

# Homeless Persons Protocol

Responding to the rights, issues and needs  
of homeless people



## Introduction

Waverley Council acknowledges the existence of homeless people in the Waverley area. People are considered homeless when they are without accommodation that is safe, secure, appropriate and affordable. Homelessness can result from a range of factors including unemployment, poverty, cultural disadvantage, ill health and particularly poor mental health.

Stages of homelessness - Tertiary, Secondary and Primary - are terms used to describe the degree of homelessness people are subject to. Council recognises that the most vulnerable of these groups are Primary homeless, being people without any conventional accommodation who sleep rough, mostly outdoors. This Protocol has been developed to assist all Council Officers in providing support to the Primary homeless, 'rough sleepers', to increase their access to services and to minimise the negative impacts homelessness has on their lives.

This document is driven by Waverley Council's commitment to "sustain all the members of its community, contributing to their safety and security and their social and cultural enrichment". (Management Plan 2004-07)

## Aim

The primary aim of the Protocol is to clarify the roles, responsibilities and obligations of Waverley Council staff in their dealings with men, women and young people who are homeless, and to facilitate responses that reflect Council's values when responding to community concerns regarding homeless people in public spaces.

## Objectives

- To ensure the rights of homeless people are respected by Council and the broader community
- To improve the co-ordination of welfare support and service provision to homeless people
- To ensure homeless people have access to information and support and to relevant protective and referral services
- To ensure the safety of homeless people, staff, community, local residents and visitors
- To protect the rights of all members of the general community to enjoy public amenity

## **Underlying Principles**

- All people have a right to be in public places, at the same time respecting the right of local community members to live in a safe and peaceful environment;
- All people have a right to public amenities and to participate in public activities and events;
- People will not be harassed or moved on from public places unless there is a threat to general security, their personal safety or if they are causing a disturbance which constitutes a breach of the peace;
- Council staff whose work brings them directly or indirectly into contact with homeless people, will have useful information to inform homeless people and other members of the community about relevant services and will contact these services as needed.

## **Limitations of the Protocol**

### **Legislation Governing the Protocol**

Council powers to intervene are defined by the Local Government Act (LG Act) and the Environmental Planning and Assessment Act (EPA Act). Where homeless people are concerned, the following clauses are the most relevant:

- Local Government Act, S124 (Giving of Orders)
- Local Government Act, S125 (Abatement of public nuisances)
- Local Government Act, S131 (Criteria to be considered before an Order is given)
- Local Government Act, S624 (Control of Activities in Public Places)
- Environmental Planning and Assessment Act, S121G

Due to the complex nature of issuing Orders, particularly in relation to homeless people, this Protocol obliges Council Officers to consider the implications and practicalities of issuing Notices to homeless people, with particular consideration to S131 of the LG Act and S121G of the EPA Act (See Appendix 1). These sections oblige Officers to act in the interests of homeless people before taking any action.

### **Where the Protocol applies**

The Protocol only applies to public places such as parks and open spaces ordinarily accessible to the public. It does not apply to private property. This protocol does not prevent individuals from taking appropriate action where infringements occur on private property. In the case of trespassing, the owner may choose to call the Police.

## Summary of the Protocol

Council staff will intervene when:

- the health, welfare or safety of a homeless person is at risk
- a homeless person requests assistance or assistance is being offered
- community concerns about public health or safety are verified
- a breach of the peace or an unlawful act is occurring and the Police need to be contacted (see Principle 4 for definition of 'breach of the peace')

The police will respond to a situation when:

- a person is behaving in a manner dangerous to themselves or others
- a breach of the peace is occurring
- an unlawful act is occurring

## Using the Protocol

It is expected that in applying this Protocol Council Officers will, whenever possible, offer assistance with accommodation referrals, while respecting the right of homeless people to choose not to take up the offer. However in matters relating to health and safety it is expected that Council Officers will take the initiative and commence the referral process.

For each 'Action' described below, it is expected that a Council Officer who comes into contact with the homeless person will apply the Protocol as recommended, or will seek advice from their immediate Manager. Where any staff member is clearly nominated as having particular responsibilities, the matter will be referred to that nominated Officer.

# Principles and Actions

## Principle 1

**All people, including homeless people, have the right to enjoy the benefits of public space and to participate in activities or events.**

### **ACTIONS**

Where a homeless person is in a public space they will be left free to enjoy it and not be asked to move on unless they are creating a disturbance.

## Principle 2

**A homeless person's right to privacy will be respected and they will be left undisturbed, unless they appear to be distressed or in need of assistance.**

### **ACTIONS**

When a homeless person appears to be in distress or in need of assistance, staff will approach them with care and respect, inquire as to their needs, assess the situation, and decide a course of action.

If crisis accommodation or refuge is needed Council Officers will make contact with the Homeless Persons Information Centre (1800 234 566).

If concerned about physical health problems, a health assessment is needed. Staff will contact St Vincent's Homeless Health Outreach Service (8382 1995 or 8382 1988). A Nurse will visit to make an on site assessment. Staff will contact Norman Andrews House (9130 5749) to ensure follow-up from a local agency for the client.

If the above are unavailable (out of normal hours or weekends), staff will contact the Haymarket Clinic (9331 1969 - see opening hours below) and arrange for transport. The Clinic will make a health assessment and treat the client. Staff will advise Norman Andrews House (9130 5749) to ensure client follow-up from a local agency.

When transport is necessary to gain assistance for a homeless person, staff can arrange for transportation by contacting Missionbeat (1300 306 461).

### **Principle 3**

**A homeless person is entitled to carry with them and store his/ her own belongings.**

#### **ACTIONS**

Unless the belongings of a homeless person impede access or are a threat to public health and safety, like all other citizens, their ownership rights will be respected.

In the event that the storage of a homeless person's personal items infringe upon community enjoyment of, or access to a public space, Council staff will courteously ask them to relocate their belongings. Council staff will advise them of the availability of lockers for homeless people (the closest lockers are at Norman Andrews House, 77 Roscoe St, Bondi Beach 9130 5749)

### **Principle 4**

**Homeless people shall not be asked to move on unless there is a threat to general security or safety, or if they are causing a disturbance which constitutes a breach of the peace.**

#### **ACTIONS**

If a person is seriously disturbed or behaving in a manner that is a threat to themselves or others, Council Officers will call the Crisis Team, Eastern Area Health Service (9366 8611), or Waverley Police Station (9369 9899 or 000 in an emergency).

In instances where Officers consider a homeless person to be in breach of the peace (see definition below) they shall be treated as any other member of the community and staff will contact Waverley Police (9369 9899 or 000).

Peace is said to be broken when:

- harm is actually done to a person
- harm is likely to be done to a person
- in a person's presence, harm is done to that person's property
- a person is in fear of being harmed through an assault, affray, a riot, an unlawful assembly or other disturbance

In the case of a threat to general security or safety a homeless person will be asked to move on, as will all other members of the general community. This would normally be the responsibility of Council Rangers or the Police.

## **Principle 5**

**A homeless person's right to privacy will be respected unless, as with any other member of the community, they are suspected of committing a crime or seen engaging in an illegal activity**

### **ACTIONS**

In instances where a homeless person is reported as, or seen to be committing a crime, they will be treated as any other person and staff will contact Waverley Police (9369 9899 or 000).

## **Principle 6**

**It is recognised that in applying these principles, concerns about safety of other members of the community and the individual staff, as well as the individual homeless person will be taken into account.**

### **ACTIONS**

In instances where Council Officers assess that community safety is potentially threatened by a disturbance created by a homeless person, they will advise community members to vacate the area and advise a Senior Ranger of the incident.

When a Council Officer feels their personal safety is threatened they will adhere to OHS practices at all times, monitor the situation and contact their Supervisor.

## **Principle 7**

**It is recognised that community concerns about public health shall be given consideration.**

### **ACTIONS**

When it is possible that a homeless person is creating a health problem in a public space the Manager, Health and Ranger Services will be requested to respond by organising an assessment of the situation.

When a risk to health is determined, the Senior Ranger will advise the homeless person of the implications of their actions and request they desist from the practice. The Officer will seek assistance from appropriate agencies to resolve the issue.

In the event a homeless person has set up a temporary shelter that Council Officers (ie Senior Rangers) determine as unsafe or infringing upon public access, they will request removal of the shelter. For emergency accommodation Council Officers will call the Homeless Persons Information Centre (1800 234 566) and the NSW Department of Housing Maroubra office (9314 4099) and Eastern Suburbs Rental Housing Association (ESRHA - 9387 6471) to initiate an application for long term housing. Due to the complex issues relating to homelessness, the Officer will refer the matter to Norman Andrews House (9130 5749) for the commencement of appropriate case management.

## **Principle 8**

**To ensure the rights of homeless peoples are protected, in the case of a dispute they should have ready access to an appeals mechanism.**

### **ACTION**

In the case of a dispute, Council staff will inform the homeless person of the Homeless Persons Legal Service. Where the homeless person consents to legal advice/ support, or if the Council Officer determines the need to exist, they will contact the Homeless Persons Legal Service (8898 6545) on their behalf. The Officer in contact with the homeless person will initiate this action, and the matter should be referred to the Manager, Community Services for follow up by staff.

## **Principle 9**

**Council Officers (Rangers, Inspectors, Lifeguards, Parks and Gardens, Parking Patrol, Cleaning and Call Centre staff etc), working in areas that bring them in contact with homeless people should feel competent in responding to the rights, needs and safety of homeless people.**

### **ACTIONS**

Council's Community Services staff will provide a detailed list of useful and relevant local services and other information to assist all Council staff responding to the rights and issues of homeless people. This material shall be in printed form and will be updated as needed.

Training and education around homelessness will be provided for all staff and integrated into the annual training program. Section Managers in Council whose Staff come into contact with homeless people will inform new staff of the Protocol and provide orientation to staff as necessary. New staff will be provided with a Homeless Information Kit that includes a summary of the formal training sessions delivered.

Training will include information on:

- Facts and statistics about homelessness generally and in Waverley LGA specifically
- Issues that create and contribute to homelessness
- The legal powers of Police and obligations of Council in relation to homelessness
- Dealing with public concerns and complaints
- Approaching homeless people with care, safety and respect
- Assessing the needs of a homeless person e.g. accommodation, health, legal, safety, food and other related issues
- Local services and agencies that can assist, as well as peak advocacy agencies
- Identifying the level of assistance needed and initiating the referral process to ensure appropriate follow up occurs (eg. assisted referrals by telephone)

**Not sure what to do?  
Contact Recreation, Customer & Community Services  
on 9386 7999.**

## Appendix : Legislation

### Local Government Act 1993

Section 131 states:

*If the Council has adopted criteria in a local policy under Part 3 on which it is to give an order, the council is required to take the criteria into consideration before giving the order.*

The 'criteria' to be considered for this purpose is the *Waverley Council Homeless Persons Protocol*.

### Environment Planning and Assessment Act 1979

Section 121G states:

- 1) *If an order will or is likely to be have the effect of making a resident homeless, the person who gives the order must consider the resident is able to arrange satisfactory alternative accommodation in the locality.*
- 2) *If the resident is to arrange satisfactory alternative accommodation in the locality, the person who gives the order must provide the resident with:*
  - a) *information as to the availability of satisfactory alternative accommodation in the locality*
  - b) *any other assistance that the person considers appropriate*

This section may apply where a person who is homeless has been ordered to remove or demolish a (temporary) structure for housing made on public land (their 'home').