Inner South SRS Services Network
Submission to
2011 Inquiry into the Charter of Human Rights and Responsibilities 2006

Enquiries to

Convenors Inner South SRS Services Network

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List of Acronyms and Programs

- SRS - Supported Residential Services
- Pension-only SRS — some SRS charge the total pension and additional fees. Pension only SRS charge up to but not more than a Centrelink Disability Support pension, Age pension or Newstart benefits (Unemployment benefits)
- CRU - Community Residential Unit
- CCU - Community Care Unit
- PDRSS - Psychiatric Disability Residential Support Service
- Support & Choice - a Department of Human Services initiative which uses the principles of individualised planning and support.
- SAVVI - Supporting Accommodation for Vulnerable Victorians Initiative
Introduction

We are a network representing a range of health, advocacy and community services working with pension-only SRS residents in the Inner South region of Melbourne – Port Phillip, Stonnington and Glen Eira. In these local government areas there are seven Pension-only Supported Residential Services.

Our response to the current review of the Charter of Human Rights & Responsibilities Act 2006 is related our experience of working closely with nearly 200 residents, many of whom may experience complex physical, cognitive and psychiatric conditions, and all of whom rely on Centrelink benefits, spending up to 95% of this low income on their weekly Pension only SRS accommodation fees.

We welcome the opportunity to share our expertise as many of our network’s members represent many years of experience working with residents in these facilities. Greater protection and promotion of Human Rights in Victoria has been a welcome initiative for some of the most marginalised and disadvantaged Victorians and we welcome the opportunity to support the expansion of the current Charter to include Rights outlined in other International Covenants and Conventions.

The Inner South SRS Network attributes the Victorian Charter of Human Rights Act 2006 as having been instrumental in challenging policy and practice approaches with improving Human Rights awareness within State Government, many Local Governments and Government funded agencies. We believe following this Inquiry, in the future, the Charter should include additional human rights as well as more actively facilitate increased awareness of current rights.

Background of the Inner Sth SRS Services Network

Terms of Reference

- To provide a forum for the diverse range of community and support services that have contact with pension-only SRS residents to network and exchange information about their activities

- To build partnerships and encourage collaborative practice among agencies that provide services to pension only SRS residents

- To develop strategies for addressing specific issues experienced by member agencies providing services to SRS residents on a local level

- To encourage the development of new activities promoting the health & social participation of pension only SRS residents

The focus of the group is new information sharing, development of collaborative service delivery and problem solving. It meets bi-monthly and is facilitated by the City of Port Phillip Council and Southern Disability Advocacy. Membership is open to any service provider (e.g. from recreation, health, mental health, disability, outreach and advocacy agencies) who work with Pension only SRS residents in the Inner South region of metropolitan Melbourne.
General context across the Inner South Metro region:

Across the Inner South we have a range of accommodation accessed by persons with disabilities who may require on site support with their housing.

| Supported accommodation for adults with disabilities (funded by DHS Disability Services) | Community Care Unit 1 - Port Phillip (Opening Doors/Alfred/ ISCHS/MI Fellowship - Alma Rd CCU - 20 beds) | Total 13 units – approx. 65 beds in Inner South (we could not confirm details as DHS would not release figures or details). There may also be other CRU type facilities e.g. Scope, Jewish Care but we don’t currently have this information. |
| Supported accommodation for adults with mental illness (funded by DOH Mental Health Services) | PDRSS (Psychiatric Disability Residential Support Services) accommodation 3 - Port Phillip - Opening Doors (Rossdale) 20 beds. Housing Choices Australia (Scottsdale) -19 (longer term) beds and MIND (Edith Pardy House) Recovery – 14 beds; 2 - Stonnington – MIND (Trelowarren) – 15 beds and MIND Wynnystay Hostel -16 beds The Haven (12 beds) Total – 7 facilities - approx 83 short term supported accommodation beds and 31 longer term for people with mental illness. |
| Pension Only Supported Residential Services SRSs – private businesses | 7 pension level SRS in City of Port Phillip, Stonnington and Glen Eira | Approx.195 beds |

Inquiry into the Charter of Human Rights & Responsibilities:

1. **Whether Additional Rights should be included in the Charter?**

In response to the Terms of Reference of this Inquiry as set out in section 44(2) of the Charter, the Inner South SRS Services Network support additional rights being included from within the following International Conventions:

i. **International Covenant on Economic, Social and Cultural Rights**

   We have included reference to the relevant Articles that we strongly support as additional rights to be included in the Charter:

   **Article 1** "all people have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development"

   - Once the decision is made often at a crisis point - to place person in a Pension-only SRS or boarding house they generally remain there and few opportunities occur to review their living choices; few alternative options exist
and those placed in pension-only SRS tend to lose abilities/skills previously attained.

- Workers in our networks would endorse these observations from our local experiences. The Inner South region also has a high concentration of private rooming houses and many network members have observed people moving between SRS and private rooming houses with very limited or no ongoing support despite them having a severe and chronic mental illness and commonly a combination with Acquired Brain injuries (ABI) usually alcohol or other substance related acquired brain injury and intellectual disabilities, often combined with chronic health conditions.

- This mobility across accommodation types is not necessarily due to individuals exercising their right to self-determination but is more indicative of the dearth of suitable housing and support options.

Article 11 (1). "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent."

- There have been dramatic rent rises across the Inner South region over the past 5-10 years heavily impacting on availability of all forms of housing.

- Private rental is not affordable across this inner south area for someone reliant on a Centrelink benefit or low income-some have previously been able to have their rent subsidised by a individualised funding package such as Support & Choice but this was changed in 2009 and their ability to maintain their housing is now threatened.

- Access to public and community housing is also similarly prohibitive as there are currently long waiting lists, particularly for fully accessible or modified properties.

- The level of response can vary across areas and in terms of reaching people in different housing settings.

Article 11 (2). "The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes."

Article 12 (1) "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."

- We regularly receive requests from acute or outpatient mental health services to assist a person return home from an inpatient admission or relocate to alternative accommodation due to eviction from the private rental property. In part this has been due to the condition in which they have allowed the property to reach, rental arrears, neighbour disputes etc whilst experiencing deterioration in their mental health or through a lack of support that could address the impact of their cognitive deficits on their independent living skills.
Article 15 (1) "The States Parties to the present Covenant recognize the right of everyone:(a) To take part in cultural life;"

- The support and opportunities for involvement in appropriate supported activities and social groups varies dramatically across local government areas.

ii. Convention of Rights of Persons with Disability


The Convention of Rights of Persons with Disabilities sets out key terms: communication, language, discrimination on the basis of disability, reasonable accommodation and universal design.

The goal of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms of all persons with disabilities, and to promote respect for their inherent dignity.

The Convention is necessary in order to have a clear reaffirmation that the rights of persons with disabilities are human rights and to strengthen respect for these rights. Although existing human rights conventions offer considerable potential to promote and protect the rights of persons with disabilities they continued facing discrimination and were left living on the margins of society in all parts of the world. This highlighted the need to adopt a legally binding instrument which set out the legal obligations on States to promote and protect the rights of persons with disabilities. We have set out the Rights included in the Convention on the Rights of Persons with Disabilities and have highlighted in red the ones we understand to be currently included in the Victorian Charter of Human Rights and Responsibilities Act 2006. However we have highlighted that even with these having been included in the Charter violations continue to exist and need greater vigilance and advocacy to address. Including rights in a domestic legal instrument is a vital first step; however awareness raising and training, as well as dedicated advocacy and support resources must accompany the legislation to ensure rights are actualised fully.

-Equality before the law without discrimination &

-Right to life, liberty and security of the person

- Our Network's members are aware of the overuse of sedatives and other medication as a substitute for proper behaviour management strategies. Further, we have seen situations where residents have been evicted into homelessness due to inadequate resources for managing difficult behaviours.

-Equal recognition before the law and legal capacity

- Residents of SRS with intellectual disability do not have the same protection in relation to Behaviour Management Plans that are afforded to people with intellectual disability living in government run/funded accommodation, such as CRUs. The latter group, where there are concerns about behaviours, are given protections and review mechanisms under the Disability Act but this is not applicable to people with the same kind of disability and behavioural concerns but who reside in SRS.

-Freedom from torture

-Freedom from exploitation, violence and abuse
-Respect for privacy
  - The Inner South SRS Services Network believes this needs improvement of
    the regime for protecting and upholding this right and responsibility to ensure
    greater consideration by the State in its role of regulating SRSs:
    - If possible, proprietors should aim to make a private consulting room
      available for residents to be able to be seen particularly by their doctor or
      therapist to ensure their right to privacy and dignity is maintained,
      particularly if being examined or treated.
    - Health and personal records not to be exposed and should be stored
      securely we have had experience of personal information being pinned on a
      notice board, for example instructions on implementation of medications.

-Right to participate in cultural life
  - An issue that is of critical importance in the inner southern metropolitan area
    is the loss of pension level beds in SRS and affordable or low cost rental,
    forcing people to move out of their familiar area and away from regular
    support services. Often outreach and support services are limited to a
    specific geographic area, and when a person is forced to outer suburbs, due
    to a lack of accommodation in their usual area, they lose contact with the
    agencies that link them to important health, social and recreational services.
    This causes severe disruption to the physical and mental health and
    wellbeing of many individuals.

-Respect for home and the family
  - SRS and rooming houses are not child friendly or safe environments for visits
    from children, so contact with a child or young person if you have parental
    access rights is severely compromised and difficult to maintain.
  - Some families are fearful of raising complaints about the care standards in
    the SRS where their relative resides. Families are often aware that their
    family member can be evicted on short notice and are afraid to risk
    jeopardising the accommodation. Families are often unaware of avenues to
    make complaints or have redress of shortcomings in care provided in SRS.
  - Further, families are often unaware of other accommodation options, for
    example, Disability Services DHS Intake will refer family members to SRS as
    the first option for accommodation, without explaining that other forms of
    accommodation exist.
  - People living in Pension-level SRS have very limited means available to
    sustain or initiate contact with family or friends as they have no money left for
    a mobile, limited access to a house telephone and limited funds to use for
    transport to visit anyone. This is also experienced by someone living in a
    rooming house.

-Freedom of expression and opinion
  - Often residents lack the cognitive skills to be able to access an external
    service to initiate a complaint and fear retribution should they be identified as
    'causing problems';

-Freedom of movement and nationality
The following rights, listed in the Convention on the Rights of Persons with Disabilities, are **not currently included** in the Charter. The Inner South SRS Services Network supports their inclusion in the Charter following this Review. We include examples of this current gap and its critical impact on the life experiences of Pension only SRS residents.

**Right to respect physical and mental integrity**

- The pension-only SRS sector struggle to instil a rehabilitation and recovery focus to their context- residents can become deskill when placed in a SRS as they cannot practice skills such as food preparation. Moving to a pension-only SRS can result in rapid loss of skills necessary to live independently, trapping residents in this sector indefinitely, particularly if they have cognitive impairments.

- One area of particular concern to our network is the current regulations regarding staff ratios which doesn’t allow for adequate input to a number of care plans, particularly behaviour management. If a resident is living in a State owned/managed CRU, CCU or PDRSS, there is a requirement to have vigilance and scrutiny of any restraint actions or Behaviour Management Plans being designed and implemented. There is no or very limited transparency of restraint or behaviour management being implemented to residents in SRSs.

**Right to live in the community**

- The current level of fees trap people in this setting, as the majority of Pension-only SRS residents are reliant on a Centrelink benefit alone, with no savings, and no funds to consider alternatives. Many lack funds even for transport to a homelessness or community health service; they also lack funds for adequate clothing.

**Right to education**

- Once the decision is made—often at a crisis point—to place person in a Pension-only SRS or rooming house they generally remain there and few opportunities occur to review their living choices; few alternative options exist and those placed in pension-only SRS tend to lose abilities/skills previously attained.

**Right to health**

- Recent research has shown that a number of people have developed their mental illness and/or substance abuse problem after they became homeless—therefore a there is a great imperative to reduce incidence of harm by providing housing to mitigate or reduce prevalence of mental illness.  

- Nutrition can be a real concern as the amounts spent on food and the quality, variety and choices of diet can vary greatly between SRSs; Residents typically have very little in the way of discretionary money to supplement the food provided by the SRS.

- There are issues with the supervision of giving medications to residents. Staff need to have adequate English language and communication skills, and be familiar with residents’ names. This is particularly an issue in some facilities after hours and at weekends. Whilst use of Webster packs is

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1 Chamberlain, C; Johnson, G and Theobold, J *Homelessness in Melbourne: Confronting the Challenge*, Centre for Applied Social Research RMIT University 2007
encouraged it does add an extra $5.00 to pharmacy costs weekly when compared to use of dosette refills and this is a further burden on residents with minimal funds;

- Article 1 of the Convention on the Rights of Persons with Disabilities states Disability "as an evolving concept resulting from attitudinal and environmental barriers hinder the participation of persons with disabilities in society."
- There has been extensive research into linkages between housing and support and what is important from the perspective of people living with a mental illness. This research identified key factors that supported people maintaining stable housing and risk management strategies.
- Moving between SRS & private boarding houses with limited ongoing support certainly impacts on individuals taking clozapine medication who need consistent support with their drugs and often end up in hospital because their support has been disrupted through moves and medications not being adequately monitored.

- **Right to work**

Legislation encompassing Supported Residential Services refers to care and assistance within a fairly 'medical model' and few SRSs promote an active service and recovery model. Care plans promoting wellness and development of skills are available to residents in State managed CRUs, CCUs or PDRSSs.

- **Right to an adequate standard of living**

  - The implication for individuals who need but cannot get supported accommodation is that many are relying on other forms of accommodation. Some of this can end up being unregistered and unsafe boarding houses.
  - Pension only SRS offer people with complex, multiple needs and behavioural issues a poor alternative to homelessness or living unprotected and unsupervised in boarding houses.
  - Many of these residents are unable to access State Government funded Community Residential Units or Psychiatric Disability Support Accommodation due to the high unmet demand for these accommodation facilities.
  - In our experience the standards of cleaning, heating and fabric of buildings can also vary greatly and in a number of instances in this area are of a very poor quality: the unclean conditions of tables, walls, floors, clothing - the grease, grim, incontinence etc. The Network has heard of family members and knows of potential volunteers who cannot visit/work in the presence of overwhelming smells of urine and unclean surfaces.
  - In addition the physical fabric of some buildings is very poor resulting in damp and draughts, thus draining already stretched finances and heating capacities.
  - SAVVI Supported Accommodation for Vulnerable Victorians Initiative money has increased some standards of accommodation but financial

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2 O'Brien, A et al "Linkages between housing and support what is important from the perspective of people living with a mental illness" AHURI Sep 2002
reality is that we rely on older poorly maintained buildings due to an absolute lack of real alternatives

- People who are discharged from the CCU and PDRSS often have nowhere to go, and so end up absolutely homeless or in unsafe rooming houses or in pension-only SRSs. These residents can continue throughout their lives churning as they are transitively moving between pension-only SRSs and rooming houses, neither of which offer the specialised care and supervision that they frequently require. Many residents living in rooming houses and pension-only SRS have severe and chronic mental illness or dual diagnoses and are vulnerable and unsafe in this accommodation.

- Inadequate income levels contribute to higher levels of transience amongst the SRS resident group and rooming house population, with some opting out of supported care for cheaper accommodation which doesn't meet their support and care needs. Many people who move in and out of SRS purely for financial reasons, because the loss of most of the Pension and their Commonwealth Rent Assistance severely limits their social contacts, access to public transport, personal shopping opportunities and their capacity to pay for services.

- This creates a situation where vulnerable people are placed in a position where they are forced to seek cheaper sub-standard accommodation that doesn't meet their care needs, because they can't afford to pay the higher accommodation fees and have money left over for personal or discretionary purchases or shopping. Many residents of pension-level SRS have less than $10 'pocket money' per week to spend.

- The implication of people with a mental illness not being able to access government supported accommodation as listed above in violation of their right to adequate housing, is that many are relying on other forms of accommodation in particular SRS which are private, for-profit businesses. We have a range of concerns about people with very complex needs such as a mental illness, acquired brain injury, and/or intellectual disability having as their only choice for supported accommodation - a pension-only SRS.

- Rooming house residents are also often characterised by having experienced deinstitutionalisation, inability to secure private rental and poor history as tenants including eviction. It is well known that accommodation factors such as overcrowding, poor building conditions and lack of appropriate water and sanitary facilities can have a significant impact on an individual's health. This, in turn, impacts on the public health outcome for all persons living on a particular premise and potentially more broadly in the community. 

-Right to participate in political and public life

- The support and opportunities for involvement in appropriate supported activities and social groups varies dramatically across local government areas.

- City of Port Phillip funds a wide range of activity groups inclusive of or exclusively for pension only SRS residents through funding and service

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agreements with local groups, community grants, as an attachment to its HACC funded Planned Activity Groups and through its Arts Access programs.

- However in some areas many residents complain of having limited involvement with hobbies or outside interests. This can aggravate behavioural issues and lead to avoidable expenses in the SRS such as damage to the property that if activities can be provided have been shown to have decreased. Community acceptance within the neighbourhood also improves if residents are more actively involved in activities than otherwise left to become bored and frustrated.

iii. Convention on the Elimination of All Forms of Discrimination against Women

- The Convention on the Elimination of All Forms of Discrimination against Women applies to all women, including women with disabilities.

- Often people in pension-level SRS are forced to share their bedroom, merely partitioned off from other occupants by screens. Some residents report to us their very real fears of violence including sexual assault, due to the diverse population accommodated in pension level SRS, including people with acquired brain injury, substance abuse issues, poorly controlled mental illness and other conditions that can lead to poor anger management. This is exacerbated by very low staffing levels and few staff having suitable experience or qualifications in managing difficult behaviour. The Behaviour Intervention Support Team (BIST) from Disability Services DHS is reluctant to accept referrals for people with intellectual disability because typically behaviour management plans generated by BIST require data collection before the plan is created and consistent application of strategies to address behaviours of concern.

- We are aware of several males with intellectual disability who have been evicted from their pension only SRS by the proprietor, as a result of them perpetrating an alleged sexual assault. The response by Disability Services DHS is simply to relocate them to another pension level SRS, where there is a male-only population, including others who have been accused of similar behaviour. This means that that a concentration of people with alleged inappropriate sexual behaviour are being accommodated in a particular location, without any strategies to address the behaviour or even notifying the proprietor of the risks.

- In 2006, when the Charter was originally passed, the UN Special Rapporteur for Housing visited Australia and reported on the state of housing responses across the country including access to adequate housing for people with disabilities and health problems (including mental health): "In Australia, of the 3.6 million people with disabilities (19 per cent of the population), 50% are women. Many women with disabilities are unable to access high-paying employment, so the high costs of housing and health services they have to meet often make adequate housing unaffordable.

- Through his mission, the Special Rapporteur met with a large number of disability activists. Many problems were raised, including the lack of modified housing, the lack of consultation, the high risk of homelessness for women with disabilities, lack of statistics and disaggregated data. Other problems were brought to his attention, such as the absence of adequate housing for persons with disabilities in the private rental market, the lack of facilities for people with
mental illness to be able to live independently, and the problem faced for adopting universal design. 

- The UN Special Rapporteur concluded that Australia had failed to implement its international legal obligation to progressively realize the human right to adequate housing to the maximum of its available resources, particularly in view of its possibilities as a rich and prosperous country. Since the introduction of the Victorian Charter there have been a number of positive outcomes to challenging actions by Public Authorities to address housing related cases however few of these have impacted on greater access for pension-only SRS-SAVVI Supporting Accommodation for Vulnerable Victorians Initiative as one such initiative.

- The Special Rapporteur recommended that state/territory governments review residential tenancy laws in order to ensure compliance with international human rights standards, particularly with respect to guaranteeing minimum acceptable accommodation standards, and prohibition on forced evictions.


- The Inner South SRS Services Network supports the adoption of key rights and principles articulated in these International Principles relating to persons with a mental illness and mental health care being in the Victorian Charter following this review.

- Many residents living in rooming houses and pension-only SRS have severe and chronic mental illness or dual diagnoses and are vulnerable and unsafe in this accommodation.

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

The Inner South SRS Services Network support the inclusion in the Victorian Charter of the International Covenant on Economic, Social & Cultural Rights - Part 1, Article 1 setting out that “all people have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development” in addition, the Convention on the Rights of Persons with Disability reaffirms that “persons with disabilities enjoy the same human rights as everyone.”

- The International Covenant on Civil and Political Rights 1966 (Australia 1993) Part 1 Article 1 also outlines that “all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development” and

- Article 12 (1).” Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence”;

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4 A/HRC/4/18/Add.2 page 29
• Article 17 (1). "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation." and

• Article 17 (2). "Everyone has the right to the protection of the law against such interference or attacks."

Our experience of the lives of Pension-only SRS residents is that they are afforded very limited or no opportunities of self-determination.

• Despite the Victorian SRS Regulations stating that "Residents retain their personal, civic, legal and consumer rights and are assisted to achieve active control of their own lives within the facility and in the community," our experience of the lives of pension only SRS residents is that this legislation is not enough to ensure their human rights to privacy, confidentiality and dignity, protection from abuse, protection of personal property, emotional support, participation and choice, independence and respect are able to be adequately met.

• Many people in the Victorian Community would already assume that at a minimum, highly vulnerable people such as those currently living in Pension-only SRSs, frequently with no family support or family care available, would be ably assisted by the State to locate somewhere to live which will "promote, protect and ensure all of the rights" such as those outlined in the Convention of Rights on the Rights of Persons with Disabilities. Increasingly there is nowhere else but pension-only SRS accommodation to choose and some residents have already been trialled in a number of SRS and are not able to return. Their ability to move to government funded accommodation in either the disability or mental health sector is non-existent. There are reportedly 1100 people on waiting list for Disability Services Shared support accommodation.

• Our members have experienced Pension-only SRS proprietors banning services such as Royal District Nursing Service from entering the SRS. We believe this directly violates residents' current rights within the Charter-Right to association and freedom of movement. Residents are reliant on their contact with service providers to access activities and appointments. Proprietors should not have the power to ban service providers from the SRS if there is no evidence of a threat or offensive behaviours and Authorised Officers as Public Authorities under the Charter should enact their Responsibility to remove this violation.

• Many residents complain to external service providers about the lack of food, the lack of variety of meals, the lack of choice in the provision of meals and the early serving of evening meal, all decisions not of their determination.

• Many residents complain to service providers about the lack of choice over how the bulk of their income is spent leaving them very little money to use for essentials. For example we know of residents who cannot afford to buy shampoo and shaving equipment and these are not supplied by the SRS.

• We believe residents are not being involved in consultations and there is also no independent private space when external service providers are visiting residents, so many residents lack the opportunity to raise complaints. Many have few alternative accommodation options so may also
feel loath to raise a complaint if they feel afraid it would leave them exposed to being told to leave the SRS.

- Our network discussed the situation of whether residents should have a right to their own room and realise some residents like sharing. We believe that screens or at least dividers should be more readily available and in place to ensure some degree of privacy.

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

- Reporting and auditing frameworks are important to identify systemic and structural issues and to monitor and evaluate the effectiveness of actions taken to address such issues.

- The Victorian Charter should mandate regular reporting by public authorities on steps they have taken to monitor and evaluate their processes for ensuring that their decisions and actions are compatible with human rights.

- The Victorian Charter should also vest the Victorian Equal Opportunity and Human Rights Commission with an own motion power to inquire into and audit the compliance of a public authority’s policies, programs and practices with human rights.

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?

- All civil, political, economic, social and cultural rights in the Victorian Charter should be legally enforceable and justiciable. In respect of economic and social rights, the state should be obliged to take reasonable steps to ensure the progressive realisation of the right within the maximum of available resources, with the reasonableness of administrative action being subject to judicial review in the ordinary way.

- As an alternative to providing, from the outset, for judicial remedies for breaches of economic and social rights, the Victorian Charter could provide for the Human Rights Commissioner to receive complaints from individuals who allege a breach of their economic or social rights.

5. What have been the effects of the Charter Act on –

(a) the development and drafting of statutory provisions;

- Through the scrutiny of legislation provisions contained in sections 28 and 30 of the Act, the Victorian Charter has played an important role in ensuring that all new laws are assessed against fundamental human rights standards.

- The Inner South SRS Services Network submissions to both the 2009 Review of SRS Regulations and 2009 Inquiry into Victorians with a Disability and/or Mental illness highlighted that SRS residents, unlike most other Victorians, had extremely limited consumer protection in terms of their
tenure. We identified this as incompatible with the Victorian Charter of Human Rights.

- In the new SRS regulatory legislation⁵ it is proposed to establish statutory notice periods for proprietors seeking to evict residents and for residents seeking to leave the SRS. These would be linked to a range of circumstances. These periods have been modelled on the notice periods included in the Residential Tenancies Act 1997 and also consider the needs of SRS residents for accommodation and personal care support. No notice will be required when residents temporarily leave the SRS such as on a holiday or if admitted to hospital. In this case, provided the resident's fees are up to date, the proprietor would be obliged to keep the resident's bed available as per the residential and services agreement.

- These notice provisions will not apply to residents staying at SRS on a short term basis, such as for respite care, who must have a termination date and/or set notice periods as part of the agreement for their stay.

  Relevant Human Rights: equality before the law

(c) The provision of services, and the performance of other functions, by public authorities;

- We consider the role of the Department of Health Authorised officers to be of great importance. However due to current resourcing, we believe they are generally in a reactive role rather than proactively inspecting and accrediting so believe the DOH needs to adhere more closely to the Charter in its funding and direction of these critical positions.

- If possible the regulation should operate within an accreditation framework, with spot inspections and audits similar to those carried out in aged care facilities. Many residents in the SRS sector are bordering on requiring the level of care provided in the Aged Care system.

- Lack of accreditation relies on complaints and re-activity rather than pro-activity; often residents lack the cognitive skills to be able to access an external service to initiate a complaint and fear retribution should they be identified as 'causing problems';

- Currently SRS Regulations selection criteria for proprietors are limited to being a 'fit and proper person'. Due to an increasingly diverse and challenging population in SRSs, this may need to be extended by the State to potential proprietors having some degree of professional training in a health or community welfare background and the State government recognising that the role of housing people with complex and multiple care needs is a more challenging role than it has to date and assign funds accordingly.

- a reactive type of service monitoring in relation to areas of service provision to some of the most vulnerable and isolated Victorians requires ongoing and proactive supervision-such as residents care planning, medications management regimes and follow up by proprietors regarding health and medical interventions; we have seen a clear example of this where a resident was provided with a critical piece of medical equipment that needed to be used each night but the proprietor blocked access to the

⁵ Supported Residential Services (Private Proprietors) Act 2010
equipment. The proprietor was given written instructions on how to use the equipment and this was reinforced when it was found the resident didn’t have access to the item. The equipment was found to be inaccessible again the next day.

- We have found that in some instances that despite action being taken to remedy a specific problem identified through a complaint, over time the problem will recur. We believe this is related to the lack of accreditation and ongoing supervision and support for proprietors to address the problems in a sustainable manner.

- The current practice of SRS care audits and facility audits by the authorised officers every three years is inadequate in its capacity as a monitoring tool, and is not able to effectively deliver outcomes linked to improvements in the quality of services and accommodation standards;

- We support within the potentially expanded Charter legislation added consideration by DOH in relation to more closely enabling the Rights of Persons with a Disability there would be consideration to introduce a new service to support and educate proprietors separate to the authorised officers, as there is a conflict of interest between regulatory and support roles both being delivered by authorised officers.

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

- The Victorian Charter’s “dialogue” model of human rights protection is intended to ensure that human rights are given proper consideration at the “front end” of legislative and policy development and decision-making.

- The Inner South SRS Network attributes the Victorian Charter of Human Rights Act 2006 as having been instrumental in challenging policy and practice approaches with improving Human Rights awareness within State Government, many Local Governments and Government funded agencies however there is much more that can and should be done.

- The Network believes that if further rights were added as we have outlined the most vulnerable and disadvantaged Victorians who have a chronic and enduring disability and/or mental illness who do not have any family support will have greater health and well being outcomes.

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

- Developing a mental illness is one such life event that can happen to anyone in our community at any age. It is apparent that the mental health system is radically under resourced and is geared almost exclusively to the extreme crisis end of care. We have experienced many instances of primary homelessness within Port Phillip of people released from custody, hospital or care without adequate accommodation and support being established.

- We also find that people with dual disability that is co-existing intellectual disability and mental illness are particularly disadvantaged by a lack of services that are able to work with their unique needs. This leaves this group particularly vulnerable to recurrent homelessness and/or extremely unstable housing. This instability can exacerbate mental illness and skill loss, as the person struggles to manage day to day living issues.
- Research has shown that preventive input has been cost effective across a no. of sectors in relation to averting homelessness.  

- There needs to be greater access to adequate crisis, transitional and long term housing, including public housing, community, and supported housing.

- Referring prospective residents to pension-level Supported Residential Services can frequently be 'ad hoc' with inappropriate placement of a person in the SRS due to lack of alternative and more suitable accommodation options.

- The pressure on agencies to place a person without any secure housing or alternative accommodation and who has little or no income support, can lead to a lack of client-centred planning and informed choice by the individual concerned. Highly vulnerable Victorian citizens who have a disability, cognitive impairment and/or a mental illness with accommodation and support needs need greater protection by an expanded Victorian Charter of Human Rights and Responsibilities. Legislation, government service charters and protocols alone have not been able to ensure this to date.

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