

# Factsheet

THIS FACTSHEET WAS PREPARED BY THE FEDERATION OF COMMUNITY LEGAL CENTRES (VICTORIA) INC

## The Importance of Victoria's Human Rights Charter

7 DECEMBER 2011

### **FACTs: The importance of Victoria's human rights Charter**

The *Charter of Human Rights and Responsibilities Act 2006 (Vic)* ('the Charter') is a law designed to protect our human rights, and has been operating effectively in Victoria for the past four years. The Charter was recently reviewed by the Scrutiny of Acts and Regulations Committee which ultimately recommended that the Charter be significantly wound back (see the next page for background information on the Charter Review). The Government is currently considering whether to strengthen or wind back the Charter. Here are some **FACTs** that we can remind government about.

#### **Fairness**

**Victorians want to be treated with Fairness, Respect, Equality and Dignity.** That's exactly what the Charter seeks to promote in one clear, easily accessible document.

- The Charter is based on widely shared values on how people would like to be treated.
- The Charter promotes fairer outcomes by encouraging the Government to consider human rights from the very first stages of policy development.

#### **Accountability**

**People should be able to go to court to challenge the government when they don't respect our human rights.** If there is no possibility that human rights violations can be reviewed by a court, then the government is much less likely to take their obligations seriously.

- Proper protection of human rights requires access to a legal remedy where rights have been breached.
- Non-enforceable standards can too easily be ignored by public authorities. When this occurs, not only does the individual suffer, but the public authority misses an important opportunity to identify ways in which the delivery of services could be improved for the benefit of all.

#### **Community**

**95% of submissions to the Charter Review support or call for the strengthening of the Charter.**

The submissions clearly demonstrate that Victorians want human rights protections.

- Human rights matter to all Victorians and the community expects that government will respect our rights when making decisions and developing laws and policies.
- Individuals and community organisations can engage in debate with government and policy makers around the common framework of the Charter, leading to more effective dialogue between the community and government.

#### **Transparency**

**Victorians want to know that the Government takes account of how laws and decisions impact our wellbeing.** That's exactly what the Charter seeks to achieve by requiring government and public servants to consider how our human rights will be impacted by their decisions and laws.

- The community understands that the Government is required to balance many different competing interests. The Charter provides a consistent framework for the Government to explain how competing interests and priorities are being balanced.



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## What you can do

- Write to the Premier and Attorney General about the importance of the Charter to your client base, stakeholders and community.
- Write to your local member about the importance of the Charter and how it has assisted individuals and groups achieve fairer outcomes that contributed to their well-being.
- Encourage clients, stakeholders and communities to do the same by forwarding this FACTs sheet!

**How to contact your local member:** On the website below, you can type in your postcode or that of your organisation to get the contact details of your local member:

<http://www.parliament.vic.gov.au/members>

**How to contact the Premier:** The Premier can be contacted via the following:

- Through a web portal at <http://www.premier.vic.gov.au/contact.html>
- Telephone on (03) 9651 5000
- Email [ted.baillieu@parliament.vic.gov.au](mailto:ted.baillieu@parliament.vic.gov.au)
- Post: Office of the Premier  
1 Treasury Place  
GPO Box 4912V  
Melbourne, Victoria, Australia, 3002

**Background information:** The Charter came into partial operation on 1 January 2007 and full operation on 1 January 2008. Section 44 of the Charter required the Attorney General to cause a review of the first four years of its operation to be undertaken, and a report to be tabled in Parliament by 1 October 2011. On 19 April 2011 the Attorney General requested the Scrutiny of Acts and Regulations Committee ('SARC') to undertake the review. On 2 May 2011 SARC announced the commencement of the review. Submissions were received and oral hearings took place between 18 – 22 July 2011. SARC tabled its report on 14 September 2011. The Government now has 6 months to respond to the recommendations set out in the report.

**SARC's recommendations:** Among other things, the majority members of SARC recommended the following:

- that the sections of the Charter requiring parliamentary scrutiny of new Bills for compatibility with human rights be retained (with some amendments);
- that the obligations on public authorities to consider and act compatibly with human rights when making decisions be repealed (removed); and
- that the statutory obligation on courts to interpret laws consistently with human rights be repealed (removed).

### Our concerns about SARC's recommendations

The Federation of Community Legal Centres Human Rights Working Group has a number of significant concerns about SARC's recommendations, including the following:

- We agree that it is important that Parliament be required to scrutinise all new Bills for compatibility with human rights; however, this alone is not sufficient for ensuring that people's rights are upheld, particularly for the most vulnerable people.
- For our human rights to be properly protected, public authorities must be legally required to consider and act compatibly with human rights. In the absence of a legal remedy for breaches of human rights, the incentive to comply with human rights is greatly reduced and individuals have limited options for seeking redress for breaches of human rights.
- SARC's recommendations did not reflect the strength of the evidence put forward by the community about the benefits of the Charter to Victorians. Approximately 95% of the submissions to the Charter review supported retaining or strengthening the Charter. SARC failed to report on this fact and recommended instead that the Charter be significantly wound back.

Contact **Jacqui Bell** at the Federation of Community Legal Centres on **(03) 9652 1511** if you would like further information.