Submission to the Inquiry into the Charter of Human Rights and Responsibilities

Introduction
This submission is made on behalf of Community Connections (Vic) Ltd. This organisation is a not for profit community based service provider of a wide range of programs across the Barwon and South West region of Victoria. In its 20th year of operation CCV has approximately 40 programs, 170 staff and 300 volunteers. The organisation’s head office is based in Warrnambool, with other sites at Portland, Hamilton, Camperdown, Colac and Geelong.

CCV provides services designed to support and assist the most disadvantaged and marginalised groups and communities in the region. The broad range programs include Out of Home care, Child First, Disability, Problem Gambling and financial counselling. CCV is also contracted to deliver a range of Family Law Services funded by the Commonwealth Government. These services include pre and post separation counselling and support services, a Family Relationship Centre and a Children’s Contact Centre. The organisation is actively engaged in the task of integrating these services with its state contracted Child Protection responsibilities.

In addition, CCV has developed a number of initiatives which support and enhance these services and local communities, such as Discovery Press (publishing Unit supporting local creators) and the Social Inclusion and Emotional Development Strategies (SEIDs) – early childhood services. The organisation has a practice model that maximises all available resources in order to respond effectively to a determined focus on the best interests of children and young people. This involves finding ways and means to join up state and commonwealth program interests.

The organisation has a substantial history of social advocacy on behalf of the individuals and communities in the Barwon South West region. In particular, the Community Legal Centre, Social Housing and Multi Cultural Development Unit are well known for both direct service work as well as lobbying capacity when a need for change is identified. A philosophy of human rights and social justice underpins the work of the organisation and is embedded in both governance and service delivery across the agency in various forms.

Centre for Human Rights & Social Justice
Despite this commitment described above, there was a distinct lack of co-ordinated response in the South West of Victoria to the needs of the community in relation to human rights and social justice issues. Services are either spread across the region or are Melbourne with a Statewide catchment and include Community Legal Centre, Consumer and Tenancy Support service; Community Visitors Scheme, Social Housing support Services, Welfare Rights Legal Services, Human Rights and Equal Opportunity Commission, Family Relationship Centres and Elder Abuse Prevention programs.

Most of these services are provided separately and operate from different office locations. Some have a common auspice agency, but they have separate service criteria and outcomes, and there is no common entry option to all of these services. Data collection systems and analysis are also separate, so any identification of trends is currently often anecdotal and relies on the goodwill of workers and managers sharing information and communicating regularly. There was not a central, localised repository of information in relation to human rights and social justice issues in order to effectively contribute to government policy and law reform in a co-
ordinated manner. This dual absence was magnified with the impact of the global economic crisis; bringing increased demand for localised, readily accessible services tailored to suit the needs of the community with a common point of entry and shared articulated commitment to the HR & SJ philosophy. CCV recognised the need for a model of consolidated vocal advocacy in order to inform government of human rights and social justice status and issues is essential for the health of a community. This is particularly relevant in regional and remote areas, which lack access to many of the Statewide and metropolitan based services (see TOR 6, below)

In response to this, CCV opened the Centre for Human Rights & Social Justice in 2010. Development of the Centre was supported by funding from the Victorian Legal Services Board Grants Program. The concept was formally supported by the Victorian Equal Opportunity and Human Rights Commission. (VEOHRC)

The Centre is based at a prominent shop front location in the main Street in Warrnambool. The location has very high pedestrian and vehicle traffic and is situated in a popular café precinct with front and rear access. It is a welcoming building on three levels, with a modern feel and interesting internal features. It is ideally placed for walk-ins and high profile signage and displays.

The Centre aims to provide the individuals and communities of South West Victoria with access to a range of advocacy and social justice services with a single point of entry and streamlined referral processes. It also provides a central repository for the identification and analysis of HR &SJ trends and issues and the opportunity to submit evidence based material to inform policy and law reform. A further aim of the Centre is to bring together a range services and stakeholders who share the above philosophy and vision for the South West and promote collaborative and innovative practice.

While still in the developmental stage, the Centre has been well received in the community and is has designed a range of promotional activities and education sessions to raise the profile and promote its services to the public and stakeholders.

**The Victorian Charter of Human Rights & Responsibilities**

Clearly, the above initiative was motivated and informed by the introduction and implementation of the Charter across the State. The main areas of influence and impact of the Charter relevant to CCV can be summarised as:

- The development of the HR&SJ Centre – Enhanced Service delivery and advocacy
- The implementation of a Human Rights Based Approach across the organisation – a whole of agency approach to encourage a common understanding of the Charter, its implications and possibilities both internally and externally.

In light of this, the terms of reference which are particularly relevant to our organisation include:

- the effects of the Charter on the provision of services by public authorities (TOR 5(c));
- the effects of the Charter on statutory provisions and the role of courts and tribunals (TOR 5(a), (b) and (d)): This will focus on the proliferation of compliance obligations with service standards and the impact of on client outcomes.
- the overall benefits and costs of the Charter (TOR 6); and
- options to improve the protection and promotion of rights and responsibilities in Victoria (TOR 1, 2, 3, 4, 5(e) and 7).

This submission therefore, will focus on the above Terms of Reference. Further information about the HR&SJ Centre and its work is available at [www.comconnect.com.au](http://www.comconnect.com.au), or by phoning 1300 361 680. In all other aspects of the Charter, CCV endorses the views expressed by VEOHRC in their position paper and their formal submission to this inquiry.
The effects of the Charter on the provision of services by public authorities (TOR 5(c))

In our experience, the obligations on public authorities under the Charter:

- Do not unreasonably constrain public authorities’ decisions – the obligation is to consider rights in making decisions, rather than applying prescriptive policies.

- Encourage negotiated outcomes – they give us a language and set of clear principles that we can use to advocate for our clients. This includes our work with Social Housing tenants, and our relationship with the Department of Housing. We have seen evidence that the Department is aware of the Charter and its obligations under it. However, we have seen little evidence of the Charter operating to assist with securing housing (due to long waiting list and high demand). Our workers have argued that priority for housing should be higher, due to children requiring shelter, but we have no evidence of the impact of this.

- Provide an impetus for training and education focusing on best practice. We are aware of Charter education within various departments and the roll out of Human Rights Based Approach training to local government and other public authorities. Our experiences with government authorities have varied when raising issues of human rights. Generally, we have seen an improvement in the willingness of public authorities to engage in a discussion regarding the client’s rights, but there is still a distinct lack of knowledge about the Charter, and what it means for mutual clients. That is, while the training may be useful for explaining the conceptual framework, there needs to be more of a focus on the practical application and obligations.

The case studies below highlight this last point.

Case Study 1

Client X – Origin Energy

Client X presented with his partner (both on a Disability Support Pension) and both have intellectual disabilities. Client presented to seek advocacy around their electricity bill repayments, this was resolved appropriately. As they were leaving, advocate enquired as to how they were managing with other bills.

Clients went on to advise that:

- They have not had any gas connected to their home for the last 3 weeks (cooking and hot water)
- They were not advised of the disconnection until they realised they had no hot water and the stove wasn’t working
- Client X then phoned Origin Energy and was told that he had an overdue bill of approx $500. The Origin Energy representative asked when he was going to pay his bill. Client X said he didn’t know when he could pay, was then advised that until he came up with $400 he would not get the gas reconnected.

Advocate phoned the Origin Energy Hardship department and spoke with an officer. The officer immediately reinstated the gas connection that afternoon and apologised and admitted that the client should have been offered some options at least in the form of payment plans or Utility Relief Grant Application forms or transfer to the Hardship Department.

Because of the client’s intellectual disability, they were not able to comprehend that no supply of gas was a human rights violation and were unable to advocate for themselves and for 3 weeks did not shower and couldn’t cook their meals. They also suffered extreme financial hardship trying to raise the $400. Client X has no support worker, and his partner has her funds managed by the State Trustees and is on a limited income.

In the above case highlights two points:

1. While the advocate did not need to raise the issue of human rights or potential breach with this authority, they were equipped with the knowledge to do so if needed. Due to the
2. The client’s situation as described in the last paragraph is pertinent – that due to a disability, the client was unable to make the connection with a human rights breach, and unable to advocate on their own behalf. The role of advocates who are equipped with this knowledge is crucial to support those most disadvantaged, and all services that provide this assistance should be fully supported by government. This is not necessarily about adequate resources – but more about recognition of the important role they play in the protection and enforcement of human rights and support of opportunities to remain fully trained and informed about the Charter and human rights. Advocates across the State successfully resolve many cases like these, knowing that the rights of their client are protected by the Charter. This knowledge can then be passed on to the client in a way that is tailored to meet their needs and learning capacity, so they are better informed of their rights for any future issues. This cycle of learning and empowerment makes the training of advocates crucial, and the responsibility for implementing it sits firmly with government.

Case Study 2
This involves a family of CALD background. The mother been in Australia 6 years and is proficient in English. The husband and 3 young children newly arrived in late 2010. The husband understands English but is not proficient speaking it. The children are aged 6, 1 and 4 weeks. The family visited Warrnambool in late May 2011 and was assisted with accommodation costs by Wesley Mission and they connected to (Multi cultural Development Unit (MDU) for support. They approached local major employer for work. The client advised employer of the husband’s limited English, and of his residency entitlement allowing him to work. The employer advised wife that her husband’s limited English would not be an issue. The wife advised employer that they intended to relocate to Warrnambool from Melbourne with young family and all their belongings as soon as work could be obtained. The employer confirmed husband’s employment if he could be back in Warrnambool within 5 days, and provided husband with employment documentation. The signed documentation was duly returned to employer. The family returned to Melbourne – packed their belongings, withdrew daughter from school and sold her school gear. The family re-located to Warrnambool within 4 days and the husband presented for work at 5.30am as arranged.

It was at this point the husband was refused work due to his limited English and was asked about a Police Check. When the wife questioned the situation she was told there was nothing more that could be done. The family were confused about whether to stay in Warrnambool and look for work or return to Melbourne where they had community house paid up to the following week. The family returned to Melbourne to secure an extension of their community housing. St Vincents assisted with removal costs for furniture back to Melbourne. The advocate contacted Job Watch and was advised employment situation may breach of the Trade Practices Act and that the belated discussion about a Police Check (unless Company Policy – yet to be determined) may be a breach of the Racial Discrimination Act or similar. The Client was referred to Legal Aid.

The MDU advocate contacted employer to question what had transpired and was advised that husband could not be employed due to the OHS risk posed due to his limited English. When questioned about why other CALD workers were employed at same site, she was advised that they have an interpreter, and that there was only one person who spoke client’s language on the site, and this was not sufficient. The advocate is aware that the client’s language is spoken by a number of people on site.

This case study highlights the gap in education and training in the private sector about basic human rights. This family was being supported by a range of advocacy and welfare services, and the issue here did not lie with any public authority. The issue lies very clearly with private sector employers who, in this case, treated this family atrociously, with several breaches of human rights. Our point here lies with the retention – if not increase, in the investigatory powers of the VEOHRC and the support of other services that provide these advocacy and assistance roles to families such as these whose rights are ignored, or seen as less important. Situations such as this also highlight the need for the inclusion of economic rights to be formally protected in the Charter, and also to allow individuals a stand alone right of action to test Charter breaches.
The effects of the Charter on statutory provisions and the roles of courts and tribunals (TOR 5(a), (b) and (d))

CCV is subject to a broad range of service standards and compliance obligations. Due to the diverse range of programs CCV operates, there are a large number of standards which apply to individual programs.

For the organisation, this raises two main questions:
1. Are these process driven service standards really the best way to achieve better outcomes for clients?
2. What impact has this proliferation of compliance requirements had on client outcomes?

For the best part, these questions remain unanswered in any substantial way, due to the resources required in order to delve deeper into a thorough analysis. However, what we have experienced is the fast and consistent growth in compliance obligations, particularly over the last decade, and the challenge to navigate our way through these requirements, while maintaining a clear focus on client outcomes, has become very challenging.

Our experience of the Charter, on the other hand, is that it provides a clear set of articulated rights afforded to all Victorians regardless of the issue they are experiencing. It provides program workers with one, consistent set of guidelines by which they must adhere to, regardless of which program they are working in.

### EXTERNAL ACCREDITATIONS & COMPLIANCE REVIEWS 2009/10

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<tr>
<th>ACCREDITATION / REVIEW</th>
<th>AUDITS BY</th>
<th>DATES</th>
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<tbody>
<tr>
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<td>Completed – accredited for a further 3 years</td>
<td>Dept of Human Services (DHS)</td>
</tr>
<tr>
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<td>Community Service Organisation Registration Standards</td>
<td>Australian HealthCare Associates (AHA)</td>
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<tr>
<td>HASS</td>
<td>Homelessness Assistance Service Standards</td>
<td>Quality Improvement &amp; Community Services Accreditation (Inc) (QICSA)</td>
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<td>Australian Healthcare Associates (AHA)</td>
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<td>FRSP / (FDR)</td>
<td>Family Relationship Services Program</td>
<td>Australian Healthcare Associates (AHA)</td>
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<td>HACC</td>
<td>Home and Community Care</td>
<td>DHS</td>
</tr>
<tr>
<td>CCLSP SSPI (Legal)</td>
<td>Commonwealth Community Legal Services Program – Service Standards Performance Indicators</td>
<td>Victorian Legal Aid</td>
</tr>
<tr>
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<td>AQTF 2007 Quality Indicators Evidence based and outcomes focused continuous quality improvements, provide risk assessment for RTO operations</td>
<td>National Quality Council (NQC) 3 x Quality Indicators endorsed: - Learner Engagement - Employer Satisfaction - Competency Completion</td>
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<td>Gamblers Help &amp; Rural Outreach</td>
<td>Client file audits</td>
<td>Department of Justice</td>
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In the experience of CCV, Service standards generally are:
- process focused – they don’t always result in responses tailored to individuals' needs.
- sector-specific and clients often find them complex and inaccessible.
- usually aspirational and compliance is not enforceable by individuals.
- costly and burdensome for under-resourced organisations to apply.

One practical response to the proliferation of service standards and compliance by the organisation is the integrated approach to service access and response – most recently through the introduction of the Engagement & Response Model (EAR) in December 2009. Prior to that, each program managed its own entry point into the service, until a recent internal review highlighted a number of factors which suggested that the organisation needed to restructure the way in which we responded to client requests for service. These factors included:

- The increasing complexity of client issues.
- The changing nature of the client group, which has moved away from primarily the disadvantaged in our society to the full scope of socio-economic groups.
- The number of programs the agency provides (40).
- The differing geographic scope and criteria for each program.
- The cross over of programs which can respond to each clients needs.
- The number of locations at which we provide services, particularly in Portland and Warrnambool.
- The increasing demand placed on programs.
- The availability of program staff to respond to clients in a timely manner given program demands.
- The difficulty clients can have in navigating the agency’s internal programs and the service system as a whole – including access and enforcement of service standards

In addition, a number of reforms have occurred over the past few years with State and Federal Government. These reforms focus on service integration, partnerships and the entry points for the community into the service system.
These reforms will be further built on through the National Framework for Child Protection and the Family Support Program reforms which have been driven by the Federal Government. They require the full integration of the Child and Family Services System. As an agency that has an array of programs from the State and Federal arenas, the manner in which we provide intake and assessment for clients, deliver services to children and families and ultimately work together across program areas needed to change.

The aim of the EAR model is to provide a non-threatening and non-judgemental entry point into the service system for a broadening client group. The terms intake, assessment and referral are generally accepted terms that are used by all services. Practitioners are trained to use and understand these terms and ensure that service delivery fits program criteria. However, these terms are unfamiliar and potentially alienating for members of the community who are contacting an agency in search of assistance with one or many issues that are affecting them. The aim is to wrap services around clients, with a view to early intervention and prevention, and decrease the need for them to independently navigate an increasingly complex service system. The terms engagement, response and linking are used, which free program boundaries and cast away the judgements and barriers inherent in the terms intake, assessment and referral. A key aim of EAR is to provide services to a widening client group. As such, EAR offers a non-threatening entry point into the service system through which clients can engage without having to acknowledge or articulate the exact nature of any deep seated issues. Response occurs in a manner and at a pace that ensures this occurs successfully. When response is completed the client will be linked into the agency or the wider service system. EAR will have some ‘holding’ capacity so if clients are placed on a wait list for a particular program, EAR will maintain contact with them to monitor their needs, remain engaged and potentially avert any crises. The focus will always be client engagement and development of an appropriate response that addresses the identified needs. This model, to some extent, frees up the organisation from the potential restrictions that program specific service standards present. It sits next to the Human Rights Based Approach, in that rights under the Charter apply to all people across all sectors, and are not specific to individual issues. CCV is of the view that the current compliance requirements are a huge burden on resources across the community sector. While it is acknowledged that one of the desired outcomes is to improve services to clients, there is a distinct imbalance which needs to be addressed. One simple measure is to re-enforce the rights under the Charter, extend them to include social and economic rights, and allow a mechanism of enforcement for non-compliance. This could be overseen by one regulatory body.
Overall benefits and costs of the Charter (TOR 6)

Benefits

With the introduction the Victorian Charter of Human Rights and Responsibilities, it was quickly identified that a timely opportunity presented to demonstrate the organisation’s commitment to these philosophies in a planned and sustainable manner. CCV has a direct interest in protecting the rights of its clients, and advocating on behalf of those most vulnerable and disadvantaged in our community. The organisation is also well placed to pro-actively advance human rights through our engagement and contact with government. Much of our work is already firmly underpinned by human rights and social justice principles, but this work and its outcomes are not consistently articulated in a way that makes this connection.

Adopting a framework of Human rights provided this consistently and rationale across the organisation. It better enables us to understand society’s expectations and deliver more sustainable services that are respectful of the inherent dignity of individuals. It provides a common language through which the policy and practice of the organisation can be objectively measured against universal benchmarks and minimum standards.

Managers and co-ordinators were trained about the Charter and its operations, as well as the implementation of a Human Rights Based approach in December 2009. The rolling out of this training to CCV staff began in 2010, as well as plans to audit policies and procedures to ensure compliance with the Charter and other Human Rights conventions.

This training will promote the framework’s sustainability, providing the theoretical understanding for all staff of the essential approach which underpins all of its services and activities. It will also provide a clear and distinct focus for the future direction of the HR&SJ Centre, and a unique place for this shared vision in the rural / regional areas of South West Victoria. The links with metropolitan and Statewide services will also promote the long term viability of the Centre, and allow a greater impact of local information when contributing to issues of State, National and global significance.

Benefits

In summary, apart from ethical and moral arguments in favour of this approach, there are many practical benefits which the CCV has identified and has either experienced, or continues to aspire to, including:

- Improved consistency and efficiency – by understanding and articulating organisational functions within this framework, duplication is reduced and efficiencies increased.
- Enhancing risk assessment and management – through improved stakeholder relations, client complaints are reduced, and CCV achieves greater transparency and accountability and organisational reputation.
- Increased worker productivity, retention and motivation – Employees and volunteers who feel valued and well treated are more likely to work harder, develop their career potential and maximize contribution to the organisation’s knowledge and skill base.
- Improving quality of service delivery – with a clear focus on rights, not charity.
- Ensuring active engagement – Clear human rights commitments and practices can help earn the trust and respect of local communities and groups, service users, other organisations and funding bodies. This is a commitment to ongoing education and awareness raising.
- Improving the ease and quality of decision making – approaching policy development, service delivery and decision making from a pro-active human rights perspective, (rather than reviewing decisions or actions after they have been made), improves the quality of work by CCV
- Empowering advocates –this framework allows advocates to challenge decisions or action that impinge on human rights
Implications for service delivery and benefit to clients

A Rights Based approach requires a shift away from both the Charity and Needs based approaches, both very common frameworks (or a combination of) in community based organisations. The approach assists with the cultural shift away from the ‘welfare – helping – enabling’ model to a more empowering - entitlement based and process focussed model of practice.

A rights based approach to service delivery provides incentive to improve the quality of services and safeguard the protection of human rights standards.

- Rights always trigger obligations and responsibilities, so when we are talking about protecting or upholding someone’s rights, we are also asking questions about who has obligations for these rights and what are their actions / accountability. This helps to address the source of the problem, not just meet the obvious need.
- People are often expected to be grateful when their needs are met – this is not the case when their rights are met. It is a reminder to us not to campaign for the ‘needy’ but instead to support marginalised people as equal humans beings in their efforts to claim rights and address the poverty, suffering and injustice in their lives.

The expectation of staff is not one that involves a huge shift in practice, as many of the human rights principles underpin much of our work already. It is more a shared understanding of the very essence of this work – an articulated view of why and how we operate as an organisation in order to get the best results for service users while working towards systemic change to the benefit of many. CCV agree with the view of the Victorian EOHRC – that the Charter provides an opportunity for a shared understanding and language common to CSO’s, public authorities and government. It is an opportunity to develop a shared and accepted framework of practice, where the underlying rationale is central and reinforced by legislation – human rights.

Issues particular to Rural Communities

CCV is closely connected to rural communities. Rural areas are different from their city counterparts; people are more isolated, have to travel further and have learnt throughout their lives, so that it is culturally embedded, that they need to do things on their own. Rural communities are often very proud, independent and don’t like to ask for help, even though these communities have a large sense of belonging and community spirit. People try to look after each other’s practical needs and help out whenever they can, however, emotional support is much more difficult for communities and individuals to provide.

Farming people and connected rural communities are usually very proud and self sufficient and are not used to asking for assistance, but when they do they really need it. To respond appropriately when need arises, rural areas require flexible support services, which also provide outreach services to communities, as it is often difficult, or even impossible (especially in some seasons), for those on the land to travel to a regional centre to access services.

Low income families in small rural communities face many difficulties. A motivating factor for living in, or moving to a rural area may include access to affordable housing. However, the cost of living in rural areas is usually higher, and small communities are often under-serviced. Support services such as doctors, health centres, counselling and financial services, as well as appropriate secondary schools and sporting facilities are mostly located in the larger towns, which mean travelling into town on a very regular basis. The cost of petrol and owning a car are very high. Single parent families often have the same issues, but might also face reduced access to child care, pre-schools, and child and family health services.

Social isolation is an issue in rural communities as it can be harder to connect with family members, friends, neighbours or the community because of distance, rural working responsibilities and lack of time due to a busy agriculture schedule or because of financial concerns. Some people are not able and/ or not willing to access services when needed, because they have always been
used to coping by themselves. They are also unaware of what services are available and / or might not be able to leave the farm, house or workplace and travel into town. In many areas and across many programs outreach services are not available. It can also be harder to take part in sporting or community groups outside of their own small community (eg in town) because of geographical issues, finances, time restraints. Small rural communities can often only offer limited sporting activities. Other sporting options, community groups and group activities are usually held in larger towns or regional centres.

Given this context, it is essential that services strive to adapt to the particular needs of rural communities, and that this is considered in planning and delivery of services. It is important that this Inquiry gives consideration to the practical reach of the Charter and its impact. If it is to genuinely operate as a Victorian Charter, the issues such as described above need to be taken seriously. For the same reasons, it is important that basic rights to housing, education and health are reflected in the Charter. We have seen healthy activity in relation to community education about the Charter occur in the region – eg: the Local Government Association have recently held a series a Human Rights consultations in conjunction with the HR&SJ Centre. It is imperative that new and existing initiatives that provide human rights information are supported, acknowledged and recognised for the important role they play. This is especially the case in regional and rural areas, for the reasons described above.

Generally, the experience of the this organisation is a positive shift in practices, policies, processes and general approaches of public authorities; as discussed above, the gap seems to be with the ‘on the ground’ workers in these authorities. At the management / executive level, there may be a flurry of activity to understand the implications and perhaps incorporate this into planning, but the question is whether this knowledge (and the practical implications and obligations to clients) are successfully conveyed to operational services and staff. We have seen very little evidence of this occurring.
Options for reform or improvement (TOR 1, 2, 3, 4, 5(e) and 7)

Inclusion of protections of economic and social rights - CCV believes that these rights should be given formal legal protection by inclusion in the Charter. The right to adequate housing, education and health care are central to our client’s basic needs. Without these essentials, everything else is exposed to a greater level of risk – especially the safety and wellbeing of children. We believe that the inclusion of these rights will lead to better decision making by relevant public authorities. We do not accept that the financial burden is too great to include these rights, as the concept of ‘progressive realisation’ is well known and it is accepted that authorities can act within the confines of budget and resources available.

We accept that for most Victorians, economic and social needs are fairly well met. However, the inclusion of these rights would be of benefit Victoria’s most disadvantaged and marginalised, who are most affected by lack of access to housing, education and health services. These are the clients we see on a day to day basis, together with their children who are most in need.

Inclusion of Convention on the Rights of the Child - CCV is a Child Safe organisation, and operates under a child –safe framework of practice. This includes agency wide policies and procedures which protect and promote the rights and safety of children, and service standards which place the best interests of the child as paramount in all situations. Our work with children and families across all programs is guided by the Convention on the Rights of the Child. We strongly believe that the rights contained in that Convention should be incorporated into the Charter. This will provide additional articulated protection for Victorian children, and particularly for those most vulnerable and disadvantaged (eg; those in the child protection / out of home care system). These children rely on the advocacy of others to enforce their rights in a complex system subject to competing interests, rights and bureaucracies. Therefore, the child’s rights must be fully protected and enforced in every situation, with no exceptions, variations, or limitations based on budget or other administration policies or restrictions. If Victoria is serious about protecting the State’s most vulnerable children and genuinely acting in their best interests, it is essential this is included in the Charter.

Inclusion of Convention on the Elimination of All Forms of Discrimination against Women CCV sees many women and children who are subjected to discrimination, abuse and family violence. The Community Legal Centre runs the Family Violence Court Based Applicant program, which assists women to seek intervention orders and represents them in court. It also runs the Rural Women’s’ Legal Outreach Program, which provides community legal education to women who are isolated by geography or circumstance in South West Victoria. Through contact with women through these programs, and the high level of contact via other services such as financial and problem gambling counselling, Child First, Child Contact Centre and the Family Relationship Centre, it is clear that women continue to be discriminated against in many forms. Any level of discrimination is unacceptable, so we strongly recommend the inclusion of this Convention in the Charter in order to eliminate (as opposed to tolerate or accept decreasing level) discrimination against women in all its forms.

Ongoing education, training and resources – more education and training is needed for front line staff in organisations that are bound by the Charter to promote understanding and compliance. This would significantly improve the protection of rights for Victorians.

Independent cause of action – the Charter has been referred to as “a paper tiger” by some staff when conducting training about the advocacy benefits. This refers to the limitation on a person’s ability to commence ‘stand alone’ legal proceedings for non-compliance with the Charter where a right protected under the Charter has been breached. It makes sense that when a law against a person is breached (ie a protected right under the Charter), a person should then be able to test that in court and seek the appropriate remedy or compensation. There may not always be a primary cause of action to run a charter breach argument, and by default, the human rights action will always be viewed as ‘secondary’. It is our view that the rights under the Charter should be at the forefront of the legal system and be therefore have legal significance and enforcement.
Monitoring public authorities’ human rights compliance – annual reporting by public authorities on steps taken to guarantee Charter compliance would effectively incorporate human rights into the day-to-day operations of public authorities. It would also improve the accountability of public authorities and would help to identify systemic human rights issues in Victoria. Where systemic concerns are identified, the Victorian Equal Opportunity and Human Rights Commission should be given an own motion power to investigate Charter compliance within an agency or sector.

Conclusion

In addition to the above, CCV fully endorses the Victorian Equal Opportunity and Human Rights Commission Position Paper 19 May, 2011 and the recommendations contained in that document. The VEOHRC have been highly supportive of CCV’s implementation of Human Rights Based Approach and the HR&SJ Centre and have provided an ongoing mentoring role for the ongoing development of these initiatives in regional and rural Victoria.

Victorian Equal Opportunity and Human Rights Commission position paper: Charter review (RTF, 70KB)

Bruce du Vergier
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Community Connections (Vic) Ltd
10 June 2011