

COMMUNITY LEGAL CENTRES TASMANIA

4 October 2019

Department of Police, Fire and Emergency Management
GPO Box 308
Hobart TAS 7001
attn: Legislation Development & Review Services

via email: strategy.support@dpfem.tas.gov.au

To Legislation Development & Review Services,
Re: *Police Offences Amendment (Repeal of Begging) Bill 2019*

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to provide comment on the *Police Offences Amendment (Repeal of Begging) Bill 2019*.¹

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

We strongly support the proposed amendment of the *Police Offences Act 1935* (Tas) ('the Act') to repeal the offence of begging. We strongly believe that homelessness and poverty cannot be addressed through the criminal justice system. The repeal of the offence of begging should result in a more humane approach by ensuring that beggars are not criminalised nor denied the right to publicly communicate their need for assistance.

Research carried out by a number of Australian organisations indicates that people who beg are among the most marginalised, disadvantaged and disenfranchised in society. For example, Justice Connect interviewed 30 persons over 2016-18 who beg or have begged and published the following results:²

- 77 per cent were experiencing homelessness;
- 87 per cent had a mental illness;

¹ CLC Tas would like to acknowledge Katherine Sproule who assisted in the preparation of this response.

² Justice Connect, *Asking for Change – calling for a more effective response to begging in Victoria* (August 2018). Also see Philip Lynch, *Understanding and responding to Begging* (2005) 29(2) *Melbourne University Law Review* 518.

- 80 per cent had been unemployed for 12 months or more;
- 33 per cent had experienced family violence;
- 37 per cent reported childhood trauma or abuse.

Importantly, the research points to begging being an action of last resort, meaning that people beg rather than resorting to more serious criminal offences such as stealing, drug dealing or prostitution.³

Currently, section 8 of the Act makes it an offence to induce or attempt to induce the giving of money or other financial advantage. In our opinion, simply removing the offence of begging strikes the right balance between allowing persons the right to beg, as long as they do not harass or intimidate others, or deter persons from entering businesses and public facilities.

We further support the omitting of begging from section 8(1) of the Act and instead incorporating it under the dispersal of persons provision contained in section 15B of the Act. Under the current section 8(1) of the Act, a person who contravenes the begging provision is liable on summary conviction to a monetary penalty or possible imprisonment.⁴ By instead invoking the power to direct a person who is begging to leave a place and not return for at least four hours under section 15B of the Act, a beggar will only be prosecuted if they contravene the provisions under section 15B(1) or if they refuse or fail to comply with a police direction to disperse.⁵ We believe this is a more humane approach as the use of fines and imprisonment fails to address the underlying causes of begging.

However, we do not support the proposed inclusion of clause 15B(1)(ca) which will provide the police with explicit 'move on' powers against beggars. In our opinion, the Act adequately addresses public safety concerns arising as a result of begging, without the need for additional dispersal powers. This is demonstrated in the research with studies finding that the incidence of aggressive begging is very low.⁶ We strongly believe that all of the proposed behaviours listed in clause 15B(1)(ca) are already contained in section 13 of the Act.⁷

13. Public annoyance

- (1) A person shall not, in a public place –
- (a) behave in a violent, riotous, offensive, or indecent manner;
 - (b) disturb the public peace;
 - (c) engage in disorderly conduct;
 - (d) jostle, insult, or annoy any person;
 - (e) commit any nuisance; or
- ...

³ Michael Horn and Michelle Cooke, *A Question of Begging: A Study of the Extent and Nature of Begging in the City of Melbourne* (2001) 9 at 24.

⁴ Section 8(1AA) of the *Police Offences Act 1935* (Tas).

⁵ Section 15B(2) of the *Police Offences Act 1935* (Tas).

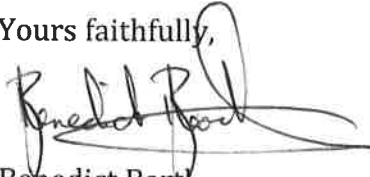
⁶ Michael Horn and Michelle Cooke, *A Question of Begging: A Study of the Extent and Nature of Begging in the City of Melbourne* (2001) 9 at 15.

⁷ Also see section 12(d) of the *Police Offences Act 1935* (Tas) which provides that persons must not use "threatening, abusive or insulting" language or "behaviour calculated to provoke a breach of the peace".

In summary, we strongly support the repeal of begging which will bring Tasmania into line with other jurisdictions including Western Australia, New South Wales and the Australian Capital Territory who have all decriminalised begging in their relevant criminal codes. But, we call for the removal of explicit 'move on' powers for begging on the grounds that aggressive begging rarely occurs and the clause would amount to unnecessary duplication.

If we can be of any further assistance, please do not hesitate to contact us.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Benedict Bartl', with a large, sweeping flourish extending to the right.

Benedict Bartl

Policy Officer

Community Legal Centres Tasmania
