1 July 2011

Mr Edward O’Donohue, MLC
Chairperson
Scrutiny of Acts and Regulations Committee
Parliament House:
charter.review@parliament.vic.gov.au

Dear Mr O’Donohue,

Re: St Kilda Human Rights Working Group (SKHRWG) submission to the Inquiry into the Charter of Human Rights and Responsibilities

The St Kilda Human Rights Working Group (the Working Group) is grateful to the Scrutiny of Acts and Regulations Committee for this opportunity to provide input to the Review of the Victorian Charter of Human Rights and Responsibilities Act 2006. The Working Group does not address all of the Terms of Reference of the Inquiry in this submission.

About the St Kilda Human Rights Working Group

The Working Group is made up of representatives from a number of local community organisations. Representatives from the local council also attend Working Group meetings. The Working Group was formed following the Port Phillip Community Group’s Anti-Poverty Week Forum in late 2009. At the Forum participants learnt how Victoria’s Charter of Human Rights and Responsibilities can be a valuable tool for individuals to advocate for their rights in their interactions with public authorities. The session inspired a small core of workers who attended the Forum to come together to form the St Kilda Human Rights Working Group. Organisations represented at Working Group meetings include: St Kilda Legal Service, Port Phillip Community Group, City of Port Phillip, Inner South East Partnership in Community Health (ISEPICH), St Kilda Community Housing and St Kilda Social Inclusion Project.

The Working Group aims to promote the language and ideas of human rights as an advocacy tool and particularly seeks to raise awareness of the Victorian Charter of Human Rights and Responsibilities Act 2006 (the Charter). The Working Group aims to raise the awareness of community workers of when and how the Charter may be relevant to a client’s circumstances. The activities of the Working Group have been supported by a small Community Grant from the City of Port Phillip.

Activities of the Working Group

The Working Group holds regular meetings and has organised two training mornings for local workers around the Human Rights Charter. The training sessions were conducted by the Victorian Equal Opportunity and Human Rights Commission and the Human Rights Law Centre. Workers who attended were from a range of community organisations and public authorities working across areas such as health, mental health, emergency relief and housing.
The Working Group is also in the process of producing a brochure that provides information about the Charter and includes an illustrated example of how the Charter is relevant to an everyday situation. The example is of an elderly woman who, without access to timely medical care, would not be able to continue living in her own home but would be forced to move to some form of supported care accommodation. The example in the brochure is drawn from an actual case example with some details changed. The original example appears on the Human Rights Law Centre website. See extract from brochure below.

Advocating for human rights using the Charter

The public hospital in Doris's Story is one example of a Victorian public authority that is required to consider human rights in the delivery of its services. The workers use the Charter to argue for improved services for Doris that promote her human rights.

Some relevant human rights in Doris's Story include right to nondiscrimination; protection from cruel, inhuman or degrading treatment; right to privacy; right to security of person.

Extract from the St Kilda Human Rights Working Group brochure "Human Rights in Daily Life".

The overall benefits and costs of the Charter in relation to public authorities

The Working Group has identified that the Charter is relatively new and many individuals and community workers are not aware of how the Charter may be relevant to themselves or their clients. The Working Group has therefore prioritised raising awareness and understanding of the Charter through the activities described above. The Working Group believes that the Charter provides, in relevant circumstances, a valuable tool for individuals to advocate for their rights in their dealings with public authorities because public authorities are obliged to give consideration to relevant human rights when making decisions. Advocating directly with public authorities can be a cost-effective way for individuals to achieve targeted outcomes that promote dignity and respect for the individual.

The obligation on public authorities to adopt a human rights approach promotes high quality service delivery. Public authorities and community organisations (who may be functional public authorities if they deliver public services) are encouraged through a human rights approach to avoid adopting blanket policies and practices that do not take account of individual circumstances.
Whether further provisions should be made regarding public authorities’ compliance with the Charter, including regular auditing

The Working Group supports in principal regular mandatory auditing of public authorities to assess the compliance of the public authority with human rights. The Working Group believes that this would further enhance quality assurance practices.

The effects of the Charter on

- the development and drafting of statutory provisions and
- the consideration of statutory provisions before Parliament.

The Working Group believes that the requirement for human rights to be considered when Bills come before Parliament encourages public debate and more transparent law-making.

Whether additional rights should be included in the Charter

The Working Group believes additional rights should be added to the Charter including economic and social rights. Members of the Working Group work with individuals who do not have access to basic needs such as housing. Australia is a signatory to a number of human rights treaties and declarations including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Working Group believes it is appropriate that the rights protected under the Charter should include these rights.

The Working Group supports the inclusion of additional rights specifically

- Rights of the Child in line with the Convention on the Rights of the Child which has been endorsed by Australia
- Elimination of All Forms of Discrimination against Women in line with Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), also already endorsed by federal government, and
- Inclusion of the rights of people with disabilities in the Charter consistent with the Convention on the Rights of Persons with a Disability.

- The right of indigenous people to self-determination in the Charter as this is consistent with Australia’s obligations under the United Nations Declaration on the Rights of Indigenous Peoples which has been endorsed by Australia.

If you have any queries in relation to the above please contact Sandy Joffe, Executive Officer of the Port Phillip Community Group on 8598 6602 or via email: sandy@ppcg.org.au

Yours faithfully,

Sandy Joffe
Executive Officer
Port Phillip Community Group