Report Back from Independent Community Consultations

Prepared for the Social Planning and Research Council by
Meenakshi Mannoe, Pivot Legal Society

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PIVOT LEGAL SOCIETY

equality lifts everyone

About Pivot Legal Society

Founded in 2001, Pivot Legal Society ("Pivot") is a non-profit legal organization that works in partnership with communities affected by poverty and social exclusion to identify priorities and develop solutions to complex human rights issues. As an organization based in the Downtown Eastside, we work on the stolen lands of the xʷməθkʷəy̓əm (Musqueam), Sḵwx̱wú7mesh (Squamish), and Səl̓ilwətaʔ/Selilwitulh (Tsleil-Waututh) peoples.

Pivot's work is focused in four policy areas: police accountability, drug policy, homelessness, and sex workers' rights. In December 2018, Pivot published Project Inclusion: Confronting anti-Homeless and anti-Substance Use stigma in British Columbia. This report identifies the legal, policy-related, and other structural barriers that must be addressed in order to meaningfully prevent deaths due to the tainted drug supply, as well as and other health and safety harms, particularly among people who are experiencing homelessness and people in deep poverty who use substances.[1]

Independent Community Meetings

In November 2019, Pivot received funding from the Social Planning and Research Council of British Columbia to conduct independent community meetings regarding proposed legislation that aims to promote greater accessibility and inclusion in BC. Based on Pivot's previous work, we sought to engage communities and individuals who had expertise based on the following lived and/or living experiences: living with disabilities, relying on public space, supplementing income through grey economies,[2] using illicit substances, and experiencing criminalization.

Pivot partnered with several organizations based in the Downtown Eastside to bring together five community-based consultations, with 43 participants total. The organizations were:

- VANDU, the Vancouver Area Network of Drug Users
- DTES Womxn's Night Clinics, a healthcare service for cis- and trans-women living in the DTES
- A supportive housing/treatment program for self-identified women in the DTES

[1] Darcie Bennett and D.J. Larkin, Project Inclusion: Confronting anti-homeless and anti-substance user stigma in British Columbia (Vancouver: Pivot Legal Society, 2018) at page 4

[2] Homeless Hub, Informal Economy, (Toronto: Canadian Observatory on Homelessness, 2019)

Overview of Demographics

All participants had a connection to the Downtown Eastside, with the majority being residents of the neighbourhood. Some folks had moved elsewhere but retained a connection to grassroots, advocacy, social or healthcare services in the neighbourhood. Participants were invited to consider accessibility inclusion in broad terms, to account for their lived and living experiences. From this basis, we were able to talk about the impact of physical barriers, mental barriers, stigma, racism, discrimination, sexism, transmisogyny, trauma and poverty.

Of the 43 participants, 32 completed the pre-consultation questionnaire and 26 participants reported that they identified as a person with a disability. Reported disabilities included:

- Hepatitis C
- Mobility issues
- Mental health issues
- Trauma, including post-traumatic stress disorder
- Chronic pain
- Rheumatoid Arthritis
- Lupus
- Fibromyalgia

The majority of participants were receiving Income Assistance or Disability Assistance. Some participants reported other sources of income, including Employment Insurance and private pensions. Most participants were cis- or trans-women, as four of the consultations took place in women-only programming.

The following key themes were identified during these discussions:

(1) The impact of poverty on accessibility and inclusion

(2) The impact of oppression and discrimination on accessibility and inclusion

(3) Existing barriers in health and social services

(4) Lack of accountability and oversight in existing services

An overview of these themes outlines the major discussion points and the related aspects of accessibility and inclusion that were most important to participants.

Italicized comments are direct quotes from workshop participants.

Defining Accessibility & Inclusion

Participants were invited to define accessibility and inclusion in their own words, and provided the following definitions:

Accessibility is…

- Dignity
    - Being able to do, go and use services and programs easily and without stigma
    - More consideration, respect
    - Dignified support
    - Being able to access resources without being given the runaround or being spoken to in circles
- Having a home
    - Accessibility means I need a place to live
    - Home, having one safe
- Getting the services I need
    - Being able to access whatever service I'm in need of
    - Having the means to access the whole range of services offered with little or no restrictions
    - Connections to services that are provided in the community
    - Ability to access a program or place or open to all abilities
    - It means reliability and to get the services one needs
    - Easily able to get the services one needs
    - Medical offices accessible to someone who uses a walker
    - Funding, treatment
    - Surgery, Native services, housing
    - Easily be able to get the support services I need
- Navigating everyday situations
    - Convenience of making use of the service or product
    - Getting into stores, restaurants
    - Having access to transportation to and from places
    - Are there accesses to the door
    - Able to get something done

    - Ease of availability to building and/or resources
    - It means that a space is "open" to all that it should be open to
    - Being who you are and not be judged on where, who, how you are – gender, race etc.
- Being included if I don't have much money
    - Being able to access what everyone else is able to, receive all the same/equal resources, as well as get treated the same as all the Middle Class People even if some may be a drug user or not
    - Access to all medical, personal info when required without cost, hassle and access to the medical treatments I choose
    - Things accessible to all walks of life for medical, transport, education, housing and barriers in the DTES
    - It means having no problems to get housing, education, lawyer, etc.

Inclusion is…

- Essential
    - Acceptance into environments, programs, facilities, etc.
    - Being included without fear
    - Being listened to genuinely
    - Belonging/being included in
    - Knowing where to go that is safe for help
    - Knowing where we can get help
    - Inclusion means usable
- Ending discrimination
    - Being able to access everything and anything that everyone else does. Not being told "No" or "You can't" because of who I am
    - Inclusion to me means involving not only specific ages or genders etc. but involving all of those that would like to participate
    - Everyone and anyone can access the services
    - Open to all interested parties, male, female or others
    - It means no matter your race, gender etc. you should be able to access services with non-judgement or discrimination
    - It means that I will not be excluded from a space because of who I am

    - All gender, races, etc. should never be excluded or discriminated or denied services
- Belonging
    - Being clearly heard
    - Good to feel needed and a part of something worldwide, in the community
    - Making everyone feel welcome no matter their gender, colour, ethnicity, lifestyle
    - No one being turned away, but acknowledging there are some people who require different levels of service/treatment e.g. untreated mental health need to necessarily to be housed next to someone simply going through a rough patch
    - Everyone living life at a comfortable means
    - It means that everybody is included
    - Not just putting everyone in groups, "We are all one"

> *"A lot of people have died because of the way they have been treated – either because they're a user, they're poor, or it's obvious they just got out of prison"*

Key themes

Pivot collected feedback from participants through notes taken at the five community consultation sessions, as well as pre- and post-consultation questionnaires. Some participants took their own notes and provided them to the facilitator for review afterwards. The key themes and proposed solutions are based on qualitative analysis of this feedback.

Theme 1: The impact of poverty on accessibility and inclusion

> *"We need a system that doesn't pay you at 50 percent below the poverty line"*
> *– A participant describes the reality of living on income assistance*

Poverty is an underlying situation that precludes accessibility and inclusion. The impacts of poverty arose in each group discussion, as participants described the consequences of their social condition on every aspect of their life. Pivot defines social condition as "inclusion in a socially identifiable group that suffers from social or economic disadvantage on the basis of poverty, source of income, occupation, housing status, level of education, or any other

similar circumstance."[3] Poverty had a far-reaching impact on the lives of participants, who largely relied on state-provided social services to meet everyday needs.

People who experienced homelessness or otherwise relied on public space were acutely aware of discrimination when they were trying to find housing. People on Income Assistance or Disability Assistance recounted how landlords were unwilling to sign Intent to Rent forms when they learned that rental money would be coming from MSDPR. Other landlords simply were unwilling to rent to people who were homeless. Other landlords or property managers refused to permit homeless people into buildings to visit their friends – stating that homeless guests were not welcome, or they had to produce government-issued identification documents to enter. Many people who rely on public space do not have current government ID because their possessions are routinely confiscated and/or destroyed by police and bylaw officers.

In addition to the impact of homelessness, lack of affordable and/or appropriate housing also had a profound impact on the participants. Over and over, consultation participants identified housing as an essential component of accessibility and inclusion.

Many participants identified the problematic nature of current BC Housing programs, specifically the supportive housing programs.[4] Some participants had concerns about the tenanting processes in these programs and felt that these programs forced a diverse group of tenants to live together with inadequate individualized supports. Beyond supportive housing, there are very limited transitional housing options for people experiencing homeless, and people are currently reliant on a fluctuating and insecure patchwork of spaces to simply get out of the cold, including hospital waiting rooms and shelters.

Other issues with accessibility in housing include restrictions on pets for tenants and limited options if a tenant has mobility issues.

Theme 2: The overall impacts of interlocking oppression and discrimination

> *"Maybe you should go find your dealer"*
> – A participant recounts a doctor's response to them at a local emergency room

Oppression and discrimination, based on a range of intersecting identities, also shape experiences of accessibility and inclusion. Consultation participants shared that they experienced stigma and prejudice based on their identities, including

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[3] Darcie Bennett and D.J. Larkin, Project Inclusion: Confronting anti-homeless and anti-substance user stigma in British Columbia (Vancouver: Pivot Legal Society, 2018) at page 9

[4] BC Housing, Supportive Housing (Burnaby: BC Housing, 2019)

- Having Indigenous ancestry
- Being a woman, cis or trans
- Age – as a youth aging out of care, as an Elder, or a senior
- Being labelled with a stigmatizing psychiatric diagnosis, specifically "borderline personality disorder"
- Being identified as a substance user, and labelled as "drug-seeking"
- Being identified/outed as a sex worker, and discriminated against
- Being low-income

The impact of these labels undercuts all efforts to promote accessibility and inclusion in BC. Nearly every participant recounted how reluctant they were to access critical services, such as emergency healthcare, because they did not trust service providers or clinicians to treat them with respect and dignity, and ensure they received safe and professional care.

Theme 3: Existing barriers in health and social services

> "*Everyone wants to avoid [the Hospital] at all costs*"
> – A participant describes their general feelings about emergency healthcare

> "*I know what's going on with me, I know what's happening – I know when I need help & support*"
> – A participant recounts arguing with their healthcare provider about the treatment she requested

Healthcare and social services were a dominant source of concern for participants. As Theme 2 outlines, stigma and discrimination in the healthcare system were prevalent concerns. In addition to stigma and discrimination, participants outlined the limitations of the current healthcare system. People who live in poverty and rely on community-based healthcare centres or emergency rooms as their primary care providers have limited access to preventative healthcare services, healthcare education and literacy, specialized assessments and care plans, and extended health benefits such as dental care. During consultations, participants also shared the impact of recent, drastic changes to home support services. Home support workers provide services to individuals with acute, chronic, palliative or rehabilitative health needs.[5] Reductions to these services have an

[5] Vancouver Coastal Health, Home & community care (Vancouver: Vancouver Coastal Health Authority, 2017)

indelible impact on people with complex health needs or barriers to accessing conventional, ambulatory clinics.

Regarding social services, participants who relied on Income Assistance or Disability Assistance were forced to live well below the poverty line. Participants outlined how difficult it was to navigate Ministry of Social Development & Poverty Reduction ("MSDPR") to ensure they were receiving all benefits they were eligible for: being met with hostility from frontline MSDPR staff, facing a confusing system requiring specific reporting criteria, and the importance of working alongside trusted advocates to get the best possible outcomes.

Transportation needs were also an area of concern for participants who relied on three main forms of transportation to navigate the city and access health, social, and government services, as well as commune with friends and family. These were: public transportation (i.e. buses, SkyTrain), private taxis, and non-profit operated shuttles (ex. Saferide).[6] Generally, the main barrier to public transportation was lack of money to pay the transit fare, which led to individuals asking transit operators to provide a free ride, at the risk of being ticketed for a fare infraction.[7] Bus drivers were also noted to exhibit hostility and discrimination when driving through the Downtown Eastside, including failing to stop at identified bus stops, not allowing passengers to board if they could not pay the fare, or making discriminatory comments. Similar concerns were raised regarding private taxi drivers, who also exhibited discriminatory behaviour: ignoring fares in the Downtown Eastside or demanding upfront payment. Several participants described waiting hours for taxis upon discharge from hospital. When one participant spoke about non-profit operated shuttles, she noted that these services were limited, and had been drastically reduced in recent years. Some participants thought that specialized transportation services, operated by non-profits who understood the diverse needs of passengers, were preferable to buses or taxis.

Theme 4: Lack of accountability and oversight in existing services

> *"I'm tired of being abused, I don't want to be abused any more"*
>
> – A participant explains the cumulative impact of their lived experiences when they experience discrimination from health and social service providers

While participants shared their experiences of underfunded services and discriminatory policies and practices, they also shouldered the burden of knowing there were few venues

[6] Vancouver Recovery Club, Saferide (Vancouver: Vancouver Recovery Club)

[7] Translink, Fare Infractions (New Westminster: South Coast British Columbia Transportation Authority, 2019)

for accountability. Several participants described how they were met with hostility, prejudice or outright discrimination when they met with health, government, police or social service staff. If participants decided to make a complaint and had the capacity and means to follow-through, they found that most agencies and departments investigated themselves, with few external accountability measures.

A handful of participants described situations wherein staff acted unprofessionally, unethically, or illegally – such as denying care or services in acute situations, making outright anti-Indigenous comments, or sharing personal information without consent. Due to power imbalances, lack of specialized advocates, and complaints systems with perceived bias, these participants felt they had no option but to suffer in silence.

Proposed Approaches

When participants discussed the "broad alignment between federal and provincial accessibility legislation"[8] there was confusion about the intention and scope behind the provincial government's proposal. Some participants were concerned that imposing accessibility and inclusion through legislation would further stigmatize people who were deemed "Other."

The role of the government's proposed legislation was further questioned as participants described the conditions they were living in, such as: insufficient income, inadequate housing, lack of safe supply of uncontaminated drugs,[9] inadequate healthcare services, and discriminatory treatment.

As the provincial government considers a model for accessibility legislation, it must not lose sight of other policies that foster exclusion. In *Project Inclusion* Pivot makes several relevant recommendations.

- The Province of British Columbia must amend the Human Rights Code, RSBC 1996, c 210 to prohibit discrimination and harassment based on social condition.
- The Ministry of Mental Health and Addictions and the Ministry of Health must improve the ability of BC hospitals to meet the needs of people living with the effects of substance use, mental illness, and/or homelessness by:

[8] Social Planning and Research Council, Independent Community Meetings Report Back Final (Burnaby: SPARC, 2019) at page 7

[9] Canadian Association of People Who Use Drugs, SAFE SUPPLY Concept Document (CAPUD, 2019)

a. auditing experiences in hospitals, beginning with an analysis of people's experiences where they have been turned away from emergency rooms or discharged and where there have been negative health consequences;
b. working with people with lived experience to audit provincial standards for effectively managing substance withdrawal in hospital settings;
c. ensuring that all hospitals offer supervised consumption services to patients; and
d. working with the Ministry of Municipal Affairs and Housing to create transitional housing options to ensuring that sick and injured people are not released from the hospital to the streets or to emergency shelter.

- The Ministry of Social Development and Poverty Reduction must make immediate changes to BC's Income Assistance and Disability Assistance programs including:
  a. increasing income assistance rates to the Market Basket Measure[10] and indexing them to inflation
  b. reviewing the processes that are currently in place for reporting "welfare fraud" to provide greater accountability and ensure that people receiving income assistance are not denied survival income without due process;
  c. increasing access to in-person services for income assistance and disability applicants; and
  d. ensuring that people living with disabilities can access disability support by:
     i. simplifying the application process to reduce wait times and lessen reliance on advocates;
     ii. providing provincial guidelines for doctors/service providers on how and when to fill out disability forms; and
     iii. ensuring that hospital social workers are resourced and directed to work with patients in need to apply for disability benefits.
- The Legal Services Society of BC must provide legal support for appeals where a person has been denied income assistance or disability assistance.
- All government actors and health care providers must recognize the specific and indispensable expertise of people with lived experience. Increase peer-run and peer-delivered services and peer-support positions within government services by:

[10] Statistics Canada, Market Basket Measure (MBM) thresholds for economic families and persons not in economic families, 2015 (Statistics Canada: Census Division: 2017)

a. developing a provincial advisory board of people with lived experience of homelessness for BC Housing;
b. establishing provincial best practices for engaging people with lived experience of poverty, homelessness, and substance use in service delivery modelled on GIPA (Greater Involvement of People living with HIV/AIDS), MIPA (Meaningful Involvement of People Living with HIV), and NAUWU (Nothing About Us Without Us) principles;
c. collaborating with peer-led organizations to audit all provincial services (hospital, health, income assistance, shelter, housing) to identify and fund opportunities for peer engagement in service provision and planning; and
d. developing a model for peer-involvement in the design and execution of homeless counts

- In consultation with experts, including human rights law organizations, trauma specialists, and people with lived experience, the Province of British Columbia should adopt a standardized tool and training protocol for conducting "stigma audits" of current laws, policies, and regulations in BC, and to inform the development of new laws, policies, and regulations.
- The relevant provincial ministries should engage in extensive education and outreach to legislators and staff across the provincial government, and local governments to introduce the stigma-auditing tool to law and policymakers, and to train stigma auditors.

Implementation Details: Formalizing Accountability

As participants described their concerns with existing accountability measures, they also highlighted how meaningful compliance measures and advocacy support could account for these concerns. Some participants shared that it was difficult to imagine effective oversight, given that they have very little access to justice and redress in current services. Participants thought that the BC Human Rights Tribunal was a good model, and they were emphatic that oversight must come from external organizations.

An effective accessibility and inclusion oversight program would require multilayered approaches to resolution, quick responses, and direct access to the most relevant staff. While there are countless advocates in the Downtown Eastside (include unpaid experts with lived/living experience), having to rely on a friend or professional to help navigate complaints processes is cumbersome and challenging. Participants described the importance of being able to triage their concerns, including opportunities for complaints to

be resolved informally between two parties, by management, or by an external oversight agency.

Summary of Feedback

Identified Themes

- The impact of poverty on accessibility and inclusion
- The impact of oppression and discrimination on accessibility and inclusion
- Existing barriers in health and social services
- Lack of accountability and oversight in existing services

Proposed Solutions

- Immediately address existing inequality, specifically related to housing, income and healthcare
- Strengthen and utilize existing tools (i.e. BC Human Rights Tribunal, Office of the Ombudsperson)
- Independent oversight of accessibility and inclusion
- Straightforward complaint, review and resolution processes
- Funded advocates to support complainants
- Incorporate recommendations from Project Inclusion: Confronting anti-homeless and anti-substance user stigma in British Columbia