

**Submission
No 19**

INQUIRY INTO THE PROTOCOL FOR HOMELESS PEOPLE IN PUBLIC PLACES

Organisation: Wollongong City Council

Date Received: 28 February 2020

NSW LEGISLATIVE ASSEMBLY COMMITTEE ON COMMUNITY SERVICES
INQUIRY INTO THE PROTOCOL FOR HOMELESS PEOPLE IN PUBLIC PLACES
SUBMISSION FROM WOLLONGONG CITY COUNCIL

FEBRUARY 2020

Background

In November 2019, Wollongong City Council (WCC) adopted a city-wide Protocol, that articulates the organisation's position regarding our interactions with people in the city who are experiencing homelessness. The Protocol is a management tool, focus on an operational response to homelessness in public places and spaces within the city. A copy of the WCC Protocol is at Attachment 1 of this submission.

The Wollongong City Council *Protocol for Homeless People in Public Places* references and reflects the intent of the NSW Government *Protocol for Homeless People in Public Places*. However, given the context of local government, including a closer day-to-day interaction with community and the range of direct services, such as libraries, community and cultural facilities, that offer spaces and programs open to all members of the community, the WCC Protocol also differs in a number of significant points. The WCC Protocol varies from the NSW Government Protocol in that it:

- clearly articulates the principle that people who are homeless are members of the community and, as such, have the same rights to participation in the life of the community as all citizens
- applies a broader definition of 'people who are homeless' to include those who are living in insecure or temporary circumstances, such as refugees or shelters, staying temporarily with friends, etc
- applies a broader definition of 'public spaces', to include indoor spaces, such as libraries and community centres
- applies a broader definition of 'public goods', to include access to services, activities and events that are available to members of the community
- recognises and articulates the role of WCC, NSW government agencies (including NSW Police) and community and not-for-profit organisations, in responding to the needs of people who are experiencing homelessness

The development of a specific, WCC Protocol, rather than direct adoption of the NSW Government Protocol, was intended to ensure a statement of local intent, provide a touchpoint for agreed philosophy and approach between WCC and relevant partners (including NSW Government agencies) and provide an organisation-based vehicle for staff education and practice.

Responses to the Terms of Reference for the Inquiry:

a) Whether the Protocol continues to provide an effective framework for government organisations with an operational presence in public places and for services that support people who are experiencing homelessness.

The Protocol provides a sound basis for Local Government Organisations (LGOs) to reflect on – and clearly articulate – their philosophy and operational approach to managing day-to-day interactions with people in their community who are experiencing homelessness.

However, it is couched in terminology and reflects a passive, as opposed to active approach to engaging with people who are homeless – for example it refers to ensuring they ‘are not discriminated against’; ‘not to be approached unless’; not prevented from participating. Rather than recognising – or proposing – that people experiencing homelessness should be included in civil society, the Protocol is framed in such a way as to suggest that they should not be excluded.

The protocol is also focused on the issue of ‘visible homelessness’, rather than recognising the broad range of circumstances and living arrangements that constitute the experience of being homeless. For many people, participation in the life of the community is less about whether they are permitted to sit in a public park during daylight hours and more about whether they can join their local library when they have no fixed address or whether they can regularly use the facilities at a local beach.

For LGO’s, the Protocol requires local consideration, adaptation and articulation, to be relevant for each LGO and their particular circumstances. This requires adequate resources, the existence of a team or individuals within each LGO with the delegation and/or understanding of the issues locally to take carriage of the Protocol and a teasing out of the responsibilities of local government – as opposed to NSW government responsibilities – in relation to the issues of homelessness, housing availability, social and community housing policy and housing affordability.

There is no doubt that the Protocol has the potential to generate conversations within LGO’s and between LGOs and stakeholders, concerning a local policy position in relation to homelessness and it provides a foundation for development of a collaborative operational response.

The Protocol was not actively promoted by the (then) Division of Local Government at the time it was released / adopted by the NSW Government – just a circular, as far as we can tell from the Wollongong Council experience. This has led to what can only be termed a lukewarm response and limited adoption by local government. While recognising that the relationship between state and local government can be sensitive and there is particular sensitivity around compliance and/or perceived ‘direction’ from the NSW government, closer liaison with LGOs would assist and support adoption of the Protocol.

As discussed at a later point in this submission, the high level of reliance on non-government partners to respond with ‘frontline’, practical assistance to people who are homeless, could be recognised to a greater extent within the Protocol.

b) The extent to which the Protocol is being implemented in practice by government organisations providing direct service delivery, and non-government organisations contracted on behalf of government.

The Protocol has been used to provide the basis for a tailored, WCC Protocol, which was endorsed for operational use by Executive in November 2019.

The decisions made by WCC reflect the voluntary nature of the Protocol, which states that 'Local Councils have been advised of the Protocol to inform their responses'. The (then) Division of Local Government 'Circular to Councils' (Circular 13-01) suggested that: 'The Protocol may help local councils respond to homeless people in public places' and proposed that: 'General Managers are asked to bring the Protocol and Guidelines to the attention of staff who may have contact with homeless people' and 'Councils are invited to consider adopting the Protocol'.

The extent to which the Protocol has been adopted and/or enacted by LGOs across NSW is hard to assess. A search on the internet reveals a limited number of NSW LGOs have adopted the Protocol and it is not known whether the NSW Office of Local Government (OLG) is aware of the level of uptake and adherence to the Protocol by NSW LGOs. It may be useful for OLG to seek this information or to maintain a register of 'adoptee' LGOs.

The effectiveness of the Protocol in informing practice by government organisations and LGOs is limited by the reactive way it has been framed. It appears to focus on limiting risk, yet is at the same time, less than clear in assisting government agencies to understand the actions they can or cannot take in relation to people who are experiencing homelessness. This even applies to NSW Police, who are often in the frontline of intervening in situations where people who are homeless are creating a risk to themselves or to others.

From WCC perspective, non-government organisations that deliver services to people who are experiencing homelessness operate according to the principles and intent of the Protocol. However, the high level of respect and empathy with which they respond to people experience homelessness is more likely to be founded in their own, organisational and cultural ethics, philosophies and practices, than as a result of having adopted the Protocol.

c) The appropriateness of the Protocol to support joint responses between government organisations, non-government organisations and local governments working in partnership to respond to homelessness.

The Protocol does not acknowledge the impact of broader social forces on the issue of homelessness. Factors such as: housing availability and affordability; inter-generational unemployment; entrenched gender inequalities in earning power; and limited support services for people who are experiencing mental health issues are at the root of homelessness. Homelessness is in many ways a symptom, reflecting structural and societal issues that have been exacerbated by inadequate policy responses by government.

It is a relatively simple thing to suggest that all levels of government and community organisations co-operate to respond to people who are experiencing homelessness – particularly when a significant proportion of the frontline response is delivered by

community sector organisations. Achieving genuine co-operation, even at the level of 'joined up government', is decidedly more complex.

This is due largely to three factors: the policy context of a competitive funding 'market', characterised for the past several years by inadequate funding, short-term contracts and ongoing uncertainty for housing providers; the political nature of social policy, where responsibility and accountability for dealing with the root causes of homelessness and providing for secure housing for all members of the community remains a contested matter between all levels of government; and the lack of clarity and consensus regarding the best measures to tackle the issue.

Having said this, from the WCC perspective, joint responses and partnerships are more achievable at local level, than on a state-wide basis. Our experiences in both developing the WCC Protocol and applying it, have been very positive. Co-operation between NSW Police, Council and local homelessness service providers occurs regularly and is grounded in a genuine respect for the people we are dealing with and their circumstances and a genuine desire to find an accommodation solution that will meet their needs.

This co-operation is also the result of ongoing inter-connections and interactions between WCC officers and other Protocol stakeholders, prior to and in relation to a host of other matters (community safety, major events, emergency events, etc) aside from the Protocol, so that trust and recognition of what each partner can contribute have been established. In essence, the Protocol in and of itself, is just a piece of paper, without the relationships and capital that are engendered through local, day-to-day cooperation.

d) Whether the Protocol adequately protects the rights and interests of people who are experiencing homelessness who use public places, including indigenous people and minority groups.

The Protocol is framed at a very high level and is quite generic in its language and approach. It makes passing reference to the need for 'cultural sensitivity and respect', but provides no guidance on what that sensitivity and respect might look like. To be meaningful in terms of protecting the rights and interests of all members of our diverse community, the Protocol must be scaffolded by clearer guidelines and procedures for implementation, staff and stakeholder education programs and the opportunities for conversations between stakeholders at all levels.

The Protocol refers to these support mechanisms and documentation, learning programs and guidelines are available on the web. However, the fact that implementation of the Protocol is managed individually, by each government agency, and with each agency located at multiple sites across NSW, means that the extent to which it adequately protects people who are experiencing homelessness – and in particular, people who are Indigenous or come from diverse cultural backgrounds – will vary widely between agencies and from site to site.

The creation of an ethos within government and non-government agencies where the needs and perspectives of people who are experiencing homelessness are acknowledged and where the reasons for homelessness and impacts of homelessness on everyone in the community are understood, is a critical pre-requisite for the protection of the rights and interests of this vulnerable group within our community.

Appropriate assessment and effective referral are key elements in protecting the interests of our diverse community members. Assessment and referral are best effected at a local level, based on mutual recognition and understanding of the contribution each stakeholder organisation can make. The availability of local networks, the currency and quality of information to support referral and the existence of mutual trust and respect between government agencies (for example NSW Police) and non-government service providers are critical elements in protecting the rights and interests of people who are experiencing homelessness.

e) Whether the Protocol appropriately balances the rights and interests of people who are experiencing homelessness with those of residents, businesses and other people and organisations using public places.

The Protocol makes it clear that the rights of people who are experiencing homelessness are balanced against 'the right of local communities to live in a safe and peaceful environment', though, ipso facto, this appears to frame people who are homeless as 'the other', and therefore, implicitly not part of the community or entitled.

Homeless people who are in public spaces and are not committing any illegal behaviour have the same right to peaceful enjoyment of the public domain as anyone else. This fundamental right is not reflected as a precept in the Protocol and it should be. Acknowledgement within the Protocol would provide clear guidance that the rights and interests of people who are experiencing homelessness and those of residents, businesses and other people and organisations using public places, are the same – they are not mutually exclusive and their relationships do not have to be constructed as adversarial.

Homelessness and associated issues, such as mental illness, substance abuse, family violence, incarceration and poverty, are bounded by political, philosophical and cultural forces, that make it very difficult to ascertain what a 'balance' of rights and interests looks like in real terms. Seeking to balance the perceptions and rights of those in positions of relative power and privilege against the rights of those who, often, literally, have nothing is unlikely to be realised via the Protocol. This is particularly so in our current social and cultural environment, where economic, security and utilitarian considerations form the dominant paradigm for policy and decision-making.