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Community Child Care (CCC) as the peak body for community based children's services in Victoria welcomes the opportunity to respond the Review of the Victorian Charter of Rights and Responsibilities Act (2006). CCC believes that the Charter is an important statutory mechanism to uphold the rights of Victorians, however CCC believes there are some important changes that could be made to better ensure the rights of Victorians are protected and upheld.

CCC submits for consideration the following response to the Terms of Reference.


1. Whether the Charter should include additional human rights under the Charter, including but not limited to, rights under the --
   (a) International Covenant on Economic, Social and Cultural Rights;
   (b) Convention on the Rights of the Child; and
   (c) Convention on the Elimination of All Forms of Discrimination against Women?

Community Child Care recognises the ICESCR as being the key foundation documents outlining the rights of all people, but also believes that a National Charter should enshrine rights as defined by more specific international treaties including:

- the Convention on the Rights of the Child (CRC)
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- the Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- the Convention Against Torture (CAT), and
- the Convention on the Rights of Persons with Disabilities (CRPD).
Community Child Care believes that rights are equal and indivisible so it is important to enshrine both broader and more specifically defined rights to ensure a class system within rights is avoided.

Community Child Care does not want to see this opportunity missed to enshrine economic, social and cultural rights. It is these rights which are most likely to protect vulnerable and marginalised Australians as they are grounded in a concept of 'justice and human dignity – basic needs are seen as rights rather than charity to receive.' The explicit enshrining of economic, social and cultural rights is also necessary to maintain the spirit of a rights charter – specifically excluding these rights fails to uphold intention of the conventions and will create a barrier to the development of a rights culture in Victoria.

2. Whether the right to self-determination should be included in the Charter?

CCC believes that the right to self determination should be explicitly mentioned in the Charter. The right to self determination features in the first article of both the UNICPR and UNICESCR. CCC also refers the Charter Review panel to the Victorian Equal Opportunity and Human Rights Commission report from 2010 ‘Consulting with Victoria’s Indigenous community about self-determination and the Charter’ which recommends further consultation with Indigenous Communities on how best the concept of self determination can be meaningfully included in a Charter of Rights and Responsibilities.

3. Whether there should be mandatory regular auditing of public authorities to assess compliance with human rights?

CCC believes that while the concept of rights is in the process of shifting into the consciousness of Victorians there should be mandatory auditing of public authorities to assess compliance with human rights. Although imperfect as a tool to integrate Charter rights into practice, this would enhance transparency.

4. Whether the Charter should include further provisions with respect to legal proceedings that may be brought or remedies that may be awarded in relation to acts or decisions of public authorities made unlawful by the Charter?

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CCC believes there should be a cause of action for rights breaches which will allow the rights of all people to be defended when rights breaches have occurred. This will mean Victorian citizens will understand rights as an intrinsic part of their citizenry.

5. What have been the effects of the Charter Act on—
   (a) the development and drafting of statutory provisions;
   (b) the consideration of statutory provisions by Parliament;
   (c) the provision of services, and the performance of other functions, by public authorities;
   (d) litigation and the roles and functioning of courts and tribunals; and
   (e) the availability to Victorians of accessible, just and timely remedies for infringements of rights?

CCC has no comment on this Term of Reference.

6. What if any, have been the overall benefits and costs of the Charter?

CCC believes that the benefits of the Charter so far include;

- the development of a culture of rights in public policy
- the beginning of an understanding of the importance of rights as a part of citizenry and the government as having a responsibility for upholding these rights.

The costs so far include;

- the failure to take the opportunity to enshrine the understanding of Indigenous people as the first people of Victoria
- a failure to have a cause of action for rights breaches

7. What options are there for reform or improvement of the regime for protecting and upholding rights and responsibilities in Victoria?

As the Charter is utilised and reviewed CCC hopes that the Charter enhance its capacity as a key determinant of public policy, and we would suggest that the Charter;

- be expanded to include a comprehensive list of rights (refer to Term of Reference 1)
- introduce a cause of action so rights can be upheld by individuals in cases of rights breaches
include greater education about the Charter and a plan to expand the purview of responsibility from the government and public authorities and out into the community sector, so that those involved in face to face interactions with the citizens of Victoria also understand their responsibility to uphold rights.