

Human Rights in service provision

The experience in Victoria, ACT & Queensland

Human rights approach in service provision - a legal requirement

- ▶ Human Rights Act 2004 (ACT)
- ▶ Charter of Human Rights and Responsibilities Act 2006 (Vic)
- ▶ Human Rights Act 2018 (Qld)

- ▶ Obligations on public authorities to act in a way that is compatible with the protected human rights protected and make it unlawful for a public authority to act in a manner that is incompatible with a human right, or in making a decision, to fail to give proper consideration to a relevant human right.

What is a 'public authority'?

- ▶ It includes government bodies, departments and institutions (eg. local government, police, government departments, prisons)
- ▶ It includes non-government bodies performing functions of a public nature.

This includes:

Homeless services	Regulatory functions
Social housing services	Detention/corrections services
Public health services	Disability services
Emergency services	Youth services

'Function of a public nature' -

- Is it a function conferred by law?
- Is it identified with functions of government?
- Is it regulatory in nature?
- Does the organisation receive public funding to perform the function?

How the Human Rights Charter improved service delivery

For community and non-gov social housing organisations -

- ▶ Ensuring that principles of non-discrimination, privacy, procedural fairness and consumer participation were reflected in policies, practices and guidance notes;
- ▶ Providing a comprehensive internal consumer complaints process that accords with principles of procedural fairness and privacy and that incorporates appropriate appeals mechanisms;
- ▶ Reviewing and auditing policies, procedures and practices to ensure that they respected human rights;
- ▶ Reviewing key practice decision-making processes to ensure that they took account of human rights;
- ▶ Developing a system of internal monitoring, reporting and staff supervision for incidents which involve possible infringements of human rights or a failure to consider human rights in decision-making;
- ▶ Ensuring that staff had access to human rights training.

How the Human Rights Charter improved service delivery

Hanover Welfare Services

- ▶ A regular review of the level of understanding clients have about their rights;
- ▶ Reviewing position descriptions and letters of appointments of staff to ensure that their obligations and rights under the *Charter* are included;
- ▶ A regular review of rules of the service involving client representation and consultation;
- ▶ Including human rights compliance in case note audits or other internal audits;
- ▶ Including human rights obligations in case-worker supervision practices;
- ▶ Developing a human rights checklist to be used with any evictions that need to occur.

Human rights improving service delivery

Salvation Army develops responses to incorporate human rights

During 2007-2008, the Salvation Army undertook a project in order to better understand and adapt its practice and policies to the Charter. Specifically, the project involved:

- Determining how the Charter related to the creation and provision of Victorian social programs; and
- Providing training and information to ensure that social programs were in line with the Charter's principles.

Source: Salvation Army: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006

Empowering migrant women through human rights education

Women's Health West has established a project, *Our Community, Our Rights*, which supports migrant women to understand their rights and empowers them to exercise leadership and facilitate change within newly-arrived migrant communities. Women's Health West state that it is not only projects which directly engage the Charter that make the difference, but also the general culture that the Charter has fostered, which enables such projects to flourish.

Source: Western Region Health Centre and Women's Health West: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006

Charter assists Good Shepherd Youth and Family Service

The St Kilda Branch of the Good Shepherd Youth and Family Service notes the various ways in which they have found the Charter to be of great assistance in their work.

- They successfully employed Charter rights when ensuring that a woman, released from prison was able to secure work and reintegrate into the community.
- They raised the Charter during negotiations where business operators wished to remove homeless persons.
- They used the Charter to run sessions and programs, which outline the various needs and associated rights of marginalised persons, including women who have faced violence, trafficking, forced labour.

Source: Good Shepherd Youth and Family Service: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006.

Examples of how human rights protections assisted disadvantaged people

Newly arrived refugee siblings protected from eviction

A non-govt housing services (MW) intended to evict two siblings who had recently arrived in Australia as refugees on a residential notice to vacate for no specified reason. MW eventually agreed that they were bound by the obligations contained within the Charter and withdrew the application for eviction.

Source: Fitzroy Legal Service: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006.

Young man protected from homelessness

A young man was given a 'no reason' notice to vacate by a community housing organisation. He was unable to find alternative accommodation during this period of time. The landlord applied to VCAT for a possession order. The Homeless Legal Service claimed that the housing organisation was acting in breach of the Charter by issuing the notice. A settlement was negotiated and the young man was afforded an additional two months to find alternative accommodation and was successful in doing so.

Source: Homeless Persons Legal Clinic: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006

96 year old woman protected from eviction and homelessness

A 96 year old woman was given a 60 day notice to vacate the home within which she had lived for 21 years. She was unable to find alternative accommodation in this period of time. The notice was contested in VCAT with the advocate arguing that it was a breach of Charter rights. As a consequence, she was given an additional 30 days and was assisted in finding appropriate accommodation.

Source: Hanover Welfare Services: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006

Examples of how human rights protections assisted disadvantaged people

Charter used to protect intellectually disabled person

Tenants Union Victoria (TUV) used the Charter in a VCAT dispute to protect the rights of an intellectually disabled tenant who had been given a notice to vacate based upon his behaviour at a rooming house. The tenant's behaviour had been as a consequence of his disability. Use of the Charter enabled TUV to open up discussion with the landlord as to his/her obligations as a Public Authority.

The landlord was able to consider the Charter and agree to an alternative course of action. The final agreement meant that the tenant could occupy the premises for a period of 6 months while looking for alternative accommodation, so long as his behaviour was appropriate during this time.

At the end of the 6 months, the tenant had not been in breach of any house rules and the landlord allowed for him to remain in the premises.

Source: Action for More Independence and Dignity in Accommodation: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006.

Charter used to protect dignity of resident of disability service

During a routine visit to a residential service, a Department of Human Services officer observed carers assisting a client to shower from the door of the unit. The officer provided information on human rights and discussed the impact of the physical environment on the client's right to privacy and on workplace safety. The residential service then reviewed the physical environment, with a simple solution adopted - the fitting of a shower curtain; guaranteeing the privacy and dignity of the resident at very little cost to the service.

Source: Victorian Equal Opportunity and Human Rights Commission 2011.

A human rights charter for NSW

<https://humanrightsforNSW.org/>



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RIGHTS
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**We all have a right to
recognition and equality
before the law**



**HUMAN
RIGHTS
ACT FOR
NSW**

**We should all have the
freedom to access
health services**



**HUMAN
RIGHTS
ACT FOR
NSW**

**Every person in NSW
should be able to live in
safety and with dignity.**