FROM PRINCIPLE TO PRACTICE:

IMPLEMENTING THE HUMAN RIGHTS BASED APPROACH IN COMMUNITY ORGANISATIONS

Victorian Equal Opportunity
& Human Rights Commission

Contents

Disclaimer
This publication is a learning document and is intended to be used as a guide only. Information it contains should not be considered a substitute for legal advice and VEOHRC accepts no liability for actions taken as a result of the information communicated.

1

Part 1: Introduction

1.1 Overview

The Victorian *Charter of Human Rights and Responsibilities Act 2006* (Vic) which came into full effect in January 2008, is an important new law designed to protect the fundamental rights and freedoms of ordinary citizens. It aims to protect rights by requiring that government and other public authorities observe them when making decisions, creating laws, setting policies and providing services.

While the Charter primarily creates responsibilities for various arms of government, it is also an important law that influences the way in which many community organisations operate.

Community organisations have a direct interest in upholding the rights of those who access their services, and in promoting human rights in the communities in which they operate. Many community organisations are also in a unique position to pro-actively advance human rights through their engagement with government.

Of course, some community organisations may also be public authorities, with responsibilities of their own.

Despite overwhelming evidence supporting a human rights based approach to policy development and service delivery[1], research indicates that many organisations struggle to implement a pro-active human rights strategy that achieves changes in practice.[2] Indeed the community sector itself has some way to go towards developing models of human rights based practice, even in those jurisdictions that have had human rights legislation for almost a decade:

> *For a sector that should be at the forefront of developing a new vision of equality underpinned by human rights..., the voluntary and community sector is at best on the side lines and at worst entirely excluded from these 'once in a generation' [human rights] developments.[3]*

Recognising that there is significant variation in the size, structure, role and capacity of Victoria's community sector organisations, this guide provides practical advice for leaders and managers about how to develop an increased understanding of human rights, and how to move from a statement of principle to practice.

It offers a roadmap and several tools to assist organisations to assess what they do, and why, and how they might improve practice. Adapted from the Global Compact Performance Model[4] , this guide offers a conventional management system initially developed to assist businesses to implement human rights principles into their operations and activities, without undermining other business goals.

While it retains many of the hallmarks of this basic model, this guide has been extensively tailored for a community sector audience, and has drawn upon a range of local and international tools and resources for good practice.

These resources are referenced throughout the guide, and are listed in Appendix 5.

1.2 About the Victorian Charter of Human Rights and Responsibilities

The Victorian *Charter of Human Rights and Responsibilities Act 2006* (Vic) (The Charter) is an important law that sets out human rights and responsibilities in Victoria. The purpose of the Charter is to protect and promote human rights by recognising that all people are born free and equal in dignity and rights.

The Charter is founded on the following principles found in the Preamble:

- Human rights are essential in a democratic and inclusive society that respects the rule of law, human dignity, equality and freedom;
- Human rights belong to all people without discrimination, and the diversity of the people of Victoria enhances our community;
- Human rights come with responsibilities and must be exercised in a way that respects the human rights of others;
- Human rights have a special importance for the Aboriginal people of Victoria, as descendants of Australia's first people, with their diverse spiritual, social, cultural and economic relationship with their traditional lands and waters.

The case for a human rights based approach

The Charter is an agreed set of human rights, freedoms and responsibilities protected by law. Public authorities must observe these rights when they make decisions, create laws, set policies and provide services.

This means that government, public servants, local councils, and public authorities are required to act in a way that is consistent with the human rights contained in the Charter. These bodies must comply with the Charter and take human rights into account in their day-to-day operations.

The Charter ensures that human rights are a priority for present and future governments and that human rights are taken into account at the earliest stages of the development of law and policy.

While human rights compliance is primarily the legal responsibility of government and public authorities, community organisations can do a lot to support and respect the observance of human rights using the Charter. Of course, some community organisations may also be public authorities, with responsibilities of their own.

1.3 The human rights based approach

Irrespective of whether a community organisation is legally bound to observe and protect human rights, there are many reasons why a human rights based approach makes sense.

Community organisations are often in a unique position to pro-actively advance human rights through a number of means, including individual and systemic advocacy. Importantly, the work of many community organisations is already underpinned by human rights and social justice principles.

Being pro-active about human rights can also make good practical sense, because a human rights based approach to day-to-day work can help increase an organisations' effectiveness, efficiency and legitimacy. It enables organisations to better manage risk and realise new opportunities.

The human rights based approach offers a framework that will better enable community organisations to understand society's expectations and deliver more sustainable services that are respectful of the inherent dignity of individuals. It provides a common language though which the policy and practice of all organisations can be objectively measured against universal benchmarks and minimum standards.

A human rights based approach to service delivery and policy development involves a consideration of both *what* you are going to do based on the principles of human rights and the corresponding duties you may have, and then *how* you are going to do your work in ways that promote these rights. In summary, a human right based approach may require changing what you do, not just how you do it.

1 see Part 2 of this guide.
2 for recent research in Victoria and the UK see, respectively, The Victorian Equal Opportunity and Human Rights Commission (2007), *The 2007 report on the operation of the Charter of Human Rights and Responsibilities: first steps forward;* The UK Ministry of Justice (2008), *Human Rights Insight Project*, Ministry of Justice Research Series 1/08, January 2008.
3 British Institute of Human Rights and National Council for Voluntary Organisations (2006), *Report of the NCVO/BIHR roundtable: human rights and the VCS*, 3.
4 Business Leaders Initiative on Human Rights (BLIHR), the United Nations Global Compact Office, and the Office of the United Nations High Commissioner for Human Rights (OHCHR) (2006), *A guide for integrating human rights into business management.*

Aside from any ethical or moral arguments in favour of a human rights based approach, there are also compelling legal and practical reasons to support such an approach within many organisations, even in some of the most challenging and difficult settings.

The International Centre for Prison Studies for example carries out its prison management within the context of human rights for two reasons:

The first is that this is the right thing to do. There is also a more pragmatic justification for this approach to prison management: it works. This approach does not represent a liberal or soft approach to prison management . . . This style of management is the most effective and safest way of managing prisons. It relates international standards to daily work in a manner that is immediately recognisable. What this approach underlines is that the concept of human rights is not merely another subject to be added to the training curriculum. Rather, it suffuses, and is an integral part of good prison management'.[5]

2.1 The legal case

With the full introduction of the Charter from 1 January 2008, many community organisations now have a legal obligation to comply with certain human rights standards. Adopting a human rights based approach to policy development and service delivery will help these organisations comply with their obligations.

The Charter creates various obligations for each tier of government including the parliament, courts and public authorities. In addition to those entities defined by the Charter as public authorities, for example government departments and local councils, a range of private organisations are also public authorities when they are exercising public functions on behalf of government.[6]

In Victoria, it is likely that many community organisations may fall within the definition of public authority in some or all aspects of their operation. To the extent that they have legal obligations under the Charter, community organisations that are public authorities are required to act compatibly with

human rights and give proper consideration to the Charter when making decisions.[7]

The Charter makes it against the law for a public authority to act in a way that is incompatible with the human rights contained in the legislation. This includes a failure to act or a proposal to act. It also requires that public authorities must give 'proper consideration' when making decisions. This means public authorities should give genuine consideration to human rights.[8]

The Charter establishes a framework to assess any actions that might limit human rights. Section 7 of the Charter provides, in essence, that any action limiting rights must be reasonable, necessary, justified and proportionate. Further discussion of section 7 requirements under the Charter can be found in Part 5.1 of this guide.

The Charter's intersection with existing legal remedies, as well as with a number of statutory compliance schemes, means that courts, tribunals and various independent statutory authorities are involved in monitoring compliance with this duty.[9] There are some exceptions to the responsibility on public authorities to act compatibly with human rights, for example compliance with other State or Commonwealth laws. See section 38 of the Charter for more information.

What these legal responsibilities mean in practice will depend on your organisation and your role within it.

Key obligations may include to:

- encourage compliance with the Charter
- support others to act compatibly with the Charter
- respect and promote human rights.[11]

There are specific responsibilities that can be identified for some work roles, which are discussed in greater detail in Part 4.1.4 of this guide.

5 Coyle, A. (2002) *A human rights approach to prison management: handbook for prison staff*, International Centre for Prison Studies, 12.
6 s 4(1)(c) The Victorian Charter of Human Rights and Responsibilities Act (2006)
7 s 38(1) The Victorian Charter of Human Rights and Responsibilities Act (2006)
8 see, for example, *Bailey v Mandala Private Hospital Pty Ltd* (1987) 12 ACLR 641.
9 Williams, G (2006), *Critique and comment: the Victorian Charter of Human Rights and Responsibilities: origins and scope*, Melbourne University Law Review Volume 30 2006.

A human rights based approach can assist in developing and improving the quality of service delivery and can offer a useful framework when dealing with complex and challenging issues. In this respect, a human rights based approach will constitute best practice at the same time as amounting to compliance with the law.[10]

2.2 The practice case

Research suggests that even where organisations are aware they have a legal obligation to comply with human rights, most are yet to fully realise the benefits that can be gained from mainstreaming human rights.[12]

Irrespective of whether an organisation is legally bound to observe and protect human rights, a pro-active approach to problem solving can lead to improved efficiencies, and a human rights based approach can be a way of identifying opportunities. [13] Sometimes what is first perceived as a risk can be converted into a benefit.

An exploration of the key practical benefits of a human rights based approach to community organisations follows.

2.2.1 Consistency and efficiency

The aims and objectives of many community organisations, particularly those established to alleviate disadvantage and hardship, are likely to be underpinned by human rights principles, whether or not expressed in these terms.

By beginning to understand and articulate all organisational functions within a human rights framework, organisations will reduce duplication and increase efficiencies. In addition, Charter responsibilities upon government agencies will filter to community organisations in a number of other ways. For example, through reporting mechanisms, funding and service agreements, service standards, and accreditation processes, which are likely to be increasingly monitored and measured through a human rights compatibility lens.

By focusing and articulating all areas of operation within a human rights based approach, many organisational processes

may be streamlined and simplified, thereby reducing costs that arise from unnecessary duplication.

In some settings, implementation of a human rights based approach may also reduce service delivery costs. In disability or mental health settings, for example, services focused on maximising the liberty and autonomy of their clients will cost far less to run than those that rely on more restrictive practices or unnecessary security measures.

2.2.2 Enhancing risk assessment and management

Community organisations should not underestimate the financial impact of human rights on the services they provide.

In its 2003 report, 'Human rights: Improving public service delivery', the UK Audit Commission found that a failure to implement a human rights based approach had a number of negative impacts for UK public authorities. These included substantial legal costs and penalties; diversion of valuable resources to re-writing policies and procedures, or responding to claims; and damage caused to reputation that may be more difficult to measure or repair.[14]

Conversely, adopting a human rights based approach may improve risk management, through improved stakeholder relations, reduced risk of service user complaints, greater transparency and accountability, and enhanced organisational reputation.

2.2.3 Increasing worker productivity, retention and motivation [15]

Protecting the human rights of employees leads to increased productivity, as workers who are treated fairly and with dignity and respect are more likely to be productive. Organisations that avoid human rights violations can also reduce employee turnover and achieve a higher standard of service delivery.

Clear policies and management practices on human rights can:

• provide a framework of support for employees working in challenging locations
• build staff confidence and enhance morale
• attract high volumes of unsolicited job applications
• make staff more loyal and eager to serve as ambassadors for the organisation.

In addition, human rights strategies that consistently eliminate discrimination, prevent harassment, value diversity, guarantee a decent wage, improve workplace health and safety, and provide a mechanism for airing grievances can:

• reduce stress, sickness and absenteeism
• prevent accidents and reduce insurance costs.

Employees and volunteers who feel valued and well-treated are more likely to work harder, develop their career potential, and maximise their contribution to the organisation's knowledge and skill base.

2.2.4 Improving quality of service delivery

Much evidence from overseas points to the positive impact that a human rights based approach can have on the quality of service delivery in a range of areas. The UK Audit Commission, for example, found that a human rights based approach had resulted in improvements in service delivery standards in mental health, general healthcare, criminal justice, disability and carer services, housing, and emergency services.[16]

With respect to healthcare, the application of human rights principles can help to improve a patient's experience and

quality of care, and will inevitably lead to improved outcomes. The UK Department of Health and the British Institute of Human Rights (BIHR) have identified the following key benefits of a human rights based approach in the context of healthcare [17]:

• Improved quality of health services
• Person-centred design and delivery of health services
• Human rights used proactively as a common-sense tool for better practice
• Reduced risk of complaints and litigation under the HRA (UK) and other equalities legislation
• Improved decision-making overall – better reasoned and properly recorded decisions that can be presented to service users and those involved in internal and external scrutiny
• More effective handling of uncomfortable or complex issues involving people's rights and resultant greater patient satisfaction.

Other advantages of a human rights based approach, identified by the BIHR,[18] include:

• a clear focus on rights not charity – the requirement for meaningful participation means that service users can help set their own agenda, rather than just accepting what is provided
• a way to communicate universal values rather than special privileges
• a context for discussion and negotiation at all levels, rather than a threat or demand to comply.

Further examples of how a human rights based approach can contribute to improved service delivery are available in other work of the BIHR[19] , as well as the UK-based Social Care Institute of Excellence and the Victorian Council of Social Service.[20]

10 see, for example, UK Ministry of Justice (2008), *Human rights insight project*, Ministry of Justice Research Series 1/08.
11 Victorian Department of Justice (2007), *Charter of Human Rights & Responsibilities training project: legal and legislative policy officers orientation workshop manual*
12 see, for example, UK Ministry of Justice (2008), *Human Rights Insight Project*, Ministry of Justice Research Series 1/08.
13 United Nations Global Compact Office and the OHCHR (2007), *Embedding human rights in business practice II*, 9.
14 UK Audit Commission (2003), *Human rights: improving public service delivery.*

15 International Business Leaders Forum (2005). *Human rights: It is your business.*
16 UK Audit Commission (2003), *Human rights: improving public service delivery.*
17 Department of Health and the British Institute of Human Rights (2007), *Human rights in healthcare: a framework for local action.*
18 Ghose, K. (2006) *Human rights-based approaches in the UK voluntary and community sector – key opportunities and challenges*, cited in British Institute of Human Rights and National Council for Voluntary Organisations (2006), *Report of the NCVO/BIHR roundtable: human rights and the VCS.*
19 British Institute of Human Rights (2006), *The HRA – changing lives.*
20 Social Care Institute for Excellence, *Practice guides*, website listed in Appendix 5. Victorian Council of Social Service (2008), *Using the Charter in policy and practice: ways in which community sector organisations are responding to the Victorian Charter of Human Rights and Responsibilities.*

2.2.5 Ensuring active stakeholder engagement

Clear human rights commitments and practices can help earn the trust and respect of local communities and groups, service users, other organisations and funding providers, and thereby:

- set a solid foundation for long-term operational security
- open doors to valuable partnerships with a range of stakeholders
- increase sensitivity to service user and community needs and concerns
- mitigate the risk of spurious allegations against the organisation.

As discussed in further detail in Part 3 the concept of participation is central to a human rights-based approach, and stakeholder engagement must be considered within that context.

2.2.6 Improving the ease and quality of decision-making

Approaching policy development, service delivery and decision-making from a pro-active human rights perspective – rather than reviewing decisions or actions once they have been made – will improve the quality of work undertaken by community organisations.

While existing decision-making processes may be well intentioned, they risk being distorted or arbitrarily applied, especially given they may rely on nebulous concepts such what is "fair" or "balanced".

A human rights based approach to decision making reinforces and strengthens existing principled practice by providing a rigorous approach to decision-making that, according to research conducted by the UK Ministry of Justice, increases confidence because decision-makers can be more certain their decisions are human rights compliant and in the best interests of those involved.[21]

Discussion concerning human rights has moved beyond the point where human rights can be regarded as discretionary. To engage meaningfully with stakeholders, community organisations will need to demonstrate that they understand and are acting on their human rights obligations.

Human rights are closely linked to risk management, but importantly also entail enormous opportunities for growth, improved policy development, and higher standards of service delivery.[22]

The human rights framework becomes particularly important when it is applied to those vulnerable individuals who access the vast array of community organisations established to support them at various times of need. The concept of building a human rights based approach into the basic framework of the organisation is pivotal to the process of cultural change that is anticipated through the Charter.

2.2.7 Empowering advocates

A human rights based approach empowers advocates to challenge proposals that may put the human rights of particular groups or individuals at risk.

According to the BIHR, a human rights based approach is important because it provides a way to negotiate good practice without the need for litigation, through individual and systemic advocacy, policy development, lobbying, and use of the media. It provides community organisations with new opportunities to:

- set the agenda rather than accept decision makers' arguments – for example in relation to resources
- integrate equal opportunity and human rights agendas to make an impact on issues that have remained difficult to progress
- view people as whole human beings, rather than just contributors to the economy.[23]

For an analysis of how the Charter may be used by advocates, refer to the report of the Indigenous Human Rights Forum held by the Commission in conjunction with the Victorian Aboriginal Legal Service in March 2008, available at the Commission's website.[24]

21 see, for example, UK Ministry of Justice (2008), *Human rights insight project,* Ministry of Justice Research Series 1/08.
22 International Business Leaders Forum (2005). *Human rights: it is your business.*
23 Ghose, K. (2006) *Human rights based approaches in the UK voluntary and community sector – key opportunities and challenges,* cited in British Institute of Human Rights and National Council for Voluntary Organisations (2006), *Report of the NCVO/BIHR roundtable: human rights and the VCS.*
24 Victorian Equal Opportunity and Human Rights Commission and Victorian Aboriginal Legal Service (2008), *Indigenous human rights forum report.*
Available at
http://www.humanrightscommission.vic.gov.au/pdf/ IndigenousHumanRightsReport.pdf

The human rights based approach to development is firmly entrenched within many United Nations and non-governmental institutions, and since the introduction of the Charter, is also increasingly being considered by many Victorian government and non-government organisations.

Understanding the relationship an organisation has with human rights means taking a 'rights-aware approach' to operational practices. This allows the organisation to understand its challenges and dilemmas from the perspective of all relevant stakeholders, and to better manage social risk.

Human rights provide a universal and legitimate framework. This is especially relevant for community organisations given many have a direct responsibility to support and provide services for the most disadvantaged and marginalised members of the community. Community organisations also have key roles in advocacy, and active engagement in the human rights dialogue with government.

A human rights analysis can help highlight additional risks and opportunities for a particular project before any decisions are made. In this way, a rights-aware approach is not necessarily about more services, but about better services through better-informed policy, practice and service delivery decisions.

A human rights based approach encourages organisations to:

- identify all stakeholders within its *sphere of influence;*
- identify which of these stakeholders have particular *rights and corresponding duties*
- consider relevant stakeholders' *capacity for participation;* and finally to
- assess the extent to which the organisation's practice currently meets, or needs to improve in relation to key *human rights principles* – participation, accountability, non-discrimination, empowerment and linkages with human rights standards (PANEL).

3.1 What is the human rights based approach?

The human rights based approach involves a consideration of both *what* you are going to do and *how* you are going to do it.

Deciding what you are going to do will be based on a consideration of the human rights of your target communities and their capacity, as well as your human rights obligations to them. Properly considered, this assessment may result in an organisation re-shaping or re-prioritising what it will do.

Once an organisation has established what it will do, it can then consider how it will implement its priorities in a way that promotes human rights.

To ensure a human rights based approach is meaningfully embedded in an organisation's operation, all priority-setting, decisions and actions should be approached in a way that critically analyses the human rights legitimacy of *what* is done and *how* it is done.

3.2 Deciding on human rights priorities – the *what* factor

What organisations do is informed by many considerations, including for example, their aims and objectives; their legal and funding requirements; and the needs, demands and requirements of their various stakeholders. These, in turn, inform organisational strategic priorities.

Within the international human rights development community, the first stage of a human rights based approach is called human rights programing - a process by which organisations consciously and explicitly apply a human rights analysis, or filter, to a consideration of what they will do. In this way, human rights become as much a part of an organisation's priority equation as other considerations.

Human rights programing involves a number of steps in which organisations scan their operating environment to assess how human rights principles and standards intersect with, and should guide, their priorities. These steps are explored below[25]:

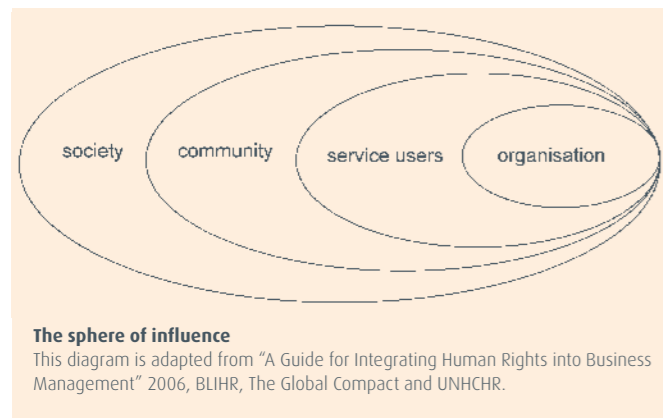### 3.2.1 Identifying stakeholders, rights-holders and duty-bearers

Organisations will have many relationships with individuals, communities and other organisations within the region of their operation or responsibility. These may include government

departments, funding bodies, contractors, service users and staff, those in geographic proximity, and other key stakeholders - each of whom may hold certain rights and/or responsibilities.

Understanding who these stakeholders are, and what their rights and responsibilities may be, is the first step to identifying an organisation's human rights priorities.

The *sphere of influence* is a useful concept utilised by the United Nations Global Compact, to help organisations map their stakeholders.[26]

A key stakeholder group normally at the centre of any organisation's sphere of influence is employees. Others, such as service users, partner organisations, funding bodies and suppliers, trade unions, and local communities will follow. The final group will usually be government and wider society.

The sphere of influence
This diagram is adapted from "A Guide for Integrating Human Rights into Business Management" 2006, BLIHR, The Global Compact and UNHCHR.

Having identified stakeholders in its sphere of influence, an organisation can then consider which of these stakeholders are relevant rights-holders and duty-bearers, including those to whom it has particular responsibilities.

Rights-holders

All people are rights-holders, however the rights of particular groups or individuals may be more relevant in certain circumstances. Organisations should identify whether certain groups or individuals are vulnerable to discrimination or other

breaches of rights in certain situations (see below for further discussion). [27] Every rights-holder:

- is entitled to rights
- is entitled to claim rights
- is entitled to hold the duty-bearer accountable
- has a responsibility to respect the rights of others.

Duty-bearers

For every human right there is a corresponding duty-bearer - those with the responsibility to respect, protect, promote and fulfil rights. An organisation may have certain responsibilities to various stakeholders within its sphere, especially those towards the centre of its sphere. Fully understanding these responsibilities will require an understanding of the meaning, scope, and application of the rights in the Charter, and how these rights relate to an organisation's various operations.

Organisations may also have capacity to influence those towards the margins to fulfil their own responsibilities as duty-bearers. This can be achieved for example in the way the organisation approaches advocacy or engages with the community.

An important aspect of the human rights based approach is recognising that claims by rights-holders are not a new set of demands, but are rightfully claimed; it is about organisations better understanding the entirety of their roles and the expectations of their stakeholders, and reframing this understanding in a rights based context. Part 4.3.1 of this guide provides an overview of the difference between charity/needs, and rights based approaches to service delivery.

3.2.2 Building stakeholders' capacity for meaningful participation

In order to fulfil their obligations duty-bearers need the necessary resources and authority to perform their function, and data to plan and monitor the realisation of rights.

To access their rights rights-holders need the capacity to access information, organise, advocate for policy change, and obtain redress.[28]

Having mapped its sphere of influence as the first step in determining what it should do, an organisation needs to examine its stakeholders' capacity for participation, and whether any barriers to their participation exist. The United Nations Population Fund (UNFPA) has developed a checklist for determining stakeholder capacity which is available in Part 5 of this guide.[29]

3.2.3 Ensuring the process respects basic human rights principles

While it is important to ensure that outcomes are respectful of human rights, it is equally important to ensure that the processes employed to achieve those outcomes also affirm rights. This is because of the importance of empowerment and participation within the approach, but also because the nature of the process will inevitably determine the success, utility and acceptance of the outcome.

One of the fundamental dynamics of a human rights based approach is that every human being is recognised as a rights-holder who should be enabled as a key actor in processes and decisions that affect them rather than being a passive recipient. This capacity for participation is both a means to ensuring human rights protection and an end in itself.

Having identified stakeholders, their various rights and responsibilities, and opportunities to develop capacity, the final consideration informing what an organisation will do is to assess its priority setting and processes against five key human rights principles, summarised in the PANEL acronym:[30]

Participation
Accountability
Non-discrimination, equality and attention to vulnerable groups
Empowerment
Linkages to human rights standards, progressive realisation of rights and non-retrogression

25   adapted from UNDP Nepal (2005), *A human rights approach to development: primer for development practitioners*
26 see http://www.unglobalcompact.org/AboutTheGC/index.html
27 UNDP Nepal (2005), *A human rights approach to development: primer for development practitioners,* 22

28   United Nations Population Fund UNFPA (2006), *Human rights-based programming: what it is/how to do it.*
29 Ibid.
30 Ibid.

Participation: Involve all stakeholders (claim-holders and duty-bearers) in the assessment, decision-making and implementation of strategies, policies and services. Participation must be active, free and meaningful – participants must be able to shape and determine the decision-making process, as well as contribute significantly to the realisation and monitoring of the program itself. It involves much more than consultation. Time and resources will often be needed to create the capacity for participation.

The Participation Continuum [31]

minimum participation   **maximum participation**

| information | consultation | partnership | delegation | control |

Information	giving stakeholders access to clear and timely information about policies, programs and services
Consultation	seeking the views of key stakeholders on issues that directly affect them, enabling greater involvement in the business of the organisation
Partnership	forming a longer-term dialogue with stakeholders to work together in developing policies and delivering services
Delegation	handing control for policy development over to stakeholders within a framework developed by the organisation
Control	providing the means for stakeholders to make decisions directly

Accountability: All human rights carry corresponding duties. In order for results to be achieved, clear accountabilities must be set.

Non-discrimination, equality and attention to vulnerable groups: Identify different vulnerable groups among the organisation's stakeholders. Target them explicitly, in particular those who are more discriminated against, or have fewer economic, social and political resources than others.

Empowerment: Improve the capacity of the target group to claim and exercise their rights, and to make rights based complaints. This capacity is linked to participation because the ability to make and implement decisions is an indicator of empowerment.

Linkages to human rights standards: progressive realisation and non-retrogression: Human rights standards (including and beyond the Charter) set minimum guarantees, and help identify problem areas and what is required to resolve them. Within the context of limited resources, the protection, promotion and fulfilment of human rights may require progressive realisation, but organisations should at least protect the human rights gains already made ('non-retrogression').

---

31 Shand and Arnberg (1996) cited in Hersey, B. (2008), *Understanding the mutual benefits of community engagement*. Engaging the Community in Public Sector Projects Conference, (Ark Group Australia, Sydney 2008).

3.3 Human rights implementation – the *how* factor

As discussed above, *what* an organisation chooses to do or to prioritise in order to develop a human rights based approach will be informed by an analysis and understanding of:

- who its stakeholders are, and their claims or duties in relation to Charter rights
- the organisation's own responsibilities, risks and opportunities
- stakeholder capacity to exercise claims or fulfil responsibilities
- whether what an organisation does maximises participation, accountability, non-discrimination and attention to vulnerable groups, empowers, and links to human rights standards.

How an organisation implements a human rights based approach involves incorporating the *what* into all areas of an organisation's operation in a way that promotes human rights.

Integrating human rights into organisational culture requires the support of senior management, along with a shared understanding among all staff of the advantages a rights based approach offers to the organisation, and others within its sphere of influence.

In many instances organisations will be able to draw on existing expertise and knowledge to identify the risks and opportunities that human rights present, as well as to develop strategies that minimise risk or better capitalise on opportunities. Such an analysis will also highlight those issues that require additional support and advice.

Even though specific rights may be of greater relevance to your work, it is important to remember that:

- a rights based approach requires compatibly with ALL Charter rights
- all rights must be considered when assessing the impact of a situation on human rights
- no right has a priority over any other right
- in determining whether a right can be reasonably limited the interests of all the parties must be balanced and considered. [32]

Part 4 of this guide considers *how* organisations might consider implementing a human rights approach within their culture and work, by examining specific organisational functions.

---

32   Victorian Department of Justice (2007), *Charter of Human Rights & Responsibilities training project – legal and legislative policy officers orientation workshop manual*

Part 4: Implementing the human rights based approach

4.1 MANAGEMENT AND STRATEGIC PLANNING

Human rights in MANAGEMENT and STRATEGIC PLANNING: key steps for your organisation

4.1.1 Find out what you are already doing
4.1.2 Identify risks, opportunities and priorities for action
4.1.3 Develop a human rights strategy for your organisation
4.1.4 Define and embed appropriate responsibilities
4.1.5 Integrate human rights into your organisation's activities
4.1.6 Develop your strategy through a cycle of continuous improvement

4.1.1 Find out what you are already doing

Many community sector organisations have practices underpinned by broad 'social justice' principles that are sometimes framed in human rights language. Organisations must also comply with State and Federal laws that protect some of the rights contained in the Charter, for example:

Victorian
- Children, Youth and Families Act 2005
- Crimes Act 1958
- Disability Act 2006
- Equal Opportunity Act 1995
- Freedom of Information Act 1982
- Information Privacy Act 2000
- Mental Health Act 1986
- Occupational Health and Safety Act 1985
- Racial and Religious Tolerance Act 2001

Commonwealth
- Age Discrimination Act 2004
- Crimes Act 1914
- Disability Discrimination Act 1992
- Human Rights and Equal Opportunity Commission Act 1986
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984

Beginning to develop a rights based approach will involve a review of current policy and practice for human rights compatibility, to assess how well human rights are currently protected across the range of the organisation's operations. In order to reinforce the human rights based approach through shared language and understanding, it may assist to specifically link and articulate existing policies and practice in human rights language.

An important part of this process is to ensure that everyone is given the opportunity to identify what is currently being done. Special consideration should be given to any disconnect that may exist between policy and practice, or in the perceptions of different stakeholders within the organisation – management and frontline staff, staff and service users, internal/external perspectives.

4.1.2 Identify risks, opportunities and priorities for action

Such a process will also enable organisations to identify areas of operation that may require additional attention. A crucial part of this assessment is to map human rights risks and dilemmas facing the organisation, and gaps in its policy and practice frameworks.

Of course a human rights based approach is not only about risks and dilemmas – it can also identify new opportunities, and present solutions to otherwise complex problems. Examples of some of the opportunities and benefits arising from a human rights based approach are discussed in Part 2 of this guide.

Once risks and opportunities are identified, organisations are in a better position to develop human rights priorities based on these conclusions.

The PANEL and Human Rights Matrix tools in Part 5 may assist organisations to identify risks, priorities and opportunities in relation to specific rights and areas of operation, and Appendix 3 also contains a list of policy and program areas developed by the Victorian Department of Justice that may trigger particular human rights.

4.1.3 Develop a human rights strategy for your organisation

Having identified risks, opportunities and priorities, it is necessary to set out what the organisation wants to achieve (the vision/programing) and how it intends to achieve it (the strategy/implementation).

Developing a human rights implementation strategy is an important interim step that will assist an organisation to build the framework for how it will fully integrate human rights considerations into all of its management systems, including in areas such as leadership, planning, and role and resource allocation.

Developing a human rights strategy should also explore the extent to which existing directions and systems might need to change. As discussed previously, a human rights based approach is as much about *what* is done (or what the priorities are) as *how* it is done.

Organisational decision-making processes need to incorporate human rights vetting to ascertain the what and how at the very beginning of the decision-making process, and this needs to become a central feature of all long-term strategic and short-term operational plans.

Organisations that incorporate a human rights based approach as a key element of organisational strategy and planning will be better placed to maintain momentum around human rights and to ensure continued development in the future. [33]

Placing human rights at the core of these processes can help identify the human rights dimension of initiatives that are already being pursued, thereby enabling the human rights dimension to be better understood and advanced.

A human rights based approach is also imperative in strategic planning and management because consistent top-down communication will serve to inform all employees about human rights within organisational practice and strategies.

Any human rights strategy should align the essential, expected and desirable actions of an organisation (see the matrix tools in Part 5). It makes no sense for an organisation to take desirable actions to address a human rights concern, if it is not already demonstrating its essential and expected action in the same area.

Case Study: Quality/Standards Program [34]

One community sector organisation framed its consideration of human rights within the context of a broader Quality / Standards program, but further acknowledged that the effectiveness of the standards program would be directly related to the level of staff knowledge.

The organisation recognised that without an understanding of the day-to-day impact of rights filtering throughout the entire organisation, it was unlikely a standards program could be properly implemented, so to avoid this occurring, the organisation complemented the changes to its standards program with staff training and induction on human rights obligations.

The organisation believes that the benefit of this approach is that rather than human rights becoming another consideration placing an extra burden on staff, they become part of an overall quality standard. This approach provides a systematic framework to create the 'cultural change' required to fully incorporate Charter obligations.

33 Victorian Equal Opportunity and Human Rights Commission (2007), *The 2007 report on the operation of the Charter of Human Rights and Responsibilities: first steps forward'*, 64.
34 cited in Victorian Council of Social Service (2008), *Using the Charter in policy and practice: ways in which community sector organisations are responding to the Victorian Charter of Human Rights and Responsibilities*

4.1.4 Define and embed appropriate responsibilities

A strong commitment to human rights from an organisation's leaders is a prerequisite for embedding human rights into an organisation's operations and activities. It ensures that human rights issues are taken seriously, become part of organisational strategy and priority setting processes, and receive the required degree of attention throughout all parts of the organisation's operation.

Individuals at all levels of an organisation will have responsibilities for ensuring human rights considerations are consistently applied and for raising or responding to issues of concern.

This delegated responsibility to operational areas avoids the Charter being confined to one part of an organisation and means that policies are reviewed and managed by those who have the greatest understanding of how they translate into practice. This contributes to the development of a human rights culture in the organisation.

A potential risk with delegation is that when something becomes everyone's responsibility, it can end up being nobody's responsibility. To avoid this outcome, delegated responsibility must be accompanied by clearly defined and monitored accountability.

Member of boards and committees will have responsibility for ensuring consideration is given to human rights in the development and implementation of the organisation's articles of association, mission statement, aims and objects, and other governance documents. Their roles and responsibilities should be conducted in a manner that respects and promotes human rights and their accountabilities may be legally and/or membership driven.

Managers and other senior staff will be responsible for implementing the organisation's human rights policies and driving performance improvement in certain areas of operation, for example in human resources, service delivery, legal affairs, etc, and will need to report to the executive level and/or board of management.

Other staff will be accountable to managers through performance management systems, position descriptions, codes of conduct and other mechanisms. They will have responsibility for the implementation of an organisation's human rights policies through day-to-day service delivery.

Case Study: Watching Brief [35]

Rather than using committee structures, some small to medium sized organisations have designated responsibility to one staff member for the 'watching brief'.

One women's organisation, for example, has given one existing staff member responsibility for 'identifying, initiating and responding to opportunities to promote human rights and citizenship'. The staff member's role is to make recommendations about organisational change and identify staff training and development needs.

4.1.5 Integrate human rights into your organisation's activities

Strategies for the integration of human rights practice into an organisation vary according to many factors, including the nature of the organisation's work, its size, and other requirements such as legislation, service standards and funding agreements.

35   cited in Victorian Council of Social Service (2008), *Using the Charter in policy and practice: ways in which community sector organisations are responding to the Victorian Charter of Human Rights and Responsibilities*

To track progress, organisations need to develop adequate indicators and goals for different areas of activity. Internal audits may prove beneficial in tracking progress, checking that the system is working according to plan, that new issues are captured, and that performance is continually improved.

Progress on an issue across an entire organisation may be incremental. In the meantime, implementation efforts for the organisation as a whole can be complemented by local strategies and special plans for certain areas of operation.

These 'bottom-up approaches' can be developed more quickly to meet the challenges faced in a particular location, service or process, and can result in innovations and models of good practice that can be adopted in other areas of the organisation's activity.

Case Study: Project Planning [36]

A large welfare organisation has developed and adopted a comprehensive project plan to assess its obligations under the Charter, recommend policy changes and take measures to ensure that programs are in line with its Charter obligations.

The plan describes the project and its objectives and maps tasks, key performance indicators, start and finish dates and resources required against each of the objectives, which include determining the legal impact of the Charter on its programs; developing appropriate responses (including training and information provision); and considering the Charter in relation to community sector accreditation reforms. Suggested changes also encompass staff training, further presentations to management and developing an information/training package.

4.1.6 Develop your strategy through a cycle of continuous improvement

To help ensure that implementation efforts remain on track, it is a good idea to adopt a continuous improvement approach from the start. A diagrammatic model for Charter implementation is contained in Appendix 4. Steps included in this model of continuous improvement include:

- Preparation
- Education
- Training
- Review
- Evaluation and
- Assessment.

4.2 POLICY DEVELOPMENT AND IMPLEMENTATION

Human rights in POLICY DEVELOPMENT and IMPLEMENTATION: key steps for your organisation

4.2.1 Human rights programing vs. implementation
4.2.2 Include human rights in your existing policies
4.2.3 Develop specific human rights policies where appropriate
4.2.4 Develop local policies to respond to local situations
4.2.5 Ensure full implementation of your policies and review their outcomes

A policy statement sets direction and overall goals in a certain area of activity. The policy statement should drive the management of the activity, and be supported by programs and objectives throughout the organisation, to ensure that the policy and related commitments are both implemented and maintained.

4.2.1 Human rights programing vs. implementation

In the first year of Charter operation, many organisations reported reviewing existing policies and practices for human rights compatibility. However far less activity was reported in relation to the review of decision-making processes.[37]

This suggests that while some government organisations have considered how to implement strategies, policies or projects in a way that promotes human rights, few are ready to approach policy development from a programing perspective.

As discussed earlier, an important aspect of the human rights based approach to policy development involves deciding what you are going to do based upon the human rights of your target community and the human rights duties you bear to them, not just how you are going to do it.

In other words, organisations should be using a human rights based framework at the conception of policy development in a way that helps to shape policy, rather than attempting to ensure that policy is human rights compliant after it has already been developed.

Examples from a programing perspective might include a policy or project decision to actively engage with a community

because of its particular human rights vulnerability, or setting policy and strategic priorities through the active participation of relevant stakeholders.

4.2.2 Including human rights in existing policies

One simple way organisations can begin to practically embed human rights into its operations is to make explicit reference to rights in existing policy documents.

As discussed previously, many existing policies protect certain human rights, for example equal opportunity and non-discrimination, privacy, and health and safety policies. In order to develop a broader recognition of the human rights impact of your organisation as an employer, service provider, contractor, advocate and so on, you may wish to utilise the matrix tools in Part 5.

Explicit reference to rights in organisational policy helps to educate staff and begin promoting the consideration of rights as a significant factor in decision-making processes.

36 Victorian Equal Opportunity and Human Rights Commission (2007), *The 2007 report on the operation of the Charter of Human Rights and Responsibilities: first steps forward'*, 29.

37 Victorian Equal Opportunity and Human Rights Commission (2007), *The 2007 report on the operation of the Charter of Human Rights and Responsibilities: first steps forward'*, 29.

4.2.3 Develop specific human rights compliance policies where appropriate

An alternative approach may be to develop a specific human rights policy that overarches all aspects of an organisation's operation. A good human rights policy should:

- support the PANEL principles of Participation, Accountability, Non-discrimination, Empowerment and Linkage to human rights standards including the Charter and other international human rights (see Part 3, 5 of this guide)
- be relevant and specific to your organisation's operations
- include your organisation's expectations of those in its sphere of influence including staff, volunteers, service users, contractors and partners
- include a commitment to respect, protect and promote human rights and avoid complicity in human rights abuses
- link to other relevant internal and external laws, policies, codes and guidelines such as equal opportunity, health and safety, funding agreements, departmental policies, charter of users' rights and other standards frameworks.

4.2.4 Develop local policies to respond to local situations

For very large community organisations, or those with a range of different program areas, it may be useful to adapt broader organisational human rights policies for local or program-specific contexts.

These adapted policies may need to be translated into community languages or language suitable for differing service user needs to facilitate their understanding and implementation. Locally adapted policies need to be consistent with broader organisational policies.

4.2.5 Ensure full implementation of your policies and review their outcomes

To ensure policies are fully implemented, individuals within the organisation need to have overall responsibility for achieving this aim. These individuals should ensure there are sufficient resources for implementation; that results are monitored, and that policies are regularly reviewed.

Even the most clearly defined policies will require interpretation. The policy 'owner' should:

- act as a focal point for dealing with human rights issues that arise through implementation
- provide guidance to other staff
- know where and how to access external expertise when required.

38   from a 2004 speech by J Strachan quoted in Butler, F. (2005) *Improving public services: using a human rights approach: strategies for wider implementation of the Human Rights Act within public authorities, a report for the UK Department of Constitutional Affairs by the Institute of Public Policy Research*, available via www.ippr.org
39 Kirkemann Boesen, J. and Martin, T (2007), *Applying a rights based approach: an inspirational society*, The Danish Institute for Human Rights,

4.3 SERVICE DELIVERY AND COMPLAINT HANDLING

Human rights in SERVICE DELIVERY and COMPLAINT HANDLING: key steps for your organisation

4.3.1 What does a human rights based approach to service delivery mean?
4.3.2 Consider the full scope of your organisation's activities and functions
4.3.3 Establish procedures for identifying your human rights related risks and opportunities
4.3.4 Establish control systems for managing human rights in your organisation
4.3.5 Learn from the good practice initiatives of others
4.3.6 Complaints and breaches

4.3.1 What does a human rights based approach to service delivery mean?

A human rights based approach to service delivery provides an incentive and framework to improve the quality of services and safeguards the protection of minimum human rights standards.

As discussed in Part 2, evidence overwhelmingly points to the positive impact on quality that arises from a human rights based approach to service delivery. The UK Audit Commission has commented for example that those organisations that have adopted and embedded human rights principles in their everyday operation provide much higher levels of service to the public.[38]

According to the Danish Institute for Human Rights [39], a rights based approach to service delivery focuses on people's needs, problems and potentials. However it draws a distinction between needs and rights as follows:

- Human rights go beyond the notion of physical needs and include a more holistic perspective of human beings in terms of their civil, political, social, economic, and cultural roles.
- Rights always trigger obligations and responsibilities, whereas needs do not. Rights cannot be addressed without raising the question of who has obligations in relation to these rights. This automatically raises questions about the actions and accountability of duty-bearers as discussed in Part 2 of this guide.
- People are often expected to be grateful when their needs are met; this is not the case when people's rights are met. This reminds us not to campaign for 'the needy', but rather to support marginalised people as equal human beings in their efforts to claim their rights and address the poverty, suffering and injustice in their lives.

The Danish Institute further illustrates the distinction between a charity approach, a needs approach and rights based approach to service delivery as follows:

CHARITY APPROACH	NEEDS APPROACH	RIGHTS BASED APPROACH
Focus on input not outcome	Focus on input and outcome	Focus on process and outcome
Emphasises increasing charity	Emphasises meeting needs	Emphasises realising rights
Recognises moral responsibility of rich towards poor	Recognises needs as valid claims	Recognises individual and group rights as claims toward legal and moral duty-bearers
Individuals are seen as victims	Individuals are objects of development interventions	Individuals and groups are empowered to claim their rights
Individuals deserve assistance	Individuals deserve assistance	Individuals are entitled to assistance
Focuses on manifestation of problems	Focuses on immediate causes of problems	Focuses on structural causes and their manifestations

4.3.2 Consider the full scope of your organisation's activities and functions

In order to implement a human rights based approach to service delivery, it is crucial to define the full range of processes and procedures, and their relationship to the approach. These will differ according to the varying operational contexts within an organisation – for example different programs, modes of service delivery, groups of service users, and stakeholders..

What they will have in common is the goal of achieving results that are compatible with human rights and that are well documented, and have measurable indicators and outcomes.

The executive management team of the organisation is responsible for ensuring that roles, responsibilities, authority, and resources are defined and allocated in a way that enables efficient implementation and maintenance of human rights management in the organisation.

4.3.3 Establish procedures for identifying your human rights related risks and opportunities

Case Study: Human Rights Committees [40]

A number of disability support organisations have established human rights committees and other processes to ensure the rights of the people they support are upheld. For many of these organisations human rights issues are a day to day consideration, for example, in relation to issues involving control of financial affairs, guardianship orders, provision of medication and use of physical restraints.

In order to ensure service users' rights are not unreasonably restricted, the role of these committees includes the review of:
- mandatory Human Rights Checklists conducted for all new clients to the service
- organisational policies and procedures
- incident and injury reports

- grievances arising out of existing complaint mechanisms
- any restrictions placed on rights on a periodically scheduled basis
- recommendations to care workers about changes in practice.

As outlined in Part 4.1, a key factor in the successful incorporation of a human rights based approach is the analysis of risks and opportunities inherent in the organisation's service delivery programs. Of course, ensuring compliance with legal and funding requirements, and various service standards is essential to this analysis and should be reviewed regularly as part of the overall management process.

The aim of identifying risks is to minimise exposure through the early identification, prioritisation, and mitigation of factors that may affect a project, stakeholder relationship or the quality of service provision. Identifying opportunities helps the organisation position itself to maximise its capacity for human rights advancement and leadership.

Risks and opportunities may be considered in operational, legal, political, economic and reputation terms, with assessments being periodically reviewed and/or when significant events occur.

In addition to the tools in Part 5 that will assist organisations to map risks and opportunities, Appendix 3 of this guide contains a list of the types of activities that may trigger particular Charter rights.

4.3.4 Establish control systems for managing human rights in your organisation

Once risks and opportunities have been identified for each area of operation, an organisation should develop and implement adequate control processes for those operations. Appropriate control systems could include any number of processes, depending on the circumstances, for example:

---

40   cited in Victorian Council of Social Service (2008), *Using the Charter in policy and practice: ways in which community sector organisations are responding to the Victorian Charter of Human Rights and Responsibilities*

- codes of conduct that ensure equal opportunity and respect for diversity among staff, volunteers or service users
- specific purpose advisory groups
- strategies to actively engage disadvantaged or hard to reach groups to improve their access to services
- guidelines for engaging contractors and consultants (see the Contractor/Partner Checklist in Part 5)
- checklists and practice guidelines in particularly sensitive service delivery areas.

4.3.5 Learn from the good practice initiatives of others

Since the introduction of the Charter, many organisations and government departments have reviewed their policies and practices for human rights compatibility, and have developed innovative approaches to human rights promotion.

Many organisations also have an interest in sharing knowledge and experiences about human rights based processes and procedures. It is worthwhile researching sector specific groups for valuable tools that can be adapted to your organisation. Some potential sources for this information are included in Appendix 5, including the VCOSS report from which many of the case studies in this guide have been sourced.

Another set of resources of note are those from the UK-based Social Care Institute for Excellence (SCIE), that provides guidance in a range of care settings targeting disability, mental health, children and young people's, and aged services.[41]

The more general guide, Practice Guide 9: Dignity in Care, details how certain protected rights under the UK Human Rights Act may be incorporated into activities in a range of social care settings:

"While 'dignity' may be difficult to define, what is clear is that people know when they have not been treated with dignity and respect. Dignity in care, therefore, means the kind of care, in any setting, which supports and promotes, and does not undermine, a person's self-respect regardless of any difference." [42]

The SCIE has identified a number of markers in developing services that respect people's dignity, See Part 5 of this guide for the Dignity in Care Checklist developed by SCIE.

4.3.6 Complaints and breaches

As Victorians begins to develop a clearer understanding of themselves as rights-bearers, and the way that rights might apply in certain circumstances, an increase in rights based complaints is inevitable.

While it is important for organisations to have sound policies and procedures, it is also important to minimise any gaps that might exist between theory and practice. Good policies and procedures should be accompanied by strategies that audit and monitor how they are translating into practice, and one such approach is through the development and use of rigorous complaint-handling processes.

According to the Drafting Committee of the Australian Standard on Complaint Handling, there are a number of reasons why effective complaints handling schemes are important, including that they:

- increase the level of user satisfaction with the delivery of services and enhance the user/agency relationship
- recognise, promote and protect users' rights, including the right to comment and complain
- provide an efficient, fair and accessible mechanism for resolving user complaints
- provide information to users on the complaints handling process for the service
- allow for monitoring of complaints and endeavour to improve the quality of services.[43]

---

41 Social Care Institute for Excellence *Practice guides*
42 Social Care Institute for Excellence (2008). *Practice guide 9: dignity in care.*
43 Dee, B. (1997). *The essential elements of complaint handling: a discussion of the Australian Standard on Complaints Handling* (AS4269), available at http://www.accc.gov.au/content/index.phtml/itemId/95997

In the context of a human rights based approach, the issues of transparency and accountability are also particularly important. A human rights based approach to service delivery must be undertaken with the highest possible level of accountability, complemented by openness to input from stakeholders, especially if that input challenges what and how services are delivered.

Understanding and considering a range of views is critical to a meaningful realisation of human rights, and we could go so far as to say that it is impossible to understand and respond to the implications of human rights for a particular issue without the input of service users and their advocates.

Case Studies: Complaint Procedures [44]

One organisation has expanded its complaints procedure to facilitate acceptance of complaints through non-verbal and non-written communication means, thereby enabling service users with a variety of communication difficulties better access to grievance procedures without creating undue burden on the organisation.

Another organisation has drafted a client complaint policy 'framed around natural justice principles and individuals' rights with the overarching aim to ensure complaints are processed in a way that reconciles the interests of clients and the organisation whilst ensuring expectations of fairness are met. While not specifically mentioning the Charter, it includes principles of natural justice, flexibility, and consideration of clients from culturally diverse backgrounds or clients with a disability.

What if a human rights complaint is received? [45]

There are many situations that may lead to a human rights complaint. Most community organisations will already have an understanding of the range of responses and strategies that can be employed to respond to difficult and/or challenging situations. These existing client service skills are the primary tool for dealing with human rights based claims and complaints.

Part of the new challenge for community organisations will be having a sufficient understanding of the scope and application of the rights in the Charter (that is, what they mean, how they are applied, and how they may be reasonably limited), and how to convey what may be complex considerations in an emotionally charged environment.

This is especially so given service users and the general public may themselves have certain misunderstandings about human rights or the Charter, for example:

- They may make a literal interpretation that a right is absolute: "you are breaching my right to liberty", " this is torture", " freedom of expression – I can say what I want"
- They may believe the Charter entitles them to damages" I am going to sue you for breaching my human rights"
- They may think you are able to make an immediate change based on an alleged breach of rights
- They may think the Charter includes economic and social rights: "I demand my right to housing".

In the event that a human rights complaint is received, organisations will be able to respond quickly, professionally, and in ways that provide for just solutions, if they:

- have adequate knowledge and understanding of rights and obligations
- have clear lines of accountability within organisational structures, strategies and policies
- are flexible
- have a commitment to transparency.

According to The UK Audit Commission, managing complaints from a human rights based approach has a number of practical benefits, and should ensure that:

- the risk of a complaint escalating is minimised
- risk control systems are strengthened - lessons can be learnt and actions can be taken where non-compliance occurs

- decisions and the complaint process will be able to withstand external scrutiny
- accountability is improved for the complainant.[46]

Staff responding to any complaint should:

- be positive about human rights
- reassure the service user that the organisation is seriously committed to acting compatibly with human rights
- talk about the need to balance the human rights of the individual and the broader interests of the community
- assure the service user that you will raise their human rights concerns with a manager
- provide clear information about how to make a formal complaint.

Refer to Part 5 for the Lines of Enquiry Checklist [47] that sets out a number of questions that may facilitate a human rights based approach to complaints handling.

What if a human right is being breached? [48]

The possible breach or unreasonable limitation of a human right raises a moral or ethical duty (if not a legal duty) to act upon the concern.

There may be times when this is difficult; however, staff should already be experienced responding to breaches of other legislation such as the Occupational Health and Safety Act, and to this extent breaches of the Charter are no different.

As previously discussed, organisations may already have specific human rights policies in place, other policies containing human rights compliance measures, and/or complaint and dispute resolution measures that are respectful of, and consistent with, human rights principles and obligations.

It is important that potential human rights breaches are raised as soon as practicable, and with the appropriate person. Uncertain situations could be raised as hypothetical questions that canvass whether more appropriate strategies might exist.

It is possible that the human rights impact of an action or decision may already have been considered but that a different conclusion was reached. The important thing is to have the conversation about the issue.

The table on the following page, developed by the Victorian Department of Justice Human Rights Unit, provides suggested actions to address concerns about unreasonable limits or breaches of human rights by various organisational actors.

44 cited in Victorian Council of Social Service (2008), Using the Charter in policy and practice: ways in which community sector organisations are responding to the Victorian Charter of Human Rights and Responsibilities.
45 adapted from the Victorian Department of Justice (2007) Charter of Human Rights & Responsibilities training project – general orientation workshop manual.

46 adapted from UK Audit Commission (2003), Human rights: improving public service delivery, 26.
47 Commission for Local Administration in England, cited in UK Audit Commission (2003), Human rights: improving public service delivery, 26.
48 Victorian Department of Justice (2007) Charter of Human Rights & Responsibilities training project – general orientation workshop manual.

Human rights being limited by	Challenges	Possible actions
Managers to service users?	Raising issues with managers is always difficult.	• If you can, approach the manager directly • Pose your concern as a hypothetical question or as a concern in private - "If we do XYZ do you think it raises issues of human rights being limited?" • Follow the organisation's process for raising human rights issues
Managers to staff?	Raising the issues with managers is always difficult.	• If you can, approach your manager directly • Discuss their actions and how they affect you • Make it about the actions and not the person • If not, discuss your concerns with the human resources area of your organisation
Colleagues to service users?	This will depend on your relationship with the colleague, the seriousness of the issue and urgency for action.	• If you can, approach your colleague and discuss it as a concern in a constructive manner • Pose your concern as a hypothetical or ask their opinion • Alternatively you may discuss it with your manager
Colleagues to each other?	This will depend on your relationship with/to the colleague.	• If you can, approach your colleague directly, discuss their actions and how they affect you • Make it about the actions and not the person • If not, discuss your concerns with your manager and/or the human resources area of your organisation
Others	This could be contracted services, other service providers, government departments	• Raise with your manager • Raise with the provider in question • Depending on the seriousness, could result in any number of greater/lesser actions – for example requested meeting to discuss concerns, conditional engagement/withdrawal, formal/informal complaints, media exposure, Ombudsman's office, Commission complaint processes, Ministerial engagement etc

4.4 TRAINING/EDUCATION AND COMMUNICATIONS

Human rights in TRAINING/EDUCATION and COMMUNICATIONS: key steps for your organisation

4.4.1 Shared understanding of why human rights are important to your organisation
4.4.2 Identify target groups in your organisation to receive human rights training
4.4.3 Review, select and evaluate available training and information resources
4.4.4 Integrate human rights into your internal/external communications

4.4.1 Shared understanding of why human rights are important to your organisation

Effective communication about the value of human rights is critical to how well an organisation incorporates a human rights based approach into all aspects of its work.

A study commissioned by the UK Department for Constitutional Affairs found that an organisation's approach to training, education and communication had to be coherent enough to build the "case" for such an approach, yet subtle enough to avoid people feeling they were required to adopt an imposed set of beliefs.[48]

The same study found that the implementation of a human rights based approach was more effective if human rights are communicated not only in terms of preventing breaches of human rights (risk avoidance), but also as providing a useful framework that can help people "do their jobs better".

The act of communicating is, in itself, an essential part of a human rights based approach. It is through dialogue, debate, sharing of ideas and strategies, exploration of issues, and openness and accountability, that human rights standards are maintained and developed.

4.4.2 Identify target groups in your organisation to receive human rights training

In order to effectively implement a human rights based approach, organisations need to consider a dedicated training strategy that ensures all staff understand how human rights relate to the organisation as a whole, as well as their role within it. Training should focus on raising awareness about human rights generally, as well as on specific responsibilities, risks and opportunities.

In the short-term organisations should begin by ascertaining training need across the organisation's various sites and/ or functions, beginning with those in more senior levels and those whose roles and responsibilities are likely to be immediately and directly linked to the organisation's human rights priorities and/or risk areas. In the medium to longer term, organisations should extend education and training initiatives more broadly across their workforces.[49]

Different target groups might include boards of management, managers and supervisors, human resources, service delivery staff, policy and project staff, reception, security, volunteers, advisory group members, and external contractors. Training ideally should be targeted and role/function specific, and focus on responsibilities, risks, policies and tools in specific areas of operation.

4.4.3 Review, select and evaluate available training and information resources

There are a range of Charter and human rights training materials available. These include, for example, the Commission's calendar training and web resources; training offered by various government departments, as well as some community providers. A range of contacts and other resources are listed in Appendix 5 of this guide.

49 Victorian Equal Opportunity and Human Rights Commission (2007), *2007 report on the operation of the Charter of Human Rights and Responsibilities: first steps forward'*, 11.

The effectiveness of training should be evaluated, with training content adapted to changing needs over time. In its 2007 Charter report, the Commission identified three key principles as vital in building and maintaining human rights based education and communication:

Integration: While specialist and targeted training is vital, Charter concepts also need to be integrated into all other training and communication processes within the organisation to build and sustain capacity (for example staff induction, standing agenda items, distribution of brochures and posters).

Diversification: It is likely that many organisations may develop hubs of expertise; however caution is needed to avoid human rights expertise being quarantined or separated from day-to-day agency operations. Although only a small number of people may need to be immersed in the intricacies of the Charter's provisions, everyone needs to be equipped to perform their roles compatibly with human rights.

Progression: As Victoria is at the beginning of its human rights dialogue, education and communication strategies must be capable of integrating and disseminating new understandings of human rights as they emerge.[50]

4.4.4 Integrate human rights into your internal/external communications

Internal communication is critical to developing an effective human rights based approach. Consistent and well-presented communication from the top down provides a platform upon which dialogue, consultation and education can occur, and models the organisation's commitment to a rights based approach. Staff can also be informed about (and inform) the potential human rights risks and opportunities that the organisation may face in its day-to-day operations.

Of course, communication should not only be top-down. Opportunities for horizontal and upward communication will also help generate greater understanding and ownership, and encourage a flow of innovative ideas for improving established practices and procedures. Efficient lines of communication will also necessarily require effective mechanisms through which staff can make disclosures of improper conduct or

non-compliance with human rights principles (for example "whistle-blowing").

All policies and procedures supporting an organisation's human rights based approach should be clearly documented. Pitch should be audience-specific in terms of detail and choice of language, and utilise a range of media available to the organisation such as codes of conduct, performance planning measures, websites, publications, annual reports, newsletters, e-mail footers, screen savers, posters and notice boards.

In addition to internal communication opportunities, organisations might also consider the dimensions of their external communications. Many organisations play a significant role in shaping the views (either positively or negatively) of others within their sphere of influence. A human rights communications strategy could therefore also consider whether the organisation can contribute to the promotion of human rights principles through the use of clear, accessible and consistent messages, information and resources targeting the full range of stakeholders in its sphere of influence – including service users, broader communities, other organisations, government departments and the media.

Possible strategies might include placing human rights information in external newsletters and on the organisation's website, establishing better dialogue with service users and the broader community by encouraging stakeholder advisory panels, including human rights language in advocacy work with other agencies, or in submissions to government consultation processes.

An organisation's human rights record is central to its accountability and can affect its reputation. Open and transparent communication about performance, and a willingness to act constructively following external advice, will be vital to an organisation's success.

50 adapted from Victorian Equal Opportunity and Human Rights Commission (2007), *The 2007 report on the operation of the Charter of Human Rights and Responsibilities: first steps forward'.*

4.5 AUDITING AND REPORTING

Human Rights in AUDITING and REPORTING: key steps for your organisation

4.5.1 Set relevant performance indicators for measuring human rights impact across the organisation
4.5.2 Decide which human rights impacts are priorities for you to report on and who your target audiences are

4.5.1 Set relevant performance indicators for measuring human rights impact across the different functions of your organisation

With the full operation of the Charter having only commenced in January 2008, Victoria is clearly just beginning to understand how to build a culture of rights. As we develop our understanding of the implications of a human rights based approach over time, we must also develop our capacity to integrate and disseminate these new understandings as they emerge.

Regular auditing and reporting play an important role in ensuring continual improvement, and as the Charter becomes increasingly embedded in government performance measures, it is likely that increasing numbers of organisations will be required to report on human rights compliance measures through funding and service agreements, and various sector standards and accreditation processes.

Organisations should therefore consider developing quantifiable performance indicators to monitor how their operations impact on human rights.

These indicators should measure the direct human rights impact of the organisation's operations, as well the effectiveness of management processes such as training and resource allocation. They should relate to the organisation's goals and activities; be consistent with identified obligations, risks and opportunities; be relevant to the rights of those in the organisation's sphere of influence.

Measurements should be made regularly and be communicated to employees and other interested parties,and performance indicators should be reviewed on a regular basis.

Finally, organisations may also wish to consider conducting human rights based audits as part of their governance procedures. Audits establish whether management systems are working as planned, focus on the causes of problems, and help identify necessary corrective measures.

4.5.2 Decide which human rights impacts are priorities for you to report on and who your target audiences are

As discussed in Part 4.4, effective communication and reporting on human rights is an essential part of an organisational management system committed to a human rights based approach. A report is a management tool in its own right and virtually all organisations are required to report on a range of activities as part of their legal, governance and funding obligations.

Reporting provides organisations with an opportunity to demonstrate areas of operational excellence, leadership, and innovation, and provides an avenue to promote models of good practice. To this extent, reporting on human rights can be a useful tool through which organisations can develop their individual and systemic advocacy and policy work.

Reporting can also help identify those areas in which human rights continue to present challenges, highlighting barriers that are within and beyond the organisation's control.

Previous discussion in the Part 4.1 of this guide introduced the PANEL and Human Rights Matrix tools in which organisations were encouraged to consider the essential, expected and

51 adapted from Victorian Equal Opportunity and Human Rights Commission (2007), *The 2007 report on the operation of the Charter of Human Rights and Responsibilities: first steps forward'.*

Part 5: Human rights based approach implementation tools

desirable actions required to meet human right obligations on the one hand, and develop models of good practice and leadership on the other. A similar process may be undertaken in relation to reporting requirements.

Essential Reporting – reports that *must* be produced by an organisation in order to meet relevant accountability requirements for the purposes of law, governance, funding and service delivery.

Expected Reporting – reports which *should* be produced by an organisation to meet the expectations of relevant stakeholders. These may include internal reports for staff, member newsletters, web-based information.

Desirable Reporting – reports through which an organisation *could* demonstrate real leadership in its contribution to a culture of rights. These may take a number of forms depending on the circumstances, but could include input into departmental consultations, submissions to budget and other parliamentary inquiries, reports to peak bodies, those aimed at engaging local communities or communities of interest, use of media.

Organisations may wish to consider their sphere of influence in more detail when deciding who to report to, and in what format. Organisations may, for example, choose to only report to employees, others may be required to also report to funding bodies, while others may use reporting as a means of supporting the advocacy work of peak representative bodies. Best practice is to report to the organisation's full sphere of influence to the greatest extent an organisation's capacity will allow.

There are several ways to present human rights data in an organisation's reports. One key decision to be made is whether the report should be purely web-based, paper-based, or both, and whether reports meet the varying accessibility needs of various stakeholders.

This section provides a number of tools and checklists that may be of use to organisations within certain operational contexts.

The variety of organisational roles and functions means that no single tool will be appropriate for all organisations in all circumstances, and so those listed are intended as a guide only. There are also elements of some tools that will be useful to reinforce or develop certain elements of other tools.

Organisations are encouraged to individually assess their needs, and adapt and apply the tools accordingly. [52]

Tools in this section include:

- **Human Rights Impact Assessment** [53]: enables an assessment of the human rights impact of any proposed policy, action or decision

- **Human Right Matrix** [54]: a tool to map policies and practice against the individual rights in the Charter and to prioritise what is essential, expected and desirable

- **PANEL Matrix** [55]: a tool to map activities in various areas of operation (as detailed in Part 4 of this guide) against the key HRBA principles contained in the PANEL acronym

- **Human Rights Awareness Checklist** [56]: a simple checklist to identify key organisational strategies to incorporate a human rights based approach, and to measure continuous improvement

- **Stakeholder Capacity Checklist** [57]: a simple checklist to identify stakeholders' capacity to meet obligations and/or claim rights, barriers to participation, and strategies to maximise capacity

- **Dignity in Care Checklist** [58]: a detailed checklist identifying key operational considerations in the provision of dignified care, and to measure continuous improvement

- **Lines of Enquiry Checklist** [59]: sets out a number of 'lines of inquiry' to consider for investigating complaints received by an organisation

- **Contractor/Partner Checklist** [60]: designed to assist organisations to consider whether any action needs to be taken in relation to external contractors' compliance with human rights principles and standards

A range of other tools developed by Victorian community organisations can be found in the Victorian Council of Social Service report contained in Appendix 5.

52 VEOHRC is interested in collating and promoting new tools as they develop. Examples of new approaches and good practice models will be periodically incorporated into this resource. Submissions can be made at: http://www.humanrightscommission.vic.gov. au/human%20rights/your%20rights%20your%20stories/
53 Victorian Department of Justice Human Rights Unit
54 Business Leaders Initiative on Human Rights (BLIHR), the United Nations Global Compact Office, and the Office of the United Nations High Commissioner for Human Rights (OHCHR) (2006), *A guide for integrating human rights into business management.*
55 Department of Health and the British Institute of Human Rights (2007), *Human rights in healthcare: a framework for local action.*
56 Victorian Department of Justice Human Rights Unit
57 United Nations Population Fund UNFPA (2006), *Human rights-based programming: what it is/how to do it.*
58 Social Care Institute for Excellence (2008). *Practice Guide 9: Dignity in Care.*
59 Commission for Local Administration in England, cited in UK Audit Commission (2003), *Human rights: improving public service delivery, 26.*
60 Ibid., 28.

5.1 Human Rights Impact Assessment

The process described below, is a useful tool to be applied to any aspect of an organisation's operation, including in relation to policy and program development, service delivery, and decision-making processes.

To successfully achieve a rights based approach, organisations will need to assess the human rights impact of policies, practices and decision-making processes by considering:

- What is the objective being sought?
- What human rights are affected?
- Are any human rights being limited?
- What interests are being balanced?
- How important is it to limit rights to achieve the objective?
- Are there other practical solutions or less restrictive options?

HUMAN RIGHTS IMPACT ASSESSMENT [61]

Step 1. Consider whether the policy proposal raises human rights. Identify each human right that the proposal might impact upon.

Step 2. Consider the scope of each human right raised by the proposal. At this stage you should take into account any specific limitations or express exceptions that appear in the section providing for the right.

Step 3. Consider whether the proposal limits, restricts or interferes with the scope of the right.

Step 4. Consider whether that limitation or restriction is reasonable and demonstrably justified under s.7 of the Charter. You will need to identify all of the reasons why the limitation or restriction on the right is justified. These may be extensive.

Step 5. Modify the policy proposal, action or decision if you find that the limitation or restriction on the right is not reasonable or demonstrably justified. On rare occasions, it may not be possible to modify the proposal. In these situations you will need to give reasons as to the nature and extent of the incompatibility.

Clearly, such an approach may raise dilemmas for organisations, not least when the 'competing rights' or interests of various stakeholder groups are considered and need to be balanced. A human rights based approach recognises that rights are not absolute [62], and that competing rights may need to be balanced against an assessment of what is reasonable, necessary, justified and proportionate. This assessment is required by section 7 of the Charter which states that:

A human right may be subject under law only to such **reasonable limits** as can be **demonstrably justified** in a free and democratic society based on human dignity, equality, and freedom, and taking into account **all relevant factors** including –

- The nature of the right;
- The importance and purpose of the limitation;
- The nature and extent of the limitation;
- The relationship between the limitation and its purpose; and
- Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

The determination of whether a limit on a human right is **reasonable** involves a balancing exercise whereby competing rights are weighed against each other.

Courts have previously determined that **relevant factors** could include social, legal, moral, economic, administrative and ethical considerations. [63] **Demonstrated justification** could include evidence gathered through research, reviews, inquiries, consultation findings, or legal precedent.

5.2 Human Rights Matrix

The Human Rights Matrix [64] may be a useful tool to assist organisations to map existing activities, priorities, risks and/or opportunities against the full spectrum of rights contained in the Charter and can help identify the human rights impact of an organisation's full range of activities within its sphere of influence.

The process for completing the Matrix involves mapping 'essential', 'expected', and 'desirable' activities as follows:

Essential – is the action that must be taken by an organisation to follow relevant legal standards, for example, requirements under the Charter and other State and Commonwealth laws, funding agreements and sector standards.

Expected – is the action which should be taken by an organisation to meet the expectations of, and accept its shared responsibilities to, relevant stakeholders within its sphere of influence.

Desirable – is the action through which an organisation could demonstrate real leadership. This can take a number of forms depending on the circumstances, but could include partnerships with other stakeholders, or development of specific expertise or models of good practice.

61 Victorian Department of Justice Human Rights Unit
62 in International law, rights to freedom from torture and slavery are regarded as absolute
63 *Moonen v. Film and Literature Review Board (No. 1) [2001] 2 NZLR 9, 17.*

64 adapted from the Business Leaders Initiative on Human Rights (BLIHR), the United Nations Global Compact Office, and the Office of the United Nations High Commissioner for Human Rights (OHCHR) (2006), *A guide for integrating human rights into business management.*

The following example of an incomplete Human Rights Matrix is for illustrative purposes only. Your organisation would need to produce a more detailed version specific to its current activities and priorities for action.

	ESSENTIAL	EXPECTED	DESIRABLE
General obligations	Compliance with *Charter, Equal Opportunity Act 1995* (Vic), *Racial and Religious Tolerance Act 2001* (Vic), *Information Privacy Act 2000* (Vic), *Occupational Health and Safety Act 2004* (Vic)		
Non-discrimination	Compliance with *Equal Opportunity Act 1995* (Vic)	Equal Opportunity Policy – refers to Charter (if applicable) Public statements Development of 'client service' charter	Diversity award Targeted services Stage a conference
Right to life	Compliance with *Accident Compensation Act 2005* (Vic), *Occupational Health and Safety Act 2004* (Vic)	Secure workplace Staff Training on workplace safety Actively encourage safe work practices	Employee assistance scheme Recognition of innovation
Freedom of association	Compliance with *Workplace Relations Act 1996* (Cwlth)	Establish consultative committees Non-interference with union activities	Active consultation with unions on changes affecting staff
Cultural rights	Compliance with *Multicultural Victoria Act 2004* (Vic)	Acknowledge and accommodate cultural differences Cultural awareness training	Participate in Cultural Diversity Week Provide information in LOTE

Human Rights Matrix

Human Rights in the Charter	Essential Actions	Expected Actions	Desirable Actions
General Obligations			
Recognition and equality before the law			
Right to life			
Protection from torture, cruel, inhuman or degrading treatment			
Freedom from forced work			
Freedom of movement			
Privacy and reputation			
Freedom of thought, conscience, religion and belief			
Freedom of expression			
Peaceful assembly and freedom of association			
Protection of families and children			

Human Rights in the Charter	Essential Actions	Expected Actions	Desirable Actions
Taking part in public life			
Cultural rights			
Property rights			
Right to liberty and security of person			
Humane treatment when deprived of liberty			
Children in the criminal process			
Fair hearing			
Rights in criminal proceedings			
Right not to be tried or punished more than once			
Retrospective criminal laws			

5.3 PANEL Matrix

The PANEL Matrix is a powerful tool that builds upon the Human Rights Matrix by grouping activities into various areas of an organisation's operation (such as those discussed in Part 4 of this guide), and mapping these again the core human rights principles contained in the PANEL acronym discussed in Part 3 of this guide:

- **Participation** and involvement: Ensure that service users are given the right to participate in decisions that directly affect their lives.
- **Accountability**: Once an organisation is clear which principles it is seeking to adhere to in its work it must ensure that there is proper accountability for meeting these principles.
- **Non-discrimination** and attention to vulnerable groups. Recognise that some groups and people in society are more vulnerable to abuses of their human rights than others. In this context a human rights based approach prioritises looking at: (a) whether people or groups vulnerable to human rights infringements have been identified; (b) the impact of policies and practice on these people or groups; and (c) whether actual or potential discrimination has been addressed.
- **Empowerment**: Organisations must ensure that rights-holders and duty-bearers share a common understanding of human rights goals; and must also ensure that systems are in place to educate and raise awareness of all relevant stakeholders.
- **Linkage** to human rights principles and standards: This means ensuring that in planning, policy and service delivery there is an analysis of which human rights are relevant, who the rights holders are, and who is responsible for ensuring that those rights are protected, promoted and fulfilled. [65]

The following table is an adapted illustration of how the PANEL Matrix has been utilised by services involved in a pilot study into the development of a human rights based approach in healthcare, conducted by the UK Department of Health and the British Institute of Human Rights. [66]

HRBA Principle	Leadership & Governance	Strategy & Policy	Processes & Practice
Participation	Participation initiatives to incorporate HR as appropriate Resource mechanisms to support stakeholder participation	Involve patients in policy assessment Ensure policy staff have HR awareness Timely & transparent consultation with clear information on HR impact	HR included in routine processes e.g. one-to-one care planning or patient forums Space given to staff to discuss HR issues Engage with community sector, particularly service user-led groups
Accountability	Executive and non-executive board lead or champion HR Board sub-committees given clear HR remit Identify & report on required actions, positive obligations	HR policy & strategy leads assigned Clear goals set & monitored across departments/policy areas Sub-contracts explicitly require HR accountability	Job descriptions clarify HR responsibility Staff supervision/mgt includes HR monitoring Appoint dedicated HR post
Non-discrimination and attention to vulnerable groups	Clear goals tackling discrimination in all policy & planning, linked directly to HR principles Initiate HR projects engaging vulnerable groups	Integrate HR into Equality Strategies & impact assessment processes Ensure HR concerns identify vulnerable groups	Issue staff and patients with guidance on avoiding discrimination Support and resource patient advocates for vulnerable groups
Empowerment	Skills audit, HR training to board, senior team, key advisory groups. Provide access to internal and external specialist advice	Include HR as a key competency in skills frameworks Train staff on HR impact assessments Give guidance to contractors Allocate budget to staff development	Provide job specific HR training, guidance and information Access to HR advice for staff and patients Service users given HR information, and routine opportunities to raise issues
Linkage to human rights principles and standards	Vision and values explicitly reflect HR principles Goals or objectives defined in HR terms HR communication messages promoted internally & externally Dedicated strategic level team	Mainstream HR into policy development via HR strategy Audit strategies, policies, budgets & programs for HR impact Use HR checklists Gather baseline data to inform policy, strategy, & monitor impact	Ensure complaints are recorded, responded to Incorporate HR quality indicators into all services Use HRBA checklists in decision making Keep records of HR issues & related actions

66 UK Department of Health and the British Institute of Human Rights (2007), *Human rights in healthcare: a framework for local action.*

HRBA Principle	Management & Strategic Planning			Policy Development & Implementation			Service Delivery & Complaints Handling			Training & Communications			Auditing & Reporting		
	Essential	Expected	Desirable	Essential	Expected	Desirable	Essential	Expected	Desirable	Essential	Expected	Desirable	Essential	Expected	Desirable
Participation															
Accountability															
Non-discrimination and vulnerable groups															
Empowerment															
Linkage to human rights principles and standards (incorp HR Matrix)															

5.4 Human Rights Awareness Checklist

☐ Your organisation is aware of the obligations and rights set out in the *Charter of Human Rights and Responsibilities*.

☐ Your organisation has established a commitment to human rights and has considered ways to incorporate a human rights based approach into the culture of the organisation.

☐ Your organisation has reviewed (or has a plan to review) existing policies, practices and procedures to ensure compatibility with human rights.

☐ Human rights are now a key consideration at the beginning of all of your organisation's processes for continual improvement, including planning and strategic direction setting, policy and program development, review, evaluation and reporting.

☐ Your organisation is aware of what resources are available to support human rights compliance and knows who to ask if there are any Charter queries.

☐ Your organisation has checked that its decision-making processes are compatible with human rights.

☐ Staff induction, performance management and professional development processes include human rights; staff are rewarded for incorporating human rights considerations into their work and are encouraged and supported to raise human rights concerns.

☐ Your organisation has processes to actively inform stakeholders of their rights, and to respond to Charter related complaints (or has sought advice on how this might be developed).

5.5 Stakeholder Capacity Checklist [67]

Duty-bearers

☐ Do duty-bearers have the capacity to meet their obligations?

☐ Is there a need to strengthen the capacity of duty-bearers to meet their obligations?

☐ Do duty-bearers need greater authority to carry out their obligations?

☐ Are additional human, technical or financial resources needed to enable duty-bearers to meet their obligations?

☐ What initiatives are under way to build the capacity of duty-bearers to meet their obligations?

Rights-holders

☐ Do rights-holders have the personal capacity to understand and claim their rights?

☐ Do rights-holders have access to relevant information and the necessary processes to enable them to claim their rights?

☐ Can rights-holders claim their rights without fear of retribution or consequence?

☐ What initiatives are under way to maximise rights-holder's capacity to claim their rights?

---

67   adapted from United Nations Population Fund UNFPA (2006), *Human rights-based programming: what it is/how to do it.*

5.6 Dignity in Care Checklist [68]

Zero tolerance of abuse

☐ Is valuing people as individuals central to our philosophy of care?

☐ Do our practices uphold dignity and encourage vigilance to prevent abuse?

☐ Do we have in place a whistleblowing policy that enables staff to report abuse confidentially?

☐ Have the requisite criminal record and child protection checks been conducted on all staff?

Support with respect

☐ Are we polite and courteous even when under pressure?

☐ Is our culture about caring for people and supporting them rather than about 'doing tasks'?

☐ Do we try to see things from the perspective of the service user?

☐ Do we ensure service users are not left in pain or feeling isolated or alone?

Personalised service

☐ Do our practices promote care and support for the whole person?

☐ Do our practices respect beliefs and values important to the person receiving services?

☐ Do we consider individual physical, cultural, spiritual, psychological, and social needs and preferences?

☐ Do our practices challenge discrimination, promote equality, respect individual needs, preferences and choices, and protect human rights?

Supporting independence, choice and control

☐ Do we ensure staff deliver care and support at the pace of the individual?

☐ Do we avoid making unwarranted assumptions about what people want or what is good for them?

☐ Do individual risk assessments promote choice in a way that is not risk-averse?

☐ Do we provide people receiving services the opportunity to influence decisions regarding their care, or our policies and practices?

Enabling expression of needs and wants

☐ Do we truly listen with an open mind to people receiving services?

☐ Are service users enabled and supported to express their needs and preferences in a way that makes them feel valued?

☐ Do all staff demonstrate effective interpersonal skills when communicating with people, particularly those who have specialist needs?

☐ Do we ensure that information is accessible, understandable and culturally appropriate?

Respecting privacy

☐ Do we have quiet areas or rooms that are available and easily accessible to provide privacy?

☐ Do staff actively promote individual confidentiality, privacy and protection of modesty?

☐ Do we avoid assuming that we can intrude without permission into someone's personal space, even if we are the care giver?

☐ Can people receiving services decide when they want 'quiet time' and when they want to interact?

Enabling complaints

☐ Do we have a culture where we all learn from mistakes and are not blamed?

☐ Are complaints policies and procedures user-friendly and accessible?

☐ Are complaints dealt with early, and in a way that ensures progress is fully communicated?

☐ Are people, their relatives and carers reassured that nothing bad will happen to them if they do complain?

☐ Is there evidence of audit, action and feedback from complaints?

Engaging extended supports

☐ Do employers, managers and staff recognise and value the role of extended supports?

☐ Do we provide support for extended supports who want to be involved, and provide them with the necessary information?

☐ Are we alert to the possibility that extended supports' views are not always the same as those of the person receiving services?

Maintaining confidence and self-esteem

☐ Are personal care and eating environments well designed for their purpose, comfortable and clean?

☐ Do we maximise individual abilities at all times?

☐ Do we ensure people receiving services wear their own clothes wherever possible?

☐ While respecting the wishes of the person receiving services as far as possible, are they respectable at all times and are staff tidy and well presented?

Alleviating loneliness and isolation

☐ Do we provide access to varied leisure and social activities that are enjoyable and person-centred?

☐ Have we reviewed the activities we offer to ensure they are up to date and in line with modern society?

☐ Do we provide information and support to help individuals engage in activities which help them participate in and contribute to community life?

☐ Are responsibilities of all staff towards achieving an active and health-promoting culture made clear through policies, procedures and job descriptions?

5.7 Lines of Enquiry Checklist

The following checklist, adapted from the work of the UK Commission for Local Administration [69] may assist organisations to respond to the substance of human rights complaints, as well as improve their complaint handling processes.

☐ Have relevant complaint/grievance policies and procedures been checked for compliance with the Charter?

☐ Has advice been sought or followed on the human rights implications of the action or decision complained about?

☐ What objective was being pursued in restricting or interfering with the complainants' rights?

☐ Where complainants' rights were limited, were less restrictive options than those chosen ever considered, and if so, why were they rejected?

☐ Were the requirements of procedural fairness followed (fair hearing, appropriate support, timeliness, right of review)?

5.8 Contractor/Partner Checklist

One of the key groups within an organisation's sphere of influence that need to be considered within the context of a human rights based approach are those engaged as contractors or partners.

Just as many community organisations may have legal obligations under the Charter as functional public authorities (as discussed in Part 2), so too may some of the functions

---

68 Social Care Institute for Excellence (2008). *Practice guide 9: dignity in care.*

69 Commission for Local Administration in England cited in UK Audit Commission (2003), *Human rights: improving public service delivery, 26.*

performed by private businesses by virtue of their contractual engagement by functional public authorities. When a service is contracted out by a community organisation however, it cannot assume that the contractor, rather than itself, will be liable for any breach of the human rights of service users. [70]

Other jurisdictions have held that where responsible bodies delegate their functions to another entity, they will retain their obligations as a public authority [71] and cannot absolve themselves of responsibility to protect the rights of people within their jurisdiction simply because the breaches are carried out by another body. [72]

Effectively the contracting out of services may create a hierarchy of responsibility from government public authority to non-government functional public authority to contracted private body. Notwithstanding the uncertainty about which community organisations meet the Charter's definition of functional public authority, it is likely that in certain circumstances complainants may seek to hold community organisations accountable for actions or decisions taken by a contractor or partner of that organisation, that failed to adequately protect human rights.

In order to minimise the legal risk, or alternatively to maximise good practice adherence to a human rights based approach, organisations should require contractors and partners to comply with the Charter and protect the rights of stakeholders as a condition of the contract or partnership. This can be achieved by adopting contract clauses with termination notices if a contractor defaults on its human rights responsibilities. [73]

These implications also illustrate the importance of applying a human rights based approach to communication, education and training, and to monitoring and auditing, in that contractors and partners will require sufficient understanding of their obligations to properly negotiate and fulfil the requirements of their contracts and agreements.

In order to assess whether an organisation has taken the necessary steps to ensure human rights compliance or best practice by contractors and partners, the following checklist adapted from the work of the UK Audit Commission [74] may help.

☐ The organisation's contracting and partnering arrangements identify human rights risks/best practice opportunities in line with Charter obligations

☐ When negotiating contracts and partnerships the organisation requires the third party to protect, respect and promote the human rights of service users

☐ Key contracts contain clauses explicitly articulating expectations and responsibilities in relation to the protection, promotion and respecting of relevant stakeholders' human rights

☐ The organisation's procurement policy considers the human rights credentials of suppliers

☐ There is a contract plan, which includes how contractors/partners will be monitored against compliance with the Charter

☐ A system is in place to respond to third party complaints regarding external contractors and partners

☐ Contract monitoring sets out how to deal with serious failures of non-compliance with human rights principles and/or the Charter

☐ The rules by which contractors are added to and removed from an approved list, or partners are engaged or not engaged, are clearly specified and reasons for turning down a contract or partnership are clearly communicated

☐ An appeals process is in place that allows external contractors and partners to question the decision-making process

☐ The organisation knows where to access advice and support to assist with contracting and partnering arrangements

70 UK Audit Commission (2003), *Human rights: improving public service delivery,* 11
71 *Callin, Heather and Ward v Leonard Cheshire Foundation* [2002] EWCA Civ 366
72 *X and Y v Netherlands* (1986) 8 EHRR 235.
73 UK Audit Commission (2003), *Human rights: improving public service delivery,* 27.
74 Ibid., 28.

APPENDIX 1: Rights contained in the Victorian Charter of Human Rights and Responsibilities

Section 8: Recognition and equality before the law
Everyone is entitled to equal and effective protection against discrimination, and to enjoy human rights without discrimination.

Section 9: Right to life
Every person has the right to life and the right not to be arbitrarily deprived of life.

Section 10: Protection from torture and cruel, inhuman or degrading treatment
A person must not be tortured, treated or punished in a cruel, inhumane or degrading way. A person must not be subjected to medical or scientific experimentation or treatment without his or her full, free and informed consent.

Section 11: Freedom from forced work
A person must not be held in slavery or servitude, or forced to work, except as part of normal civil obligations, as part of a court order, or during emergency situations.

Section 12: Freedom of movement
People who are lawfully in Victoria have the right to enter and leave the State, to move around freely within it and to freely choose where they live.

Section 13: Privacy and reputation
A person's personal privacy, family, home or correspondence can not be unlawfully or arbitrarily interfered with.

Section 14: Freedom of thought, conscience, religion and belief
People have the freedom to have or choose a religion or belief, and the freedom to demonstrate their religion or belief. They can do this privately or publicly – at home, at work or in a place of worship – as part of a group or alone.

Section 15: Freedom of expression
People have the right to hold opinions without interference from the government or from other people. People have the right to seek out, receive and pass on information and ideas of all kinds.

Section 16: Peaceful assembly and freedom of association
People have the right to assemble and meet peacefully, to freely associate with others and to form and join trade unions.

Section 17: Protection of families and children
Families are entitled to be protected by society and the State. Children have the right to protection according to their best interests, without discrimination.

Section 18: Taking part in public life
Every person has the right to take part in public affairs without discrimination. Every eligible person has the right to vote, be elected and to have equal access to the Victorian public service and public office.

Section 19: Cultural rights
People of all cultural, religious, racial or linguistic backgrounds have the right to enjoy their culture, declare and practice their religion and use their languages.

Section 20: Property rights
A person must not be deprived of his or her property except in accordance with law.

Section 21: Right to liberty and security of person
Everyone has the right to freedom and security.

Section 22: Humane treatment when deprived of liberty
All persons deprived of liberty by arrest or detention must be treated with humanity and with respect for the inherent dignity of the person.

Section 23: Children in the criminal process
A child charged with committing a crime or a child who has been detained without charge must be held separately from all detained adults, brought to trial as quickly as possible, and treated in a way that is appropriate for his or her age.

Section 24: Fair hearing
A person has a right to a fair hearing. This means the right to have criminal charges or civil proceedings decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Section 25: Rights in criminal proceedings
A person who is charged with a crime has the right to be presumed innocent until proven guilty, to be informed of their charge and tried without unreasonable delay, the right not to be compelled to testify or confess guilt and the right to have any conviction and sentence reviewed by a higher court.

Section 26: Right not to be tried or punished more than once
A person must not be tried or punished more than once for the same offence if he or she has already been convicted or acquitted of that offence in court.

Section 27: Retrospective criminal laws
A person has the right not to be prosecuted or punished or acts or omissions that were not criminal offences at the time they were committed.

The International Bill of Human Rights consists of:

- The Universal Declaration of Human Rights (UDHR)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR) and
- The International Covenant on Civil and Political Rights (ICCPR).

The UDHR and the Covenants can be read in their entirety at www.ohchr.org/english/law

Below you will find the headings of the articles in the Covenants (excluding articles concerned with procedural or organisational matters).

International Covenant on Civil and Political Rights (ICCPR)

Article 1: The right to self-determination for peoples
Article 2: Non-discrimination in relation to all rights
Article 6: The right to life
Article 7: Prohibition against torture or cruel, inhumane or degrading treatment or punishment and against medical or scientific experimentation without free consent
Article 8: Prohibition against slavery, forced or other compulsory labour
Article 9 - 10: The right to freedom and personal safety (arrest and detention)
Article 11: Prohibition against imprisonment for non-fulfilment of a contractual obligation
Article 12: The right to liberty of movement and freedom to choose residence
Article 13: The right to seek asylum
Article 14-15: The right to a fair trial and prohibition against retroactive punishment
Article 16: The right to recognition as a person before the law
Article 17: The right to privacy
Article 18: Freedom of thought, conscience and religion
Article 19: The right to hold opinions and the right to freedom of information and freedom of expression
Article 20: Prohibitions against inciting war and against hate speech
Article 21: The right of peaceful assembly

Article 22: Freedom of association, including the right to form and join trade unions
Article 23-24: The right to form a family and the rights of the child
Article 25: The right to take part in public affairs
Article 26: Equality before the law
Article 27: Minority rights to culture, religious practice and language

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 1: The right to self-determination for peoples
Article 2: Non-discrimination in relation to all rights
Article 6: The right to work, including the right to vocational guidance and training
Article 7: The right to a minimum wage and equal pay, to safe and healthy working conditions, and to rest, leisure and holidays with pay
Article 8: The right to form trade unions and join a trade union, and the right to strike
Article 9: The right to social security, including social insurance
Article 10: The right to a family life, to maternity leave and prohibition of exploitative child labor
Article 11: The right to adequate food, clothing, housing and fair distribution of food
Article 12: The right to the highest attainable standard of physical and mental health
Article 13-14: The right to education
Article 15: The right to participate in cultural life and the right to protection of moral and materiel interests resulting from one's inventions

APPENDIX 3: Potential human rights triggers in policy, procedure and practice

The following table, adapted from a resource developed by the Victorian Department of Justice Human Rights Unit, provides possible areas of organisational activity that may trigger particular rights contained within the Charter. The fact that a particular action may trigger a right, does not mean that right is being breached or unreasonably limited. It does indicate that consideration must be given to how the right is impacted, and the most appropriate course of action according to the principles outlined in Part 2 of this guide.

Right	May be triggered if your policy, procedure or practice:
s.8 Recognition and equality before the law	• contains measures that attempt to assist those who are socially, culturally and/or economically disadvantaged; • takes steps to diminish or eliminate conditions that have resulted in specific groups being disadvantaged (positive discrimination); • provides for the delivery of a service to some but not others; • assists or recognises the interests of Aboriginal persons or other ethnic groups; • is stated in neutral terms but disproportionately impacts on those with a protected attribute under the Equal Opportunity Act (EOA); • sets age restrictions or establishes any other eligibility requirement by reference to a protected attribute under the EOA.
s.9 Right to life	• impacts on the way services are provided, or how and whether these services can be accessed; • establishes procedures for the management of those held in your care.
s.10 Protection from torture and cruel, inhuman or degrading treatment	• affects the physical or mental well-being of a person in a manner that may cause serious physical or mental pain or suffering, or humiliate or debase a person (albeit non-intentionally); • removes or restricts the right to complain about service delivery; • affects the conditions attached to all forms of State care and detention; • creates new types of penalties, including limits to, or denial of service; • introduces or permits corporal punishment; • authorises a person to be searched or puts in place procedures for conducting searches; • regulates the treatment of persons located at any site for which you are responsible, including for example, a public hospital, an approved mental health service, a prison, a government school, a disability or aged care service, or supported residential service; • involves crisis intervention strategies or behavioural management plans that include use of seclusion, chemical and/or physical restraint.
s.11 Freedom from forced work	• compels the provision of any labour or the performance of any service under threat of a penalty.
s.12 Freedom of movement	• limits the ability of a person to choose where to live in Victoria (including their ability to move their residence); • allows for an intervention order against a person or enables their detention; • proposes surveillance of individuals' movements; • limits the ability to move through, remain in, or enter or depart from areas of public space or on private land.
s.13 Privacy and reputation	• involves surveillance of persons for any purpose (such as closed-circuit television, CCTV); • involves collection and/or publication of personal information and how that information is accessed, used or disclosed; • involves powers of entry, search, seizure, confiscation or forfeiture; • provides for a compulsory physical intervention on a person such as a DNA, blood, breath or urine test; • forced gynaecological or other medical examination; or corporal punishment; • provides for treatment or testing of a service user without his or her consent; • regulates the public acknowledgment of gender affirmation of transsexual persons; • involves a professional duty of confidentiality; • provides for mandatory disclosure or reporting of information (including disclosure of convictions, injury or illness); • regulates a person's name, private sexual behaviour, sexual orientation or gender identity; • envisages a new use for personal information that is already held; • changes or creates a system of regular disclosure of personal information; • restricts access by individuals to their own personal information; • changes or creates any confidentiality provisions or secrecy provisions relating to personal information; • creates new responses to the misuse of personal information; • creates new requirements or amends existing requirements to store, secure or retain particular personal information; • creates an identification system or proposes to link or match personal information across or within agencies; • relates to handling personal information for research or statistics; • affects the ability to form and maintain close or enduring personal relationships; • recognises or fails to give legal recognition to close or enduring personal relationships; • provides for the removal of children from a family unit or a family intervention order; • regulates adoption, guardianship, childcare or children remaining in their mothers care; • provides for mandatory reporting of injuries or illnesses; • regulates tenancy or eviction; • regulates a state-run care facility or mental health service; • regulates standards, consultation and procedures operating in respect of public housing; • involves the interception, censorship, monitoring or other regulation of postal articles and all other communications.
s 14 Freedom of thought, conscience, religion and belief	• promotes, restricts or interferes with a particular religion or set of beliefs or requires disclosure of religion or belief;

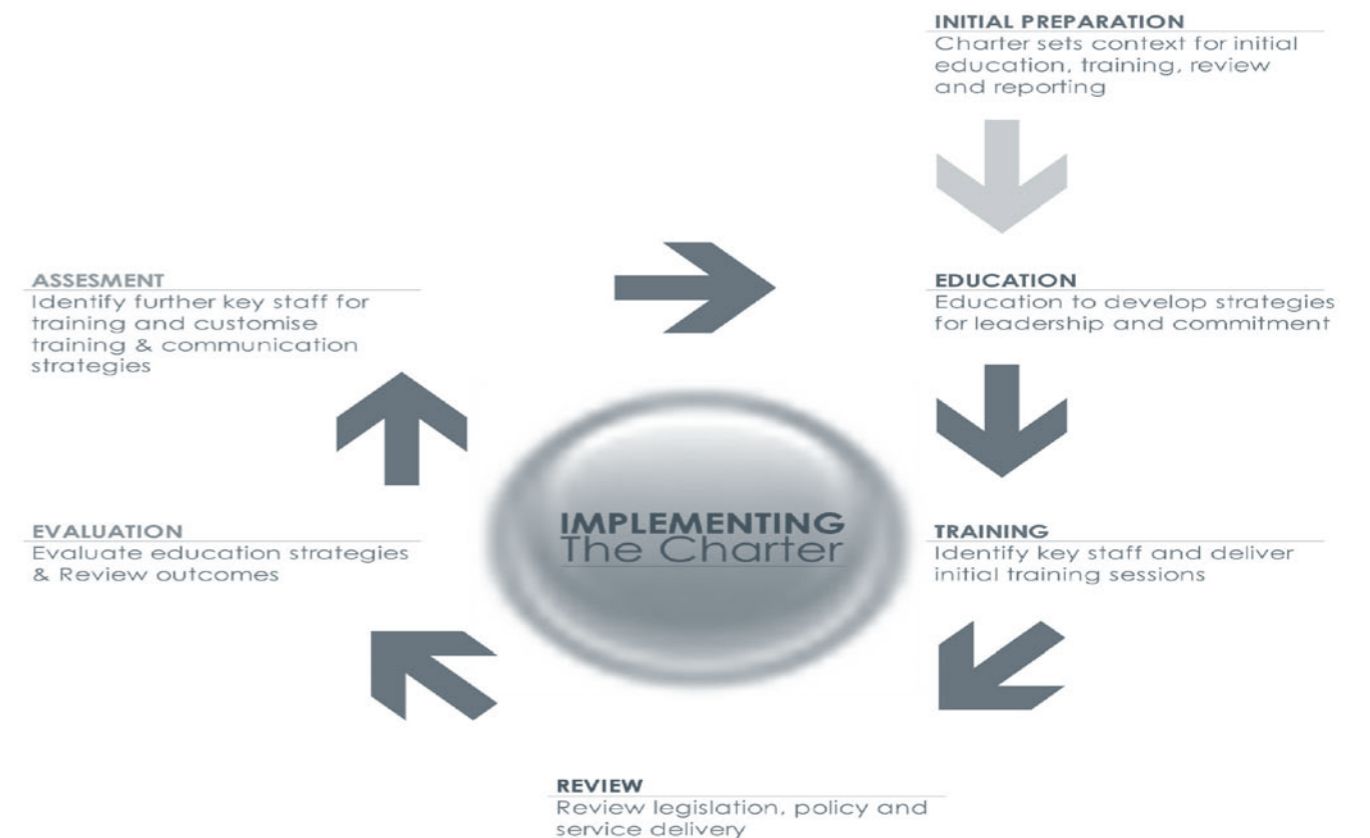|	
	• impinges upon or disadvantages a person because of the person's opinions, thoughts or beliefs on a matter; • attempts to regulate conduct that will affect a person's worship, observance, practice or teaching of his or her religion or belief; • places an individual in a position where he or she must choose between demonstrating a belief or participating in society; • prohibits or limits a person's capacity to teach their religion or to attempt to convince others by appropriate means to change their religion; • requires certain types of conduct that may conflict with a person's religion or beliefs; • compels certain acts that may be inconsistent with a religion or set of beliefs; • sets dress codes (possibly for safety or hygiene reasons) that do not accommodate religious dress; • imposes requirements as a condition of receiving a benefit that prevents a person from adhering to his or her religion or belief; • restricts the capacity for those in your care or control to comply with the requirements of their religion; • requires students to learn about particular religions or beliefs or to be taught materials that might undermine their religious beliefs.
s.15 Freedom of expression	• regulates the format of any expression (for example, the contents of any speech, publication, broadcast, display or promotion); • censors materials or requires they be reviewed or approved before being published; • compels someone to express information (for example, a subpoena); • regulates or restricts an individual's access to information (including access to material on the internet); • penalises or disadvantages any person on the basis of their opinions; • imposes a dress code.
s.16 Peaceful assembly and freedom of association	• limits the ability of a person or group of persons to exercise the right to peacefully protest or to come together for a common purpose; • treats people differently on the basis of their membership of a group or association; • prohibits or creates disincentives or confers preferences for membership in a group or association (including a disclosure requirement); • compels a person to belong to a professional body or workplace association.
s.17 Protection of families and children	• affects the ability to form and maintain close or enduring personal relationships or fails to recognise them; • regulates the obligations of family members towards each other, including parents and guardians towards children; • provides for the separation and removal of children from parents or guardians or other adults responsible for their care; • regulates family contact for those in your care or enables intervention orders to be granted between family members; • affects the welfare of children within the family or your care.

s.18 Taking part in public life	• limits the ability to take part in municipal and parliamentary elections.
s.19 Cultural rights	• limits the observance of any religious practices, regardless of the religion; • restricts the capacity for persons to declare or make public their affiliation to a particular racial, religious or cultural group; • limits or prohibits communication in languages other than English, including through the provision of information; • limits the ability of Aboriginal persons or members of an ethnic group to take part in a cultural practice, or otherwise interferes with their distinct culture practices; • restricts the provision of services or trade on religious holidays; • regulates cultural or religious practices around the provision of secular public education; • relates to the preparation and serving of food; • may interfere with the relationship between Aboriginal persons and land, water and resources.
s.20 Property rights	• provides for acquisition, seizure or forfeiture of a person's property.
s.21 Right to liberty and security of person	• authorises a person with a mental illness to be detained for treatment in your service; • provides for the detention of a person in order to 'sober up'; • relates to the management of security of anyone in your care, especially those in involuntary care.
s.22 Humane treatment when deprived of liberty	• enables you to detain individuals or relates to the conditions under which person may be detained; • concerns standards and procedures for treatment of those who are detained (for example, use of force, dietary choice, access to private shower and toilet facilities); • authorises you to hold individuals in a place with limited facilities or services for the care and safety of detainees; • enables you to undertake personal searches of those who are detained; • requires those in detention to answer questions, particularly of a self-incriminating kind.

The remaining Charter rights relate to engagement with criminal and/or civil proceedings. In developing a good practice human rights based approach within your service, you may still wish to consider the relationship between these rights and your practice.

s.23 Children on the criminal process	This right relates primarily to children in the criminal process, but may have an impact on policies, procedures and practices that: • enable you to detain children for any length of time; • authorise you to hold children in amenities that have limited facilities or services for the care and safety of detainees; • enable you to undertake personal searches of a detained child; • impact on the environmental design or conditions under which children are detained; • establish or alter programs in prisons, youth training centres or residential centres; • otherwise regulate the custodial care of children.

s.24 Fair hearing	This right relates primarily to criminal and civil proceedings, but may have an impact on policies, procedures and practices that: • create or restrict review of administrative decision-making and appeals processes; • reverse the onus of proof of a matter; • amend the way in which 'evidence' is collected and presented; • regulate complaint procedures or allow challenge to their impartiality and independence.
s.25 Rights in criminal proceedings	This right relates to criminal proceedings, but may have an impact on policies, procedures and practices that: • impact on the right to be presumed innocent; • deal with the admissibility of 'evidence'; • impact on the bringing of disciplinary actions; • restrict access to information and material to be used as 'evidence'; • establish time limits on the lodging of complaints or appeals; • regulate the procedures for investigation and prosecution of 'offences'; • amend any guidelines or procedures enabling the 'accused' to represent himself or herself personally or restricts the right of an accused to choose a support person or advisor of his or her choice; • establish guidelines or procedures for the provision of assistants, translators and interpreters; • impact on the treatment of children in complaint and disciplinary proceedings; • amend or alter procedures under which a person is able to appeal against or seek review of a decision.
s.26 Right not to be tried or punished twice	This right relates to criminal proceedings, but may have an impact on policies, procedures and practices that: • allow a person to be punished a second time for the same 'offence'.
s.27 Retrospective criminal laws	This right relates to criminal proceedings, but may have an impact on policies, procedures and practices that: • seek to sanction a person for conduct that was not contrary to policy, procedure or practice at the time the conduct was undertaken; • apply more severe penalties for conduct by a person than those that existed at the time the conduct was undertaken; • fail to apply less severe penalties for conduct by a person if penalties have decreased since the conduct was undertaken.

APPENDIX 4: Charter implementation – cycle of continuous improvement

INITIAL PREPARATION
Charter sets context for initial education, training, review and reporting

EDUCATION
Education to develop strategies for leadership and commitment

TRAINING
Identify key staff and deliver initial training sessions

REVIEW
Review legislation, policy and service delivery

EVALUATION
Evaluate education strategies & Review outcomes

ASSESMENT
Identify further key staff for training and customise training & communication strategies

IMPLEMENTING The Charter

APPENDIX 5: Useful resources

Australia

Victorian Equal Opportunity & Human Rights Commission
www.humanrightscommission.vic.gov.au

Victorian Council of Social Services
www.vcoss.org.au

Human Rights Law Resource Centre
www.hrlrc.org.au

Federation of Community Legal Centres
www.communitylaw.org.au

Australian Centre for Human Rights Education
www.rmit.edu.au/dsc/achre

Victorian Department of Justice
www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/
Home/Your+Rights/Human+Rights/Human+Rights+Charter/

Victorian Department of Human Services
www.dhs.vic.gov.au/srvc_agmnt/chpt59.htm

Australian Human Rights Commission
www.hreoc.gov.au

Victorian Local Governance Association
www.vlga.org.au

International

British Institute of Human Rights
www.bihr.org

Social Care Institute for Excellence
www.scie.org.uk

UN Global Compact
www.unglobalcompact.org

UN Office of the High Commissioner for Human Rights
www.ohchr.org

Business Leaders Initiative on Human Rights
www.blihr.org

Business & Human Rights Resource Centre
www.business-humanrights.org

Legal Action Group
www.lag.org.uk

NHS Litigation Authority
www.nhsla.com

The Human Rights Unit at the UK Department of Constitutional Affairs
www.lcd.gov.uk/hract/hramenu.htm

Publications

Human rights based approach in the community sector

British Institute of Human Rights (2006), *The HRA – changing lives*
www.bihr.co.uk/sites/default/files/The%20Human%20Rights%20Act%20-%20Changing%20Lives.pdf

British Institute of Human Rights and National Council for Voluntary Organisations (2006), *Report of the NCVO/BIHR roundtable: human rights and the voluntary and community sector*
www.bihr.co.uk/sites/default/files/NVCO.pdf

Kirkemann Boesen, J. and Martin, T (2007), *Applying a rights based approach: an inspirational society,* The Danish Institute for Human Rights
www.humanrights.dk/files/pdf/Publikationer

Social Care Institute for Excellence, *Practice guides*
www.scie.org.uk/publications/practiceguides/index.asp

Victorian Council of Social Service (2008), *Using the Charter in policy and practice: ways in which community sector organisations are responding to the Victorian Charter of Human Rights and Responsibilities.*
www.vcoss.org.au/documents/VCOSS%20docs/Human%20Rights/Using%20the%20Charter%20in%20Policy%20and%20Practice_email.pdf

Human rights based approach in the public sector

UK Department of Health and British Institute of Human Rights (2007), *Human rights in healthcare – A framework for local action*
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_073473

Butler, F. (2006), *Rights for real: older people, human rights and the CEHR*, Age Concern
www.ageconcern.org.uk/AgeConcern/Documents/0406_Rights_for_Real_Report.pdf

Coyle, A. (2002). *A human rights approach to prison management: handbook for prison staff,* International Centre for Prison Studies
www.kcl.ac.uk/depsta/law/research/icps/downloads/human_rights_prison_management.pdf

UK Audit Commission (2003). *Human rights: improving public service delivery*
www.audit-commission.gov.uk/Products/NATIONAL-REPORT/FDE9C6A9-7DAF-4cd3-B21E-21E9E13E1D43/HumanRights-report.pdf

UK Department for Constitutional Affairs (2006). *A handbook for public authorities*
www.justice.gov.uk/docs/hr-handbook-public-authorities.pdf

UK Ministry of Justice (2008) *Human rights insight project*
www.justice.gov.uk/docs/human-rights-insight-full.pdf

Watson, J. and Woolf, M.(2008) *Human Rights Act toolkit,* The Legal Action Group.
www.lag.org.uk/Templates/System/Publications.asp?NodeID=89151&Mode=display

Human rights based approach in the private sector

Business Leaders Initiative on Human Rights, United Nations Global Compact, Office of the United Nations High Commissioner for Human Rights (2006) *A guide for integrating human rights into business management*
www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/guide_hr.pdf

United Nations Global Compact Office and the Office of the United Nations High Commissioner for Human Rights (2007) *Embedding human rights in business practice II*
www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/EHRBPII_Final.pdf

Human rights based approach in the international development community

United Nations Development Fund for Women (2007). *CEDAW and the human rights based approach to programming: a UNIFEM guide*
www.unifem.org/resources/item_detail.php?ProductID=94

United Nations Population Fund UNFPA (2006). *Human rights based programming: what is it/how to do it*
www.unfpa.org/upload/lib_pub_file/680_filename_hr_book.pdf

United Nations Development Program Nepal (2005). *A human rights approach to development: primer for development practitioners*
www.unifem.org.in/PDF/RBA%20Primer%20.pdf

General information on the Victorian Charter of Human Rights and Responsibilities Act

Victorian Equal Opportunity & Human Rights Commission (2008). *The Victorian Charter of Human Rights and Responsibilities: civil and political rights explained,*
www.humanrightscommission.vic.gov.au/pdf/CPRsexplainedLR.pdf

Victorian Equal Opportunity & Human Rights Commission (2008) *The 2007 report on the operation of the Charter of Human Rights and Responsibilities: first steps forward,*
www.humanrightscommission.vic.gov.au/pdf/VEOHRC_firststeps_FINALweb.pdf

Victorian Equal Opportunity & Human Rights Commission (2008) *Indigenous human rights forum report, 19th March 2008*
www.humanrightscommission.vic.gov.au/pdf/IndigenousHumanRightsReport.pdf

Victorian Equal Opportunity & Human Rights Commission (2008) *Your rights, your stories*
www.humanrightscommission.vic.gov.au/human%20rights/your%20rights%20your%20stories/

Victorian Government Solicitors Office (2007-8). *Charter of Human Rights newsletters*
www.vgso.vic.gov.au/resources/publications/Default.aspx

Victorian Equal Opportunity & Human Rights Commission