Gippsland Women’s Health Service Inc

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8 June 2011

Mr Edward O’Donohue, MLC
Chairperson
Scrubtny of Acts and Regulations Committee
Parliament of Victoria
Melbourne Vic 3002

Dear Mr O’Donohue

Re: Submission from Gippsland Women’s Health Service to the Review of the Charter of Human Rights and Responsibilities Act 2006 (Victorian Charter)

Gippsland Women’s Health Service welcomes the opportunity to provide input into the Review of the Victorian Charter and respectfully submits the following for consideration.

Terms of Reference 1 and 2: Inclusion of additional human rights in the Victorian Charter

- Gippsland Women’s Health Service works to improve the health and wellbeing of women within a social model of health framework. This framework supports the principles of access and equity and the rights of all to achieve the best possible health outcomes through appropriate services, adequate housing and access to educational and workforce opportunities. This is particularly important for those in our communities who are the most vulnerable, including women and children fleeing from family violence situations.

- We therefore believe that the inclusion of the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child, would assist in achieving improved outcomes for women and children. Further we believe that the inclusion of the International Convenant on Civil and Political Rights and the International Covenant on Economic, Social and Economic Rights, including the right of self-determination, would also assist the most vulnerable in our communities to achieve improved outcomes.

Term of Reference 3: Mandatory Regular Auditing of Public Authorities

- Auditing and evaluation frameworks are essential in identifying, addressing and monitoring the effectiveness of strategies implemented to improve processes. It is therefore important that mandatory reporting and mechanisms for ongoing monitoring and evaluation are applied to ensure that decisions and actions taken by public authorities are compatible with and supportive of human rights.

- Further, there should be capacity for the Victorian Equal Opportunity and Human Rights Commission to undertake such enquiries and audits as necessary to ensure compliance by public authorities.

Term of Reference 4: Access to Effective Remedies under the Victorian Charter

- In order for the Victorian Charter to be functional and effective, there needs to be affordable, accessible and efficient mechanisms through which breaches of human rights can be addressed.
• Such processes need to be easy to understand, must be enforceable and able to be administered in such a way that complaints can be brought and resolved in the most equitable way possible.

Term of Reference 5: Impact of the Charter on:

(a) The development and drafting of statutory provisions
• Community consultation and involvement in the process of policy and legislative development are extremely important and the application of the Statements of Compatibility has provided greater transparency and accountability in this regard. The Victorian Charter enables the use of a human rights lens to be applied across existing legislation as well as in the development of new legislation.

(b) The consideration of statutory provision by Parliament
• In order to enhance the use of Statements of Compatibility, it is important that such statements are clear, easy to understand and concise, whilst at the same time ensuring that adequate details are included to provide sufficient information upon which to determine the human rights implications of the policy or law under consideration.
• The role of the Scrutiny of Acts and Regulations Committee is extremely important in providing an effective mechanism for scrutiny in this regard. It is therefore vital that this Committee be strengthened to ensure that it can appropriately complete this critical function.

(c) The provision of services, and the performance of other functions, by public authorities
• The Victorian Charter provides a clear process and framework which ensures that human rights are given due and proper consideration in policy development. In order for this to become a standard way of working and thinking, it is important that the Charter is maintained and strengthened.

(d) Litigation and the roles and functioning of courts and tribunals
• The importance of ensuring that human rights are considered and supported through courts and tribunals cannot be underestimated. It is an unfortunate reflection on our society that many of our most vulnerable citizens find themselves in these situations and it is therefore vital that the principles of human rights are considered in such matters. This will enable legislation to be interpreted within a human rights framework and decisions made accordingly, which can then provide important information and guidance in the ongoing development of public policy.
• In saying this, laws need to be unambiguous and not open to interpretation, to ensure that a consistent approach can be applied.

(e) The availability of accessible, just and timely remedies for infringements of rights
• As indicated earlier, this needs to be a simple process that facilitates access by all and the availability of effective and appropriate remedies for breaches of human rights.
• However, a key focus should be on prevention rather than redress and every effort should be made to strengthen processes and systems to ensure that human rights are not breached at the outset.

Term of Reference 6: Overall benefits and costs of the Charter
• GWHS notes that since the initial application of the Victorian Charter, there has been improved consideration of human rights in the development of policies and services across a range of programs, and it is important that this continues within an appropriate review process to achieve improved outcomes for all, and in particular for the vulnerable and disadvantaged in our communities.
• It is therefore important that the ongoing application of the Charter be continued in conjunction with the development of further public consultation processes to engender wide-spread understanding and support.

**Term of Reference 7: Further options for reform and improvement of the Victorian Charter**

• GWHS supports the Human Rights Law Centre position in regard to this matter – in terms of the proposed amendment to Section 7 of the Victorian Charter to include recognition of absolute rights in respect to certain human rights, such as the right to protection from torture and cruel, inhuman or degrading treatment.

Yours sincerely

[Diane Wilkinson’s signature]
Diane Wilkinson
Chief Executive Officer