Youth Disability Advocacy Service  
C/ Youth Affairs Council of Victoria  
180 Flinders Street  
Melbourne, VIC, 3000

10th of June 2011

Mr Edward O’Donohue MLC  
Chairperson  
Scrutiny of Acts and Regulations Committee  
Parliament of Victoria

To the Scrutiny of Acts and Regulations Committee,


Who is the Youth Disability Advocacy Service (2006)?

The Youth Disability Advocacy Service (YDAS) is a Victoria wide advocacy service of the Youth Affairs Council of Victoria (YACVic), funded by the Victorian Government to provide individual and systemic advocacy for young people with disabilities between 12 and 25 years of age. YDAS has worked closely with YACVic to inform the YACVic submission.

We are writing to state the importance of the Victorian Charter Of Human Rights and Responsibilities Act 2006 for young people with disabilities and to summarise our views in relation to the Terms of Reference. Please note that further details, including case studies from our service are included in the YACVic submission. To learn more about YDAS please visit our website www.ydas.org.au

Term of Reference 1: Inclusion of additional human rights in the Victorian Charter

YDAS believe that economic and social rights, particularly the right to health, education, housing and support should be included in the Victorian Charter. We are aware that young people with disabilities are significantly disadvantaged and are at risk as a result of not having these basic rights recognised. Our individual advocacy service is dominated by complaints around access to education, housing and support and most of these are related to economic factors.

The UN Convention on the Rights of Persons with Disabilities (UNCRPD), to which Australia is a signatory includes social and economic rights for people with disabilities and we believe that the Victorian Charter should recognise these as well.
Term of Reference 2: Whether the right to self-determination should be included in the Charter?

The right to self-determination is critical for people with disabilities who historically have not been supported to make their own decisions and choices in life. It has been the experience of many young people with disabilities, particularly young people with communication and cognitive impairments, that critical decisions about their lives, are left to government, service providers, family or guardians. YDAS believes strongly that all young people with disabilities should have the right to self-determination and to make decisions for themselves. In order for this to occur, it is important that self-determination is included in the Charter.

Terms of Reference 3: Mandatory Auditing of Public Authorities.

YDAS advocates for mandatory auditing of public authorities against the charter. We are aware that public authorities regularly breach the Charter from our individual advocacy work. If mandatory auditing took place it would be incumbent on the authority to ensure systems are in place to prevent breaches of the Charter.

We recommend vesting power in the Victorian Equal Opportunity and Equal Rights Commission to enquire into the compliance with the Charter of public authority’s policies, programs and practices.

Term of Reference 4: Access to effective remedies under the Victorian Charter

Currently, it is difficult for people with disabilities and advocacy organisations to effectively utilize the charter as there are no clear and practical procedures to follow to obtain a remedy when the Charter is breached. Young people with disabilities are more likely to assert their rights under the Charter if an accessible, affordable and effective complaint mechanism existed.

Term of Reference 5: The effects of the Charter on – (a) the development and drafting of statutory provisions

YDAS believes that the process of considering human rights through the statements of compatibility provides important benefits to ensuring that legislation is in line with human rights. This is especially important for legislation affecting people with disabilities such as guardianship laws and laws affecting the provision of disability services as these can have a significant impact on basic human rights. We believe that over time, this process of including statements of compatibility will lead to improved outcomes for people with disabilities as human rights will be more strongly accounted for in legislation.

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

Please refer to our case studies presented in the YACVic submission for evidence of the benefits of the Charter.
7. What options are there for reform or improvement of the regime for protecting and upholding rights and responsibilities in Victoria?

YDAS has advocated for young people with disabilities in private schools around basic human rights issues within these schools and have been frustrated that the Victorian Charter does not apply to them. Therefore, the obvious area for reform is for the Victorian Charter to be extended to non-statutory bodies, including private schools.

In addition, as has been discussed in the YACVic submission, YDAS supports the inclusion of a number of additional rights in the Victorian Charter, such as the right of participation for children and young people, the right to education, the right to health, and the right to an adequate standard of living.

We hope this division has been useful in informing the review. If you have any questions, please don't hesitate to contact us on 9267 3755 or by e-mail at ydasmanager@yacvic.org.au

Kind Regards,
Dr George Taleporos
YDAS Manager