessness Strategy 2018-2023 | Family & Community Services](#)

<sup>9</sup> Ibid pp9-10

<sup>10</sup> Australian Institute of Health and Welfare Specialist Homelessness Services collection annual report 2020-21 Fact sheet Specialist homelessness services 2020-21 NSW [Specialist homelessness services 2020-21: New South Wales Fact sheet\(Full publication;29Nov2019Edition\)\(AIHW\)](#)

**Table 1** provides a snapshot of AIHW SHS collection data for any given day in NSW for 2021.

On any given day across NSW – 2021
<p>335 SHS assisted 19,300 clients. Of these:</p> <ul style="list-style-type: none"> <li>• around 4,100 were young people<sup>a</sup> presenting alone</li> <li>• almost 5,500 were children in families that were supported<sup>11</sup></li> <li>• 83<sup>b</sup> clients received support for the first time ever from an SHS agency</li> <li>• over 1,400<sup>c</sup> clients spent the night sleeping in crisis accommodation</li> <li>• around 3,300<sup>d</sup> clients reported having slept rough in the last month</li> <li>• 31 requests for assistance were unable to be met</li> <li>• agencies closed 125<sup>e</sup> cases with 69% having stable housing outcomes<sup>f</sup></li> </ul>
<p>Source: NSW (aihw.gov.au)</p> <p>(a) Young people presenting alone are aged 15–24. Children are aged 0–17. In this dataset, these groups are mutually exclusive.</p> <p>(b) Clients who had not previously received SHS support since the collection began in 2011–12.</p> <p>(c) Crisis accommodation refers to short-term or emergency accommodation, and may include hotels, motels and caravan parks.</p> <p>(d) Clients who said they were ‘Sleeping rough or in non-conventional accommodation’ in the last month (previously homeless).</p> <p>(e) Clients who had a valid ‘homelessness last reported’ status.</p> <p>(f) Only includes cases where housing status at the end of support was known.</p>

### 2.1.3 A ‘No Wrong Door’ approach

All SHS are required to operate using what the SHS Specifications call a ‘No Wrong Door’ approach. This refers to the principle that an eligible person will receive some support, or will be assisted to find support, whenever they seek to access any homelessness service. In practice, No Wrong Door is intended to ensure that people’s risks and safety issues receive assessment and response with appropriate urgency, and supports provided are appropriate, timely, and properly prioritised.<sup>12</sup>

While all SHS are required to use the No Wrong Door approach, the Specifications state that they have to operate in the reality of high demand and sometimes limited resources. SHS providers are not required to assist more clients than they can safely accommodate or are resourced to support. Indeed, despite the principle of No Wrong Door, the Specifications also explicitly acknowledge that some eligible homeless people may receive no assistance, services are currently unavailable due to high demand, or a homeless person does not meet service criteria.<sup>13</sup>

### 2.1.4 Wrap-around services

In providing crisis accommodation, providers deal with what is immediate and urgent. Their role, however, extends beyond this point because they are also supposed to work with clients to devise and implement plans to address their needs. Support planning or case management can include what the SHS provides directly, and services from other mainstream or specialist agencies. The aim is to provide so-called wrap-around services that fit – or suit – the homeless person, and not the other way around. In this way, wrap-around is a synonym for integrated and tailored provision of services. The goal is to

<sup>11</sup> Our October 2020 report – ‘More than shelter – addressing legal and policy gaps in supporting homeless children’ A progress report – examined problems affecting children aged 12-15 who present alone to SHS in NSW. [More than shelter – addressing legal and policy gaps in supporting homeless children: A progress report. \(nsw.gov.au\)](https://www.nsw.gov.au/more-than-shelter)

<sup>12</sup> Specialist Homelessness Services Program Specifications June 2021, 6.1 No Wrong Door approach p21.

<sup>13</sup> Specialist Homelessness Services Program Specifications June 2021, 6.3 How a person may be categorised in the data collection system p24.

address the various factors, like mental health, or unemployment or addiction, that may contribute to homelessness and in turn be exacerbated by it.

## 2.2 SHS specialisation

Each SHS provider is contracted to assist one or more specified target client groups. For example, a provider might be funded to assist women and children escaping domestic violence, or single homeless men, or young people aged 16-24. The SHS Specifications define people as 'eligible' for a SHS if they are homeless or at risk of homelessness, and within the provider's target client group. The providers are not required to deliver services to homeless people outside their target group. This will mean – in line with the No Wrong Door approach – that providers will sometimes need to refer people to other services.

## 2.3 What is unjustified/unreasonable exclusion?

Each SHS is required to give reasonable, non-discriminatory access to those homeless people who are eligible for its services – that is, those that fall within their target client group.

An individual SHS is, however, not required to accommodate more people in its service than it is resourced to assist or safely manage.

Although DCJ's current policy and contractual requirements on access to SHS do not expressly provide for exclusion and eviction of homeless people, a set of principles that the NSW Government published in 2012<sup>14</sup> remains in use. Although not expressed as mandatory requirements, these principles state that, if a vacancy exists, an eligible person should only be excluded because of risk if:

- the area of identified risk has been thoroughly assessed
- there are no realistic options for risk management within the resources available to the client, the SHS service and other support providers
- the SHS agency has carefully and consciously decided that it cannot accept the client without unduly risking the wellbeing of the client, other clients and/or staff
- the SHS agency is satisfied that it is not discriminating against the person by not accepting them as a client.

These principles remain relevant. If a homeless person is eligible for a particular SHS, it is not reasonable or justifiable to exclude them – whether at intake or through eviction or withdrawal of services – on grounds that have no demonstrable connection with a properly assessed but unmanageable risk and an agency's duty of care, or solely because of the person's characteristics, circumstances, or past behaviour.

## 2.4 Policy changes since our 2004 report

Reforms arising from our 2004 report included adjustments to policies and procedures, and the introduction of a common client risk assessment tool for SHS. This tool was intended to give the providers a way to make informed decisions.

In 2012, the NSW Government introduced a new resource kit (noted in 2.3 above) intended to guide SHS in their work with homeless people. The kit provided detailed advice on identifying the needs and risks of individual people and determining criteria for decisions about access to specific services. The kit discouraged providers from using rigid criteria that all prospective clients had to meet to be accepted and which might exclude subgroups of homeless clients.<sup>15</sup> This resource remains available to SHS on DCJ's website.

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<sup>14</sup> Specialist Homelessness Services Case Management Resource Kit February 2012 Version 1 p130

<sup>15</sup> Specialist Homelessness Services Case Management Resource Kit February 2012 Version 1 pp 52-3, [www.facs.nsw.gov.au/download?file=325226](http://www.facs.nsw.gov.au/download?file=325226)

In 2014, the Government implemented a reform program known as *Going Home Staying Home*.<sup>16</sup> The goals of the program included strengthening the focus on prevention and early intervention, streamlining access to services, and introducing new contracts for SHS providers based on redesigned services and redistributed resources.<sup>17</sup> In the same year, the Government published the SHS Program Guidelines and Practice Guidelines, outlining requirements for SHS to deliver services to homeless people.

From 2017, DCJ began progressively introducing a new standard contract – the Human Services Agreement (HSA) to replace the previous standard funding deed. By mid-2021, all SHS providers had signed the HSA. The funding deed stipulated that SHS could not exclude eligible people without first making a reasonable attempt to manage any current risk posed by a potential client. The new HSA contract does not include this requirement.

In 2021, DCJ also replaced the SHS Program Guidelines and Practice Guidelines with the SHS Program Specifications; these form part of current contract requirements.

## 2.5 Current policy requirements

According to the SHS Specifications, any person who is homeless or at risk of homelessness is eligible for SHS support, although, as we have noted, their access to specific services will also depend on whether they belong to the particular target client group that the SHS is funded to assist. As the Specifications note, for example, a father and son would not fit the eligibility criteria for assistance at a women’s refuge.<sup>18</sup>

In line with the No Wrong Door approach, the Specifications require all providers to undertake a common assessment (including a risk assessment) to identify an eligible prospective client’s needs and to exercise the agency’s duty of care. The aim is to ensure that a person’s risks and safety issues are assessed and responded to with what the Specifications call the appropriate level of urgency.

Apart from the general requirements in relation to risk assessment, the Specifications only explicitly require that a specific risk assessment is done in two circumstances – when a service is providing accommodation to men and women in the same property, and when domestic violence services are provided after hours.<sup>19</sup> The Specifications do not explain whether these risk assessments differ from the common assessment approach.

As to exclusion, there are two prohibitions in the Specifications – providers must not exclude any eligible person because of an inability to pay for services or their citizenship/residency status.

More generally, the Specifications require providers to deliver services in a person-centred, collaborative and connected way and to follow 16 principles of service delivery (where appropriate to their service model). These include providing clients with informed choice, prioritising accommodation stability for people with complex needs, and providing continuity of care.<sup>20</sup>

The Specifications also stipulate that providers should have a capacity to work with clients with complex needs, and to coordinate supports for them.<sup>21</sup>

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<sup>16</sup> [https://www.housing.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0008/325196/SHS\\_Program\\_Guidelines.pdf](https://www.housing.nsw.gov.au/__data/assets/pdf_file/0008/325196/SHS_Program_Guidelines.pdf)

<sup>17</sup> SHS Monitoring and Evaluation Strategy (August 2015) [www.facs.nsw.gov.au/download?file=340558](http://www.facs.nsw.gov.au/download?file=340558)

<sup>18</sup> Specialist Homelessness Services Specifications 2021 p24

<sup>19</sup> Specialist Homelessness Services Program Specifications 2021 pp 26-30

<sup>20</sup> Specialist Homelessness Service Program Specifications June 2021, Program Practice Principles p12

<sup>21</sup> Specialist Homelessness Service Program Specifications June 2021, 6.6.3 People with complex support needs, pp26-27

### 3. Issues and conclusions

#### 3.1 Anna was locked out of the SHS system

Anna’s history of homelessness combined with her challenging behaviour illustrates the difficulties that can confront SHS in responding to people’s complex needs. She was accommodated and supported by some providers, only to be repeatedly evicted because of behaviour that reportedly included threats, assaults, and property damage. When multiple providers subsequently began pre-emptively declining to assist (or even to assess if they could assist) Anna, because of her past behaviour, this was inconsistent with a fundamental aim of the SHS program – to provide person-centred, integrated supports that address homeless people’s complex needs.

During a period of less than five months, one SHS provider contacted 28 other agencies to secure accommodation for Anna, who was 17 at the time. Anna fell within the target client group for that SHS provider, but it was unable to accommodate her because it lacked capacity.

According to the provider, of the 28 other agencies it contacted, one offered to provide accommodation and support, but Anna did not attend the service to accept the offer. The other providers turned Anna away because of their previous experience with her, or her history with other refuges, or because they had no vacancies.

**Table 2** outlines the reasons 27 agencies reportedly used to decline services to Anna.

Reasons agencies used to decline services to Anna	Number of agencies
Not accepted due to past behaviours	7
Banned due to past behaviours	1
Banned as [Anna] previously planned an assault of another young person there	1
Not accepted due to past aggression and an AVO in place in relation to Anna	1
Due to behaviour in her previous stay advised unable to accommodate her	2
Anna didn’t pass the risk assessment due to previous behaviours in other refuges	2
Declined due to previous behaviours in other refuges	2
Not suitable – deemed too high risk for behaviours	1
Declined	1
No vacancies	6
No crisis accommodation	3
<b>TOTAL</b>	<b>27</b>

Table 2 shows that nine SHS said they would not accept Anna because they did not have a bed available. Nearly twice that number (16) declined services because of her history [see shaded reasons in Table 2].

Clearly, Anna's past behaviour was a key consideration in decisions about her access to services. Significantly, some providers appeared to have decided that they would never support Anna in the future. In effect, Anna was locked out of the homelessness service system.

In the context of Anna's situation, DCJ told us it was not accepted practice to exclude people seeking assistance because they may pose a risk to themselves or others. As DCJ put it:

The risk assessment is not intended to create reasons to exclude but rather its focus is on identifying risk management strategies that can be used to minimise or eliminate risk. Where an individual is assessed as not being suitable for a service, it is anticipated that the SHS provider assist the client to access an appropriate support service.<sup>22</sup>

This advice from DCJ about the purpose of risk assessment reflects the principles in the SHS case management guidance published in 2012, noted above. However, the reasons that providers used to decline Anna based on her history suggest to us that they did not all apply those principles.

### **3.1.1 Providers' feedback suggests Anna's experience is not unique**

We consulted nine of the youth sector SHS that were directly involved with Anna. Their feedback indicated that Anna's case was not unique. Four of the agencies said they were aware that other agencies excluded homeless young people because of past behaviour and not an assessment of current risk. They said that such exclusions could last for weeks, or months and that providers exchanged information about them.

DCJ told us that exclusions of this sort are not supported by SHS practice guidance. However, correspondence from DCJ's Housing Services to Anna shows that DCJ was aware that she had been subject to repeated exclusions:

[DCJ] have been advised that you have been banned from the following [five named SHS] supported accommodation placements...As a result this has vastly limited services available to assist you addressing your housing needs.<sup>23</sup>

DCJ also told us that the refuges involved in Anna's case were not equipped to provide a safe environment for her and other clients because of her complex issues, previous incidents and need for a higher level of specialised support. DCJ acknowledged that the case indicated a gap in the service system and the lack of integration of mental health supports and SHS.<sup>24</sup>

Our office liaised for more than 12 months with DCJ, NSW Health, the National Disability Insurance Agency (NDIA) and other parties in relation to Anna's need for secure accommodation and support services. We closed the complaint in early 2021, after DCJ provided her with support for accommodation in the private rental market and NDIA provided a package of supports. By then, Anna had turned 19.

This report attempts to address questions raised by the SHS system's response to Anna, including whether it was an isolated instance, or illustrative of the experiences of a broader group of homeless people with complex needs in accessing crisis accommodation and support.

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<sup>22</sup> DCJ's response to our August 2020 discussion paper

<sup>23</sup> Correspondence from the former FACS Housing Services to homeless young person, 8 July 2019

<sup>24</sup> Correspondence from DCJ, 5 August 2019

## 3.2 Rules on exclusion are fragmented and limited

There is no single policy that provides comprehensive information about when homeless people may – and may not – be excluded or evicted by SHS providers. The providers are required to comply with the Specialist Homelessness Services Program Specifications 2021, but these are silent on allowable exclusions and identify just two that are *prohibited* – refusing service on the grounds of a homeless person’s inability to pay for it, or because of a person’s citizenship or residency status. As for evictions, there are no rules or requirements to govern how providers make these decisions. The contracts that providers signed previously with DCJ prohibited exclusion of eligible homeless people unless the SHS first assessed the current risk posed by a potential client and could demonstrate that it had tried to address it. New contracts introduced recently do not include this requirement. In this way, protection against unjustified exclusion of eligible homeless people may be even weaker than before.

DCJ used a standard funding deed for SHS but began phasing it out from 2017. The deed allowed the agencies to exclude eligible clients – that is, those from their contracted client target groups – but only if they had already taken specified actions:

The Service Provider may only exclude people in the identified client group (set out in the Program Level Agreement) where the Service Provider can demonstrate to the reasonable satisfaction of Family and Community Services that the exclusion is supported by a client assessment of current risk and that it has made reasonable attempts to manage that identified risk.<sup>25</sup>

This requirement is no longer in force. From 2017, DCJ progressively introduced another standard contract, the Human Services Agreement (HSA) which does not include the risk-related requirements for exclusion in its predecessor. However, a standard schedule to the HSA has retained two other key requirements of the previous contract, that SHS ensure non-discriminatory access to services and take reasonable action to ensure their premises are physically accessible to clients with disabilities.<sup>26</sup>

The Specifications do list two prohibitions on exclusion – people can’t be turned away because of their visa or residency status, or because of “inability to pay” a contribution to SHS costs, although providers are entitled under the policy to request such payments.<sup>27</sup>

The Specifications also acknowledge that SHS clients may disengage or pose a risk and be “required to exit a program”. In these circumstances, according to the Specifications, providers are expected to source alternate accommodation “where possible and safe to do so”.<sup>28</sup> However, the Specifications set no rules or requirements on the circumstances in which clients can be justifiably exited from service.

In summary, there are only limited requirements and guidance to govern the way SHS providers make decisions about whether and in what circumstances they may exclude or evict homeless people from services. For these reasons, we have recommended that DCJ should strengthen and consolidate policy and contractual requirements to ensure consistency in sector decision-making on exclusions and evictions. This would enable DCJ to set benchmarks for compliance monitoring and public reporting.

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<sup>25</sup> Family and Community Services funding deed Obligations of Service Providers 3.1 d. [Funding Deed | Family & Community Services \(nsw.gov.au\)](#)

<sup>26</sup> Agreement for Funding of Services schedule Section 15 Reasonable access pp15-16 [Human-Services-Agreement-for-Funding-of-Services-Schedule \(3\).PDF](#)

<sup>27</sup> Specialist Homelessness Service Program Specifications June 2021, 12.5.4 Crisis Accommodation p46

<sup>28</sup> Specialist Homelessness Service Program Specifications June 2021, 12.5.4 Crisis Accommodation p45

### 3.3 Providers set their own rules on exclusion

Our review showed that instead of common requirements, there is a patchwork of disparate approaches to provider decision-making about access, exclusion, and eviction. The providers have common obligations in relation to duty of care and to assist eligible homeless people, but each SHS has determined its own threshold for the risk, behaviours and/or characteristics they will accept when making decisions about the clients they will accept. We found some of the access-related rules that individual SHS use contravene existing DCJ requirements and some focus on the characteristics of specific groups of homeless people as grounds for exclusion. Some providers are also imposing conditions of access on potential clients that appear unrelated to risk, such as requiring them to sign a code of conduct or agree to participate in specified activities such as case management.

Because we did not find comprehensive rules and requirements on exclusions in DCJ policy, we examined the policies of selected providers to see how they dealt with these issues. This was particularly important because in Anna's case, DCJ told us decisions by providers to decline accommodation to Anna were based on the providers' internal policies.

We reviewed information that 35 SHS providers gave us about how they deal with access and exclusion. We found that the majority (30) of providers used diverse approaches to deciding which people received services. This diversity was reflected in the range of documents the services gave us (see appendix B).

In summary, we found that some SHS were using access and exclusion criteria that appeared reasonably linked to the provider service models and client groups. However, we identified other criteria in provider policies that either:

- contravened DCJ requirements
- focused on groups of homeless people with certain characteristics
- lacked any apparent link to risk, or
- imposed access-related obligations on clients.

Five of the 35 providers told us they did not have policies on access and exclusion, so they used the SHS Specifications and their contractual agreement with DCJ to guide decisions in this area. A sixth agency said it was using the same DCJ guidance while it drafted new policies and procedures to align with the 2021 Program Specifications and new accreditation standards.

The fact that some SHS are using only DCJ's policy and contractual requirements to guide decisions on exclusion is, in our view, problematic because as we have noted, DCJ's policy provides very limited information about this issue to guide staff on a day-to-day basis.

#### 3.3.1 Some exclusion criteria contravene DCJ requirements

A small number of SHS policies contravened DCJ requirements for inclusive and non-discriminatory access to services because they allowed for exclusions based on an otherwise eligible homeless person's:

- age and gender (1 agency)
- ability to pay (11 agencies)
- residency status (2) and geography (5 agencies)
- pregnancy (2 agencies)
- cognitive capacity (1 agency)

## Exclusion based on age and gender

One service for women and their children escaping domestic violence accepted all accompanying female children (under 16) but restricted access to male children to those under 13. We did not see such a condition in any other policies, but two other services told us that women were commonly turned away from family refuge accommodation if they had sons older than 12.

This approach appears at odds with DCJ requirements on two grounds. First, providers should not discriminate based on an eligible client's age or gender. Second, the SHS Program specifications require that "...where it is safe to do so, service providers should make every effort to keep a mother and her male children 16 years or over together to support the family in a trauma informed way."<sup>29</sup>

## Ability to pay

Although the SHS Program Specifications allow providers to ask clients to contribute to the cost of their crisis accommodation, the Specifications clearly state that homelessness support is available to any person regardless of their financial capacity and that no eligible homeless person can be excluded from services due to a requirement or expectation of financial contribution.<sup>30</sup>

About a third (11) of the policies we reviewed contravened this requirement by allowing for exclusion based on a client's inability or unwillingness to pay service fees. For example:

We require you to pay a contribution towards the costs of your utilities, amenities, and meals during your stay at the [service name]. These contributions will be deducted on a fortnightly basis via Centrepay, and a Centrepay deduction form will be completed and signed by you on the day of admission. If you stop payments of this contribution during your stay, you may be discharged from our program.

Client must have 2 weeks rent and a security deposit of upon admission (sic)

Participants in the program who have nil income are given two days of TA [temporary accommodation] only as they are not eligible for support in this program longer than that.

You keep what you earn, earn what you keep (though in order to stay in accommodation, board and lodgings must be paid)

[...] it is an expectation that when you are in a position financially that you will pay 25% of your income per week. As part of your plan you may be eligible to apply for Income Support from Centrelink and will be required to attend appointments and report any income and complete a Centrepay application. You understand and agree that refusal to pay for your accommodation at the service may result in a termination of accommodation.

Whether and to what extent eligible homeless people are being excluded from services because of inability to pay is unknown. However, the annual AIHW SHS report shows that a small number of requests for service in NSW are not met because "[N]o fee-free services, available at the time of request."<sup>31</sup> The existence of this data suggested to us that some SHS providers might be enforcing requirements that contravene DCJ policy.

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<sup>29</sup> SHS Program specifications 2021 6.6.1 Males 16 years or over accommodated in Women's services p26

<sup>30</sup> *ibid* p47

<sup>31</sup> Australian Institute of Health and Welfare Specialist Homelessness Services 2020-21 Unassisted clients table 6

## Residency and geography

One provider gave us a set of criteria to access its service that included a requirement that clients be Australian residents. This requirement contravenes the SHS Specifications, which prohibits restrictions linked to citizenship or residency.<sup>32</sup>

Another provider required eligible homeless people to be residents of NSW to receive services. The Specifications provide no guidance on whether services can or cannot be provided based on residency in any state or territory.

The location of services is addressed in the schedule to the Human Services Agreement standard contract for SHS providers. The schedule identifies the local government area or areas in which a provider is funded to operate. However, neither the schedule nor the Program Specifications set any requirements that link service provision to a client's location, or the area they are living in. In the absence of such requirement, we found that providers use different approaches to the question of homelessness and geography.

We identified 5 providers that explicitly referred to a client's location in their access and eligibility criteria. Of these, 3 stated that they accept clients from outside their area of operation and 2 said they did not.

One of the five services excluded homeless people if they were travelling and/or not permanently living within the service area, and another simply stated that it would not accept people who were out of area. In contrast, one agency stated that it would accept a person from outside the area if there was a vacancy and another stated that it would consider individuals from outside the area.

The reason for this inconsistent practice is not clear. Also unknown are the practical effects of exclusions based on geography when applied to people who may be homeless and transient, homeless within a specified local area, or at risk of homelessness.

## Pregnancy

Just two of the provider access policies we reviewed contained access conditions relating to pregnancy. One service policy stated that it would accept pregnant women only if their current medical condition was stable. Another service accepted pregnant clients, but only until the 26<sup>th</sup> week of pregnancy. After that, the policy provided for referral to what it described as a service that could support the client.

In the absence of more information on the service context in the case of these two providers, it is difficult to judge whether such conditions are reasonable and consistent with DCJ requirements that SHS provide services regardless of a client's pregnancy status. However, the policy positions of the providers do not seem consistent with SHS guidelines from 2012, which say that:

As most pregnant women either do not have significant health problems or can still be accommodated with support from a specialist health service, it should pose a negligible risk to the client. The issue is not included as a risk assessment trigger for this reason.

If your service asks the question 'are you or could you be pregnant?' with the intention of excluding the woman if she is, seriously consider if you are being discriminatory and breaching the Anti-Discrimination Act. It would be okay, however, to ask the question as part of the assessment process if you are simply finding out their health status.<sup>33</sup>

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<sup>32</sup> Specialist Homelessness Services Program Specifications 5.1 Eligibility p15

<sup>33</sup> Specialist Homelessness Services Case Management Resource Kit, February 2012 Version 1 p 43

## Cognitive capacity

None of the policies we reviewed referred explicitly to cognitive disability. However, one service policy did specify that an eligible homeless person would be excluded if they were unable to provide informed consent to service provision due to diminished capacity. In these circumstances, the policy indicated that the excluded person would be given contact details of emergency services and other support advice.

### 3.3.2 Exclusion policies feature certain groups of people

In common with our 2004 inquiry, our recent review showed that provider policy criteria for exclusion emphasised certain groups of homeless people, categorised by behaviour, substance use and abuse, health conditions, disability, and pregnancy.

Table 3 illustrates the groups that feature in provider policies.

Groups of homeless people in provider policies		
Criteria for access and exclusion	Number of SHS	% of providers
Violence & challenging behaviour	17	49%
Drugs & alcohol dependency	13	37%
Mental illness	7	20%
Disability	6	17%

#### People with violent or challenging behaviour

It is reasonable and consistent with SHS obligations on duty of care and occupational work, health and safety laws for providers to take protective action where a client or potential client is violent.

Almost half of provider policies contained a focus on risk of harm associated with potential or actual violent or challenging behaviour of homeless people, although the policies employed numerous different descriptions of these behaviours, and the prescribed agency responses.

In summary, the policies specified that eligible homeless people could be excluded if they posed a risk of violence, abuse, or aggression, if they had a history of such behaviour, or in some cases, if they were subject to legal orders or had specific criminal records.

Generally, policies featured the terms 'violence' or 'challenging behaviour' to describe criteria for possible exclusion. Less commonly, some policies included descriptors for different categories of behaviour and criminal histories, including:

- threats or threatening behaviour
- behaviour considered a high/significant risk to safety of staff or others
- a history of violence
- violence, abusive or aggressive behaviour toward staff or others
- violent or challenging behaviour which could not be managed by the service
- harassment, intimidating behaviour, menacing behaviour
- vilification on the basis of race, sexuality, or gender identity
- sexually disinhibited behaviour
- antagonistic, emotionally charged, angry or demanding behaviour

- verbal abuse/hostility
- prior serious sexual offences
- offences/convictions against children
- arson offences.

In one policy, a pre-existing conflict between an applicant and a current client could be grounds for exclusion of the applicant.

There was also considerable variation in descriptions of degrees of risk that policies stated could – or in some cases, would – result in exclusion. Different policies referred to imminent risk, significant risk, high risk, and too great a risk. Some exclusion criteria linked the degree and nature of risk with levels of probability, as in the following examples:

Unmanageable violent behaviour that is likely to pose significant risk of harm to other residents or staff.

Behavioural concerns that are unlikely to be effectively supported and managed in the context of current household needs and / or dynamics.

There is reasonable threat of violence towards staff or other people who use the service, and this is likely to occur again.

The policies of five SHS took explicit account of a homeless person’s behavioural history. One service policy stated that it could not accommodate any person with a “known history of physical violence in the last six months” or anyone convicted of sexual offences. It was unclear to us how staff would apply these criteria because the policy qualified its categorical statements by indicating that potential clients in such circumstances would still receive an individual assessment.

Other policies stated that service could be denied where:

Knowledge of the person suggests she/he may present a high risk to the safety of other service users and workers. This would be based on documented history of the person’s behaviour.

There is a history of violence towards workers or clients of the service, and this is likely to occur again or create undue stress and risk of harm.

The diversity of policy responses to violent and challenging behaviour also extended to the level of guidance provided to staff to deal with risk once they identified it. Two agencies gave staff comprehensive information about dealing with risk posed by an eligible person or an existing client. For example, one of these agencies described methods intended to maintain access to services, such as:

If a client is identified as having a history of aggressive behaviour, or is observed to relate in such a manner, staff will employ strategies to manage this. For example, a contract may be entered into, between the client and [service] for control of anger to ensure safety to all clients and staff. A breach of this contract may result in immediate discharge for the client. When possible, [the service] will try to work with the client around their aggressive relating style and may employ strategies such as contracts, treatment management plans, discussion within counselling and / or referral to anger management groups.

By way of contrast, other policies contained statements that reflected a zero-tolerance approach, with references by one agency to a “strict no violence policy” and, in another agency, a requirement that staff “disengage or decline access to service immediately (or as soon as it is safe to do so) when there is a threat to safety.”

## People with drug and alcohol dependency

Over a third of the policies in our review allowed for exclusion of eligible people because of drug and alcohol use, possession, dependence, or intoxication.

As with policy settings on violence and challenging behaviour, we found plenty of variation in SHS approaches to dealing with homeless people who were substance-affected, or who had a history of substance abuse.

Five of the agencies in our review either operated drug and alcohol rehabilitation services or their funded target group included people with addiction or substance abuse. These services all had strict drug and alcohol-related access requirements, such as an abstinence policy or drug testing before and during admission to the service program. If clients relapsed or breached SHS rules prohibiting drug possession, use or sale inside the service, several policies indicated that eviction would be automatic.

In several cases, providers funded to deal with homeless young people adopted what could be considered as a pragmatic approach to client substance use. One agency's policy noted that its young clients often presented with difficult behaviours that could include alcohol and other substance use. This agency's policy stated that such behaviours would not attract exclusion but would be the subject of risk assessment. Another provider policy prohibited drug use inside the service but indicated that if this happened, staff would work with the client on a plan to address the problem. That said, the policy also contained a warning to clients that drug or alcohol use would put their placement at risk.

Two other agencies indicated that they would not accept clients with substance abuse problems if these were unmanaged and, in one of these cases, if the person's unmanaged addiction would require full time supervision.

Another agency's approach required intake staff to refer to senior managers, on a case-by-case basis, any referrals that were "deemed complex due to [matters including] untreated alcohol or drug concerns".

Several SHS policies linked access to services – or continuing participation in them – to a client's willingness to address substance abuse problems; to participate in the service in a 'fit state' and/or be 'not under the influence of drugs or alcohol'. For example:

Cannot accommodate YP [young people] who are drug or alcohol dependent unless there is an acknowledgement and commitment from the young person to address issues relating to their [D/A] use.

The client – Must be able to agree to no alcohol or other drugs being used on premises during their stay at [name of service].

Exclusions – Intoxicated or under the influence of drugs during the intake process.

## People with mental health issues

In our review, one in five agencies used policies that included scope to exclude potential clients with mental health conditions.

There were no examples of blanket exclusion based solely on the presence of any mental health condition. Instead, eligibility and exclusion provisions were qualified and commonly only applied in specified circumstances. These were, where a person's mental health condition required intensive or 24-hour support, or was severe, unmanaged, medically unstable or it presented a risk of harm to the client or others.

The following statement from our 2004 report is equally applicable today:

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.<sup>34</sup>

In our recent review we also looked at the policy guidance agencies provided to staff on how to identify and assess homeless people's mental health conditions and implications for services delivery.

Once again, we found that the agencies used a variety of approaches. Some services provided no guidance on how to rank a mental health condition for the purpose of intake and risk assessment. For example, one agency required staff to refer cases to senior managers if they were "deemed complex due to unmanaged mental health issues...". It was unclear to us how the workers would make these determinations about complexity of cases.

In contrast, one agency told its staff to seek advice from qualified mental health professionals to inform intake decisions. Another service that received referrals from a government agency stipulated that it would not accept clients who had experienced severe mental health episodes in the previous six months unless the referrer provided a mental health assessment and treatment options. Yet another agency stipulated that clients "experiencing mental health issues" would need to be receiving regular professional health support to access the service.

### **People with disability**

DCJ requires SHS services to take reasonable action to ensure their properties are physically accessible to people with disabilities. In doing so, the providers must consider the needs of clients and the consequences of exclusion, but also the provider's financial circumstances and estimated cost of accessibility.<sup>35</sup>

Our review showed that the policies of six of 35 services referred to potential exclusions of people with disability, most commonly in relation to physical access to accommodation and particularly because the layout of their accommodation would prevent access for some clients with limited mobility, or related physical disabilities.

Several policies also referred to the degree of severity of disability or a client's level of independence as criteria for access or exclusion.

Following are examples of disability-related access criteria:

[The Service] adheres to and supports Anti-Discrimination legislation. Due to the layout and infrastructure of the [service] including all bedrooms located on the second storey via stairs, [it] is not suitable for some young people with physical disabilities. Every effort will be made to arrange a suitable referral in this circumstance.

There is no disability access to crisis accommodation

Clients that are in wheelchairs are able to access the service as well as other disabilities that are capable of independence.

[Service] cannot accommodate young people with a mobility disability due to the internal structure of the premises eg stairs and bathrooms. The modifications needed are over and above the building's structural capabilities. [Service] can accommodate young people with limited disabilities. Each case will be assessed on the individuals' independence ie the ability to follow safety procedures and the level of care required

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<sup>34</sup> NSW Ombudsman *Assisting homeless people – the need to improve their access to accommodation and support services* 2004, p42

<sup>35</sup> Agreement for Funding of Services schedule Section 15 Reasonable access pp15-16

There is no public information about how many SHS are physically accessible to people with disabilities and how many homeless people are being denied services because of disability. Whether exclusions are more likely to apply to people with certain disabilities is also unknown. As we note in section 3.5 below, DCJ has acknowledged to us that a key barrier to assisting clients with a physical disability is identifying suitable accommodation options.

We recommend that DCJ:

- a. map the SHS sector to determine the supply of services by specialisation that are physically accessible to people with disabilities, and
- b. assist relevant SHS to undertake necessary modifications to provide physically accessible facilities for people with disabilities.

### 3.3.3 Some exclusion criteria have no apparent link to risk

Some providers have access and eligibility criteria that could be used to restrict access, evict a client, or terminate services for reasons that appear unrelated to risk. These criteria concerned client participation in case management, and clients being denied services by third party agencies.

#### Case management plans

The SHS Specifications do not require homelessness providers to develop case plans for the people they support, nor do they require clients to agree to such plans. However, the Specifications do express an “expectation” that clients in both crisis and transitional accommodation will have active support plans to gain longer term stable accommodation.<sup>36</sup>

As to the development of such plans, the practice principles laid out in the Specifications require providers to ensure that clients are consulted about the design and delivery of services, are able to express their views about the services offered to them and to make informed choices.<sup>37</sup>

Eight of the provider policies we reviewed indicated that potential clients’ receipt of services was conditional on agreeing to participate in their case plan or service program, and to continue to do so. For example:

People who live in [name of service] housing agree to engage in case management as a requirement of their tenancy agreement.

[The service] may also close the support period for a client at any time if any of the following apply: [...] despite persistent efforts, the client does not make themselves available for or continually does not engage in the services offered or is assessed as not working sufficiently towards the agreed goals.

To be eligible for access to programs of [service name], a person must: ... - Participate in Case Management.

Clients in both our crisis and transitional residential programs are required to have weekly or fortnightly contact with their case worker or case manager. Case management is an integral part of [the service’s] residential program. Clients must negotiate planned progress strategies with their case managers.

<sup>36</sup> SHS Program Specifications 2021 pp45-46

<sup>37</sup> SHS Program Specifications 2021, 4.2 Program Practice Principles pp12-13

As a client of a Specialist Homelessness Service you have a responsibility to: [...] Be an active participant in your service, including taking part in case planning and management sessions and fulfilling your commitments under your case plan.

Another two SHS policies adopted a markedly different approach to the examples above. One policy described participation in case management as voluntary and said services would still be offered if a client declined, where possible. The other policy stated that the service would continue to meet client needs, subject to resources, in circumstances where they did not consent to the development of a case plan.

The SHS Program Specifications require providers to report data on their clients in line with two categories known as case management support and access support. The difference between these categories is that access support involves only immediate or brief assistance, such as a referral or a one-off intervention. Case management support is for those clients who receive regular, ongoing support and have a case plan.

The AIHW SHS data collection for 2020-21 reports on the case management status of homeless clients who received a completed period of service. Among a total 50,605 clients of NSW SHS, the measure shows that close to three quarters (37,407) of the clients had a case management plan and just over one quarter (13,198) did not. Most of the latter group had no plan because their service episode was too short but around 16% (2,148) of these clients did not agree to a plan; the remaining 1,409 (10.7%) clients were categorised as “other”.<sup>38</sup>

The AIHW data appears to indicate that more than 2,000 homeless people received services despite refusing to have a case management plan. What the data does not show is whether and how many people were excluded or had services withdrawn because they did not co-operate with such planning.

At the very least, there appears to be inconsistent practice among homelessness providers, with some insisting that clients accept case management, others taking a flexible approach, and some homeless people receiving services despite their refusal of case management. Making access to services conditional on participation in case management appears inconsistent with the principles of client consultation and choice in the SHS Specifications.

### **Third party denial of services**

Two providers linked access to services to a potential client’s previous housing-related exclusions.

If you are denied service by Housing for any reasons, including Temporary Accommodation you may be in breach of this charter.

As a client of [the service] you have a responsibility to: Not have blanket exclusions in relation to housing providers.

Although assisting homeless people into secure accommodation is a general goal of the SHS program, the rationale for linking access to service with previous housing exclusions is unclear.

### **Access-related obligations on clients**

As well as policies, the SHS in our review commonly used codes of conduct, client charters, or terms and conditions documents to spell out rules for clients, and sometimes to outline the consequences for breaking those rules. Client charters commonly referred to treating staff and other clients with respect;

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<sup>38</sup> Australian Institute of Health and Welfare Specialist Homelessness Services 2020-21 table 34 Clients with closed support by case management plan status. [Specialist homelessness services annual report 2020–21, Data - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/reports/13/specialist-homelessness-services-annual-report-2020-21/data)

treating the service's property with respect; and clients being in a 'fit state' to access or participate in services. The SHS providers also commonly required clients to demonstrate their intent to comply with the conditions by signing a document. For some services, breaches of rules or a determination that a potential client would be unable to abide by conditions, could lead to exclusion. In other instances, the consequences of breaching were not made explicit.

Some SHS also used formal warnings to deal with certain behaviours of clients. For example, one provider policy stipulated that:

In the event that a breach of the Client code of conduct has occurred, a warning letter will be issued stating what code has been breached and what needs to change and/or improve for the client to remain at the refuge. If a client does not comply with the letter and continues to breach the code of conduct, they may be asked to exit the refuge with no further warning.

Another service used a 'three strikes' system comprising a verbal warning, followed by a written warning, and then where 'a client fails to attend a meeting/activity session/evening meal/sleep on site/cleaning duties/rostered cooking duties or has a dirty urine etc., he will be required to relinquish his term of participation in the [service] program and term of stay at [the service].'

Some client behaviour may well affect or even disrupt the activities and operations of SHS providers. But as the Program Specifications note, factors contributing to homeless people's complex needs can include trauma and related triggers, challenging behaviour, cognitive impairment, the effects of violence and issues with health and self-care. In other words, the nature of complex need may make it difficult for some people to comply with behaviours prescribed by SHS. Once again, the extent to which such people are being evicted for non-compliance with prescribed behaviours is unknown.

### 3.3.4 The need for a new and consistent policy approach to exclusion

Providers owe a duty of care towards clients and their own staff, as well being required to meet statutory responsibilities under work, health, and safety legislation. These duties and requirements exist alongside their contractual obligations to assist homeless people, which include where clients' needs include support to deal with their own behavioural issues. Against that background, the providers in our policy review have set their own individual rules and requirements about which homeless people they will assist, because there is no comprehensive sector-wide policy on exclusions and evictions.

We recommend:

DCJ should:

- a. In consultation with the SHS sector, develop comprehensive and consolidated policy and contractual requirements on access, exclusion, eviction, and withdrawal of services for eligible homeless people. DCJ should clarify the scope and process of allowable conditions of access, exclusion, and eviction, including in relation to:
  - client risk, characteristics, and circumstances
  - client codes of conduct
  - participation in case management
  - commitments to address specified behaviours.
- b. Undertake regular auditing of SHS policies and practices in relation to access and exclusion to ensure they do not allow for exclusions, evictions or withdrawal of services that are not supported by Specialist Homelessness Services Program requirements.

### 3.4 DCJ also excludes homeless people

DCJ funds another type of crisis accommodation known as temporary accommodation (TA) – such as low-cost motels or caravan parks. However, it too will exclude clients for reasons that may relate to their complex needs. In DCJ’s policy, the grounds for exclusion from TA include anti-social behaviour, damage to property, being under the influence of drugs and/or alcohol or failing to adhere to specified responsibilities. Eligible homeless people are entitled to 28 days TA annually but, if evicted, DCJ can also withdraw the entitlement for up to a year. Anna lost her access to TA for a period of six months. Nothing in DCJ’s policy explains how it decides on the duration of these lengthy exclusion periods. DCJ is unable to say how many people are affected by such exclusions and for what periods of time. What happens to homeless people who are denied access to TA is also unknown.

In our complaint case, DCJ withdrew Anna’s entitlement to temporary accommodation (TA) for six months, advising her that this was because she had failed to take up offers of TA on four separate occasions over a four-month period. In the same letter we refer to in section 3.1.1, DCJ Housing told Anna:

As you have breached the terms and conditions of Temporary Accommodation you are not entitled to further Temporary Accommodation assistance for a 6 months period from [date].

According to DCJ’s website, TA supplements SHS in providing accommodation in low-cost motels or caravan parks for clients who are homeless. DCJ describes the aim of TA as giving clients a chance to secure alternative accommodation, whether crisis accommodation or private rental. In most cases, people receive only a few days of TA at any one time and a maximum of 28 days in a 12-month period.

In its response to our discussion paper, DCJ said it:

[S]ometimes bans a person from accessing Temporary Accommodation (TA) if a serious breach of agreement occurs. The Housing Contact Centre or local Access and Demand team may impose bans of 3-12 months. Abusing other people or breaching key conditions at the property may result in a short ban. Assault may result in a ban for 9-12 months.

We asked DCJ for more information about these bans. DCJ gave us some of the data we asked for but also repudiated its previous advice, writing:

DCJ does not ban people from Temporary Accommodation (TA). We appreciate that the word “bans” was included in information provided to the Ombudsman in the initial response based on input from DCJ’s Districts, but this is inappropriate shorthand language which should not have been used. There is no foundation in policy or practice for this term. DCJ assesses clients’ eligibility against government policy criteria.

DCJ was referring to its Rentstart Assistance Policy (the Policy); these are the criteria that appear to have been applied when Anna was excluded from TA for six months.<sup>39</sup> DCJ told us that under the Policy, TA will not be provided or extended to clients who have done the following within the past twelve months:

- failed to adhere to the client responsibilities
- damaged property or engaged in antisocial behaviour while being assisted with TA
- refused an alternative reasonable offer of accommodation.

DCJ said the Policy describes client responsibilities in this way:

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<sup>39</sup> The Policy criteria referred to are published at [Rentstart Assistance Policy | Family & Community Services \(nsw.gov.au\)](https://www.nsw.gov.au/rentstart-assistance-policy)

- abide by the rules of the accommodation facility
- at the end of their stay, leave the accommodation in good order
- make the financial contribution to their accommodation costs as requested
- actively seek alternative accommodation including crisis accommodation and other short-term options to resolve their own housing need.

We asked DCJ for the number of people subject to exclusions from TA in line with the Policy criteria outlined above. We also asked about the duration of exclusions and the reasons for them.

Table 4 is our summary of the data DCJ provided.

<b>Table 4: Reasons for declines of Temporary Accommodation assistance and number of clients affected</b>				
<b>Reasons</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
Client has found alternative accommodation	54	63	66	80
Client has substantiated damage to another service	35	14	39	26
Client is not currently or at risk of becoming homeless	49	31	25	27
False information	37	48	38	31
No independent living skills	18	11	7	9
Not eligible under guidelines	2,188	1,915	1,393	1,814
Not residing in NSW	53	58	27	39
Other	776	777	721	782
Previous assistance	29	26	26	37
Under influence of drug and/or alcohol	75	90	50	38
No reason entered	158	151	143	186
<b>Total declines of individual TA assistance (not unique clients)</b>	<b>3,472</b>	<b>3,184</b>	<b>2,535</b>	<b>3,069</b>
<b>Total unique clients declined TA</b>	<b>3,108</b>	<b>2,954</b>	<b>2,464</b>	<b>2,839</b>

From the data DCJ provided, it was not possible to determine how many people, like Anna, were refused future access to TA because they had breached the rules, given that it was not clear if some of the other reasons for declines – not eligible under guidelines, other, and no reason entered – included people who had breached the rules.

It was also not possible to know from the data how many people who breached rules were subject to multiple exclusions.

We asked DCJ whether it collected information about the needs and characteristics of people who were excluded from TA in line with the Policy criteria. DCJ did not answer our question. It also did not provide any information about the duration of these exclusions, saying this data is recorded on individual files and cannot be practically aggregated.

As we have noted, DCJ told us it does not ban people from TA and assesses their eligibility against government policy criteria. In our view, if the consequences of non-compliance with the criteria include losing access to the service for up to a year, that is a ban. As to the duration of these bans, we found no information in the policy to explain how DCJ makes these decisions. The same homeless people who use TA also use SHS accommodation and the SHS Specifications make clear that those providers should not exit their clients into homelessness. This should also apply to TA, as should the prohibitions on excluding homeless people from SHS because of inability to pay a contribution towards accommodation costs or their citizenship or residency status.

We recommend:

DCJ should:

- a. Introduce in the Rentstart Assistance Policy:
  - criteria for decisions about the duration of exclusions from Temporary Accommodation
  - a requirement that access to Temporary Accommodation is not contingent on a client's ability to contribute to accommodation costs or their citizenship or residency status
  - a requirement that people subject to exclusions from Temporary Accommodation are not exited into homelessness.
- b. Publish information annually about exclusions from Temporary Accommodation, including:
  - the number of people excluded against each of the Rentstart Assistance Policy criteria,
  - the number of people subject to more than one exclusion, and
  - duration of exclusion per person.

### 3.5 System limitations also affect access to SHS

Both the providers and DCJ report that there are many gaps, waiting lists and service shortages in the wider service system. Such obstacles necessarily limit the ability of SHS to facilitate access for their clients to required support. The same gaps and barriers may also influence access to the homelessness services. In fact, many SHS policies expressly provide for exclusions of clients with complex needs who require services that are in short supply. For example, some SHS will not accept clients with unmanaged mental health problems. Effectively, access to at least some homelessness services is contingent on the availability of other mainstream or specialist services. The SHS agencies also point to their own capacity and resource limitations, and to a shortage of refuges that specialise in accepting and assisting clients in particular categories; for example, women who have both mental health issues and children in their care. The Homelessness Strategy contains commitments to address service system gaps and barriers, but DCJ has published no information about progress in this area.

We invited SHS providers and DCJ to tell us about barriers to services for their clients. The feedback showed a clear consensus that there are many service gaps, queues and limited resources across the mainstream and specialist service systems.

Providers reported that there are insufficient options for transitional, affordable, and longer-term accommodation, both generally and specifically relating to groups including young people, families, and Aboriginal people. The providers said the dearth of these options causes overstaying and blockages in refuge beds, so some clients are unable to get crisis accommodation when they need it. Our respondents also identified lengthy waiting lists for public and social housing, and limited supplies of accommodation stock and related supports. One SHS provider told us:

Within the semi-independent housing programs there is a real need for more support services for clients leaving crisis accommodation. Currently we are noticing a large number of clients finding themselves caught in a pattern of cycling between crisis accommodation service providers due to a lack of long-term placement support options.

We were also told that mainstream and specialist services are limited in some areas of NSW or affected by lengthy waiting lists, particularly in mental health services and alcohol and other drug rehabilitation.

The providers also identified limitations to their own operations, including:

- capacity and infrastructure restrictions
- staff skill shortages
- reduced hours of operation
- contractual conditions, and
- insufficient resources to meet demand, including brokerage funds to source external specialist services.

The SHS providers also said that government departments, including DCJ, could be difficult to engage after they referred homeless people to SHS, meaning the providers felt that they were left on their own to support these clients.

They also reported that there are also too few refuges that specialise in accepting and assisting clients in particular categories, including:

- women with children in their care who have (any of) mental health issues, substance dependence, intellectual disability
- women with substance dependence who are escaping family violence
- people with unresolved alcohol or drug issues
- Aboriginal people
- people with unmanaged mental health issues
- people with physical or intellectual disability
- people with dual diagnosis (co-occurring substance use and mental health)
- people who need high level support due to complex trauma, violence, mental health problems, substance dependency problems, and or disability.

For us, what was striking in the feedback from SHS providers was the way in which some, although not all, of the barriers they reported were reflected in policies on access and exclusion. There is significant emphasis in provider policy statements on exclusions of clients who require services – such as for mental health and drug and alcohol issues – that are in short supply, especially for people with complex needs.

Based on the information we received from DCJ and providers, it is likely that service system gaps and barriers influence SHS exclusions.

### **DCJ acknowledges that there are barriers to services for homeless people**

DCJ provided its own list of service gaps and barriers in the homelessness and mainstream sectors. DCJ said SHS providers reported that when it came to assisting people with acute and enduring mental health service needs, there were limitations in some areas including:

- staff needing access to specialist advice at a time of crisis

- intensity and duration of wrap around support services available from Health given other competing priorities
- configuration of SHS accommodation (e.g. some people may not cope with shared/ congregate living)
- limited access to specialist support services in rural and regional areas, such as specialist clinical mental health support and appropriate housing.

DCJ also told us that barriers to assisting clients with drug and/or alcohol issues include:

- lack of drug and alcohol rehabilitation programs in some locations, particularly for rural and regional areas due to other competing priorities
- clinical support from alcohol and drug services where a person's needs and current behaviour cannot be managed by the SHS/accommodation provider.

DCJ said a key barrier to assisting clients with a physical disability is identifying suitable accommodation options.

Significantly, DCJ advised us that homelessness services are not equipped to service people with complex needs. For example, in its advice to us DCJ quoted one of its Districts as saying that:

[..] complex clients with challenging behaviours can be difficult to accommodate and support as they require care that can be beyond SHS service provision (funding and service capabilities). The clients may need specialised and integrated mental health, AOD [alcohol and other drugs] support or disability and aged service provision. Anecdotally, the co-morbidity of mental health and substance misuse creates barriers to accessing mental health supports through local health districts. Substance misuse makes mental health assessments hard to accurately achieve. Integrated mental health and substance misuse services would benefit the local homelessness support sector.

The Homelessness Strategy contains plans to reduce gaps and barriers affecting access to services for homeless people with complex needs. One of the key principles underpinning DCJ's Outcomes Framework Guide 2021 (the Guide) is to address systemic barriers.

The Strategy includes plans for an actuarial analysis of pathways into homelessness, in part to identify service capacity, service gaps, and service collaboration opportunities.<sup>40</sup> DCJ published a report about the analysis in December 2021, describing it as a detailed investigation of government services that people use before, during and after homelessness. The independent analysts commissioned by DCJ created a linked dataset covering 625,000 people across 19 NSW and Commonwealth government services including housing, health, welfare, justice, education, and out-of-home care. The report includes six years of homelessness services data from July 2011 – June 2017. However, people who are excluded from SHS are not in the scope of the report.<sup>41</sup>

The Outcomes Framework Guide outlines the approach to measuring outcomes for homeless people and identifies key principles underpinning this approach, including:

Addressing systemic barriers and committing DCJ Commissioning to lead and engage with other parts of DCJ and other NSW government agencies to hold them accountable for whole of government responsibilities under the NSW Homelessness Strategy.

<sup>40</sup> NSW Homelessness Strategy 2018-2023 p15

<sup>41</sup> NSW Department of Communities and Justice, Pathways to Homelessness Final Report December 2021  
[Pathways to Homelessness | Family & Community Services \(nsw.gov.au\)](https://www.nsw.gov.au/pathways-to-homelessness-family-community-services)

The Guide does not say how DCJ Commissioning will hold other government agencies accountable for responsibilities under the Homelessness Strategy. However, the Guide foreshadows reports that will explore outcomes that are the shared responsibility of all human services system partners, and the systemic barriers to achieving these outcomes. The Guide does not include information about when any shared responsibility reports will be available, or how they will be used to dismantle systemic barriers and reduce service gaps. According to the Guide, these reports are intended to promote discussion at the service, district and state-wide levels on shared outcomes and the systemic barriers to achieving them, so that Government is better able to work towards an effective service system.

The 2021 SHS Program Specifications also address the question of shared responsibility for homelessness outcomes, stating that:

DCJ will aim to support the sector by escalating systemic issues and working towards shared responsibility with mainstream and other human services sectors through advocacy, governance, and cross-sector collaborations.

DCJ has not yet published information about progress in reducing gaps and barriers affecting access to services for homeless people. DCJ did tell us that it is evaluating the current homelessness strategy to determine whether it achieved its objectives. The evaluation will be completed in September 2023 and DCJ will use the findings to develop the next strategy.

### 3.6 More monitoring and public information are needed

Currently there is no public information about the nature, number, prevalence or patterns of exclusions and evictions of homeless people. There is also an information gap about where excluded homeless people go. SHS agencies do provide various data for a national annual report, including reasons requests for services are not met and support periods are ended, but this does not include numbers of homeless people excluded and evicted, nor does it provide information about the reasons. Without public information about those who are excluded, it is difficult to know whether the SHS safety net is working as intended, and the No Wrong Door approach of minimum service is being upheld, particularly for people whose complex needs may make it harder for them to satisfy conditions for entry to homelessness services.

DCJ does not report publicly in NSW about exclusion of homeless people from homelessness services (or, as noted above, from temporary accommodation). Nor does it report on whether it monitors providers' compliance with their obligations on access to services and exclusion of homeless people, and if so, with what results.

Most SHS providers use a common database – the Client Information Management System or CIMS – to record and exchange information about clients, although a small number use other approved data management systems. In their feedback to us, some providers pointed to limitations in CIMS including:

- CIMS has no field to record information about decisions to exclude homeless people, so there is no way to review exclusions for individuals or in aggregate.
- A homeless person's complete history of involvement with SHS is not accessible through CIMS, so this limits its usefulness for referrals and intake decisions.

The SHS providers are required to send various client datasets to the Australian Institute of Health and Welfare's annual report on SHS services, including information on those eligible homeless people who are "unassisted", meaning that SHS providers gave them no assessment, information, referral, or any other type of support.<sup>42</sup> The complete definition of "unassisted" is provided by the AIHW and referenced in the Specifications.<sup>43</sup>

The AIHW data for 2020-21 includes reasons that homeless people did not receive requested services and reasons that support periods were ended. In these datasets we did not find any reference to exclusion or eviction, although DCJ told us that they include two specific categories that "would be applicable to people who have been excluded from a service."

One of the categories that DCJ referred us to is "person was refused service/person did not meet criteria". This category is part of a dataset that shows there were on average about 28 unassisted requests for services daily in NSW.<sup>44</sup> This dataset shows that less than 4% of daily average unassisted requests were for the reason "person was refused service/person did not meet criteria". Whether any of these refusals amounted to an exclusionary practice is unknown, as is the type of criteria that was applied. This same dataset also shows that another 31% of daily unassisted requests were recorded against "other" and "no reason recorded". Again, whether this data applies to exclusions is unknown.

The other category that DCJ identified – "service withdrawn from client and no referral made" – is part of a dataset that reports on reasons that a SHS support period for a client was closed.<sup>45</sup> The data shows that for 2020-21, a total of 1,466 clients had a service withdrawn without a subsequent referral.

In our view the two datasets do not provide the information needed for us to determine the basis for the reported refusals or withdrawals of service and whether they might constitute exclusionary practices.

Since mid-2021 DCJ has been updating existing case management systems to add tools intended to capture outcomes information for individual homeless people who receive services. This will not include exclusions, evictions, and withdrawal of services.

In the absence of relevant performance information, it is difficult to know whether the SHS safety net is working as intended, as an inclusive, non-discriminatory service system for marginalised and vulnerable people. It is also not possible to know if people with specific complex needs – for example unmanaged mental illness or substance abuse conditions – might be more likely to be subject to exclusions in line with related SHS policy criteria and broader service system limitations. Finally, there is no information about what happens to excluded homeless people, where they go, or whether they receive referrals that do result in appropriate support from another SHS provider.

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<sup>42</sup> Specialist Homelessness Services Specifications 2021 p24

<sup>43</sup> Ibid p24 An Unassisted Person is any person who seeks services from a service provider and does not receive any service. There are several reasons why a person may not receive a service from a service provider, including but not limited to: the service requested by the person is not provided by the agency; the service requested by the person is not currently available at the agency due to high demand; the person is ineligible for service because they do not fit the criteria for assistance (for example, a father and son who seek emergency accommodation at a women's refuge). A client cannot be an Unassisted Person if they received at least one direct service from an agency. If a person has received at least one service, even if it is not the service they requested, they are a client. The Unassisted Person collection is used to gain information about adults and children whose request for service is not able to be met by a SHS agency. It measures the level of 'unmet demand' for specialist homelessness services.

<https://www.aihw.gov.au/getmedia/47792815-cce2-4ebd-858c-68f7c639ff0a/SHS-collection-manual-2019.pdf.asp>

<sup>44</sup> Australian Institute of Health and Welfare Specialist Homelessness Services collection, data tables: Specialist Homelessness Services annual report 2020-21 Table Unassisted 6: Daily average unassisted requests, by reason service was not provided and type of service requested, 2020-21 [Specialist homelessness services annual report 2020-21, Data - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/reports/11/specialist-homelessness-services/specialist-homelessness-services-annual-report-2020-21/data-tables/unassisted-6)

<sup>45</sup> Australian Institute of Health and Welfare Specialist Homelessness Services collection, data tables: Specialist Homelessness Services annual report 2020-21 Table Clients.29: Clients with any closed support period, by reason support period ended, 2020-21 [Specialist homelessness services annual report 2020-21, Data - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/reports/11/specialist-homelessness-services/specialist-homelessness-services-annual-report-2020-21/data-tables/clients-29)

The plan to introduce outcomes reporting is positive. What is missing are timeframes for finalisation of the work, and a commitment by DCJ to collecting and public reporting of relevant data on exclusions, evictions, and withdrawal of services, and related outcomes including whether excluded people receive required services.

We recommend:

DCJ should:

- a. As part of the SHS Outcomes Framework, collect and report publicly on the number of homeless people subject to exclusion, eviction and withdrawal of services, reasons for these, and the outcomes for those people.
- b. Set a timeframe for public reporting on outcomes data for homeless people.

### 3.7 COVID-19 has suggested opportunities for systemic improvements

DCJ has identified some service system improvements arising from its COVID-19 experience but has yet to indicate how it would deal with another pandemic or other crisis affecting highly vulnerable homeless people. DCJ told us that its approach during the pandemic – involving significantly expanded access to temporary accommodation, and increased supports for rough sleepers – is not economically or socially sustainable in the long run. DCJ said its COVID response identified a need to improve systems to support homeless people in temporary accommodation and to capture information about them. DCJ also said the COVID response reinforced the need to address service gaps in the homelessness and mainstream service sectors. However, if the temporary accommodation approach to COVID-19 is not an option for the future, there is a need for public information about alternative strategies.

DCJ advised it provided significantly increased support to homeless people during the pandemic's lockdown phases in 2020 and 2021, mainly in the form of access to longer than usual temporary accommodation (TA) in hotels and motels.

DCJ has reported that some homeless people supported during the pandemic then moved to social housing or forms of private rental assistance. DCJ does not track outcomes for all people who leave TA, meaning we do not know what happened to those people who did not receive social housing or rental support. DCJ said there is a need to improve systems to support homeless people in temporary accommodation and to capture information about them. DCJ also said the COVID response reinforced the need to address service gaps in the homelessness and mainstream service sectors.

DCJ advised that there is a need for systems for monitoring the impact on service providers resulting from sudden changes in demand patterns, or their capacity to deliver new or additional supports. DCJ said such information would enable the sector to better understand immediate system responses that can be achieved in crisis.

On the service provision side, one SHS agency reported that the pandemic stimulated new approaches to assisting homeless people with complex needs, including those subject to exclusions:

Covid-19 has created opportunities to support complex clients in new innovative ways. Complex clients who before Covid would not have accessed temporary accommodation, or could not access due to being excluded, are being housed in hotels and taken off the streets for safety. In some cases, these clients are being supported in a safe environment for the first time in a long time and are being supported by government and SHS services. This allows for access to newly created programs such as Together Home which facilitates access to long term housing with support for the complex clients.

DCJ and the SHS sector used a variety of novel approaches to the COVID pandemic, some of which could be applicable to business-as-usual models of service delivery and others which might apply only in a future pandemic or other crisis affecting service to homeless people. However, DCJ told us that prolonged provision of TA in hotels was not sustainable economically or socially, so alternative strategies would be needed in future.

It is important that DCJ report on the lessons it has learned, and the strategies it will adopt, to support the homeless in a future pandemic or crisis, and what improvements it will implement generally.

## 4. Definitions

Term	Definition
Ban	To prohibit access to services
Blacklist	Blacklists are used to list the names of previous clients who the agency excludes from future assistance
Eligibility criteria	Factors used by SHS to determine a person's eligibility for services
Exclusionary practices	Practices that may be unreasonable, in contravention of relevant legislation, including anti-discrimination legislation, as well as relevant policies and guidelines.
Global exclusion	The exclusion of an individual on the basis that they belong to a particular population group or share similar characteristics with a group
Risk assessment	A process to identify and assess the level of client risk and to develop workable risk management strategies to minimise that risk, wherever appropriate
Supported Accommodation Assistance Program or SAAP	The previous jointly funded Commonwealth/State program that governed service provision to people who are homeless or at risk of homeless, and which was in place at the time of our 2004 Report.
SHS	Specialist Homelessness Service
TA	Temporary accommodation such as limited motel-style accommodation provided to people who are homeless
Unassisted	An unassisted person is any person who seeks services from a specialist homelessness agency and does not receive any service. There are several reasons why a person may not receive a service from an agency, including but not limited to: – the service requested by the person is not provided by the agency – the service requested by the person is not currently available at the agency due to high demand – the person is ineligible for service because they do not fit the criteria for assistance (for example, a father and son who seek emergency accommodation at a women's refuge)

## Appendix A

### Questions from our discussion paper (August 2020)

1. Do you have any comment on the content or operation of the Practice Guidelines?
2. Are the Practice Guidelines aligned and appropriate to the reality of service provision, or is there any lack of congruency between the Practice Guidelines and the reality of service provision?
3. Do the Practice Guidelines provide adequate guidance for SHS providers to respond to homeless people who are subject to repeated exclusions? If not, is there other relevant guidance? What (if any) further guidance do SHS providers need?
4. Are SHS providers required to document and demonstrate compliance with Practice Guidelines requirements to establish collaborative arrangements to ensure integrated and coordinated responses to client needs, and to facilitate access to specialist mainstream support services? If so, how is this done?
5. Do you have any comment on the nature or extent of collaboration between SHS providers and other relevant support services?
6. What collaboration mechanisms exist, and are these effective?
7. Is it common for SHS to participate in, or collaborate with, interagency mechanisms such as District Implementation and Coordination Committees (DIACC)?
8. Do interagency mechanisms such as the DIACCs operate effectively for homeless people who are excluded from services?
9. Is it accepted practice to exclude people seeking assistance because they may pose a risk to self or others?
10. If exclusion based on risk is accepted, what risk analysis is undertaken by SHS providers before determining whether to exclude?
11. If people are excluded under service policy, are there obligations on the service to assist them in other ways?
12. What are the barriers to assisting people in need who have high and/or complex needs?
13. Are there other grounds (other than risk to self or others) on which a SHS provider can or may exclude people seeking assistance?
14. Is there a commonly understood definition of the term 'ban', including in relation to duration of bans?
15. What are the criteria for applying a ban, and who is responsible for making a decision to impose a ban?
16. What reasons are provided to those who are subject to a ban, and how are those reasons communicated?
17. How frequently are individual bans used?

18. What (if any) other options can be considered other than a ban?
19. Do providers exchange information on bans and exclusions of homeless people?
20. Do you have any comment on the operation or effectiveness of CIMS as a means of sharing access to client records and facilitating referrals and service access?
21. Does CIMS provide consistently reliable, comprehensive and objective material to inform a decision to exclude a person from the service?
22. If not, what should inform these decisions?
23. Please outline the nature and frequency of complaints received from clients about access and intake issues?
24. How common are appeals by clients about decisions to provide or withhold services?
25. What arrangements are in place to monitor and analyse complaints data at aggregate level or by individual providers?
26. Has use of temporary accommodation in hotels affected client demand or service provision?
27. Have social distancing requirements affected provision of services including accommodation?
28. What impact has Covid-19 had on service provision to homeless people with high and/or complex needs?
29. Has the response to Covid-19 so far suggested any opportunities to improve service responses?
30. Is there any other comment you'd like to make concerning the issues raised in this paper or any related issues?

## Appendix B The range of agency documents reviewed

- Referral, assessment, intake and consent forms and checklists
- Program Entry and Screening Policies & Procedures
- Resident Agreements; Client Charters or 'Rights and Responsibility' charters; Code of Practice Policy; Terms and Conditions
- Client Diversity Policies; Access and Equity Policies
- Client referral, intake, assessment, access, eligibility, service exclusion and exit policies, procedures, and guidelines
- Managing Challenging Behaviour Policies
- Procedures Manuals; Program Operations Manual; Policy Manuals; Service Delivery Guidelines; Service Provision Guidelines; Information Package
- Funding Agreements; Program Level Agreements; SHS Program Specifications
- Transitional Housing Program Policy; Transitional Housing Management Policy
- Accommodation and Outreach Support Program Policy
- Accommodation Risk Assessment
- Eating Disorders Policy and Procedure
- Trauma Informed Consequences Framework
- No wrong Door Process
- Case management procedures
- Social inclusion policy

