10 June 2011

Mr Edward O’Donohue, MLC
Chairperson
Scrutiny of Acts and Regulations Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002
Via email: charter.review@parliament.vic.gov.au

Inquiry into the Charter of Human Rights and Responsibilities

Dear Mr O’Donohue

TransGender Victoria welcomes this inquiry and the opportunity to make a submission.

As is our usual practice, we intend to focus on issues specific to our community. We support organisations such as the Federation of Community Legal Centres Inc in relation to any broader issues.

TransGender Victoria was formed in 1999 to achieve justice and equity for those whose gender identity differs from that expected given their body at birth. We cover the issues of a range of people in these situations see http://www.transgendervictoria.com/?p=2& Name=definitions. Legally such people are protected by the gender identity attribute as defined in the Equal Opportunity Act (1995 and 2010).

Transgender people face rates of discrimination of up to 87.4% (Tranznation, ARCSHS, 2007 http://www.qihv.org.au/node/398 page 60). We welcome the continued existence and ongoing expansion of the charter as part of a broad range of measures to reduce discrimination and increase equality and fairness for transgender people, with the resulting social and economic benefits for all.

We support extending the Charter to cover women’s rights. Transgender women face at least as much discrimination as cisgender women i.e. those whose gender identity matches their body at birth. To include women’s rights in the charter can help provide additional measures to overcome discrimination against women in general and specific groups of women, including transgender women.

We believe the charter needs to protect the rights of all gender expressions, sexes and gender identities in light of the discrimination mentioned above.

We support extending the Charter to cover children’s rights. Transgender young people frequently face a “double whammy” in relation to discrimination. The exaggerated stereotyping and generalisation faced by young people e.g. “you’re all too young to know anything” are often used against transgender young people in
relation to their lives, in particular in relation to the need for puberty delaying medical treatments.

We urge the review to consider how preparation of legislation could be enhanced in line with the charter. We draw the committee’s attention to issues connected with the Summary Offences and Control of Weapons Act 2009, specifically the inclusion of a definition of “transgender” that conflicted with the gender identity attribute in the Equal Opportunity Act (1995 and 2010). Although this conflict was remedied six months later, a stricter application of the charter would most likely have contributed to a prevention of the situation in the first place. We state expressly this is not a comment on the overall intent of this legislation.

We also draw the attention of the committee to a situation regarding a situation involving crisis/short-term accommodation for transgender people as per Hanover Welfare Services Ltd (Anti Discrimination Exemption) [2007] VCAT 640 (20 April 2007) http://www.austlii.edu.au/au/cases/vic/VCAT/2007/640.html The initial judgement left transgender women with less access to services. However, subsequent discussions (in which Hanover was highly co-operative) have more than remedied this situation with an amendment to the original decision lodged in mid 2008. The charter and its provisions played an important role in modifying the original decision and reducing any disadvantage created by it. Further, our relationship has since built with Hanover so that TransGender Victoria has provided training to Hanover staff and signed an MOU – an even better outcome.

We conclude that the charter has been of great benefit to people in our community who face disadvantage through no fault of their own. We believe many other communities would also have benefited from the existence of the Charter. We therefore totally endorse continuation of it and as outlined above, expansion as requested.

Please feel free to contact me on 0407 946 242 with any queries. We thank you again for the opportunity to make a submission.

Yours sincerely

SALLY GOLDNER
Spokesperson