
The Office of the Health Services Commissioner (OHSC) was created by the Health Services (Conciliation and Review) Act 1987 (Vic) (HSCRA).

The OHSC is established to:
- Deal with user's complaints; and
- Suggest ways in which the guiding principles may be carried out; and
- Help service providers to improve the quality of health care.

The Guiding Principles promote:
- Quality health care, given as promptly as circumstances permit; and
- Considerate health care; and
- Respect for the privacy and dignity of persons being given health care; and
- The provision of adequate information on services provided or treatment available, in terms which are understandable; and
- Participation in decision making affecting individual health care; and
- An environment of informed choice in accepting or refusing treatment or participation in education or research programmes.

The OHSC also administers the health privacy legislation in Victoria, the Health Records Act 2001 (Vic) (HRA). The HRA does this by promoting fair and responsible handling of health information by –

(a) protecting the privacy of an individual's health information that is held in the public and private sectors; and
(b) providing individuals with a right of access to their health information; and
(c) providing an accessible framework for the resolution of complaints regarding the handling of health information.

The OHSC promotes the parties to a grievance resolving the complaint between them by mediation and conciliation.

Thank you for the opportunity to comment on the operation of the Charter of Human Rights and Responsibilities (the Charter). OHSC has been a statutory partner with the Equal Opportunity Commission (EOC) in implementing and reporting on the Charter. The OHCS considers Victorian law should be consistent with international human rights to which Australia is a signatory. In the view of the OHSC, the Charter has worked well in promoting a human rights framework and raising awareness of human rights issues in the general community. There have however, been some instances when judicial interpretation of the Charter has led to results, which in the opinion of the HSC, were not in the public interest. In particular the case of Noone, Director of Consumer Affairs (Vic) v Operation Smile (Australia) Inc (2011) VSC 153 (which is currently under appeal).

The OHSC has had the opportunity to read the submission from the Victorian Equal Opportunity Commission (EOC). In addition, the OHSC suggests consideration be given to the introduction of a right to health care. This is an important human right not adequately captured in the current iteration of the Charter. The OHSC recognises that access to appropriate health care may be limited by resource allocation decisions and geographical
location but believes these considerations could be incorporated into the drafting of this additional right.

Ideally legal protection of human rights would occur at the national level however, Australia does not have a national bill of rights or human rights charter, despite its international human rights obligations.

Responsibility for health care in Australia is split between the Commonwealth and State governments and this is often blamed for deficiencies and a lack of accountability for the performance of health services. The National Health and Hospitals Reform Commission (NHHRC) has released 'A Healthier Future For All Australians' which is a comprehensive assessment of our health care system. It sets out three main objectives with specific goals to be met. These are:

1. **Tackling access and equity Issues.** Key goals specified in this area include:
   
   (i) improving health outcomes for Indigenous Australians;
   
   (ii) Improving care for people with serious mental illness;
   
   (iii) Supporting people living in rural and remote areas;
   
   (iv) Improving access to dental healthcare; and
   
   (v) Reducing waiting lists.

2. **Improving the response of the health system to emerging challenges.** Key goals specified in this area include:

   (i) focusing on prevention and early intervention;
   
   (ii) integrating health and aged care services; and
   
   (iii) improving and refining the "Medicare" system.

3. **Creating an agile self-improving health system for long term sustainability.** Key goals specified in this area include:

   (i) strengthening consumer engagement and input;
   
   (ii) improved education for health care workers;
   
   (iii) improved communication between health services; and
   
   (iv) strengthening the funding and purchasing models.

Our public health system struggles to meet the demands placed on it by the ageing of our population, higher acuity, increasing costs and restricted budgets. Lack of accessibility to basic health care, such as dental services, continue to disadvantage marginalised
Australians. Social and economic disadvantage prevents many people from enjoying access to appropriate health services. Poor health literacy exacerbates the problems.

In the opinion of the HSC the only way to deal appropriately with increasing health needs of the Australian population is through genuine cooperative federalism with the Commonwealth taking the major responsibility for funding and the States for service delivery. The Federal Government does not have a good record in service delivery and is sometimes seen as remote.

Thank you once again for the opportunity to comment. Should you have any queries or wish to discuss this submission further, please do not hesitate to contact me on 8601 5216.

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Health Services Commissioner