



Victorian Equal Opportunity  
& Human Rights Commission



# The human rights based approach

## Understanding AOD responses in a rights framework

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# Victorian Charter of Human Rights & Responsibilities: Freedom, Respect, Equality, Dignity

The Charter is founded on the following principles –

- 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

# A new blueprint for alcohol and other drug treatment services 2009-2013

- **Vision:** To prevent and reduce the harms to individuals, families and communities associated with alcohol & other drug misuse by providing appropriate , timely, high quality and integrated services that help people to address their substance use issues and participate fully in the social and economic life of the Victorian community.
- **6 priority areas:** client centred, service focused
- Clients - **children & families** - young people
- Prevention - **improving access** - excellence & quality
- Direct links between these priority areas & the charter of human rights

[www.health.vic.gov.au/drugservices](http://www.health.vic.gov.au/drugservices)

# Charter rights

## Derived from the International Covenant on Civil & Political Rights

- **Recognition & equality before the law**
- **Right to life**
- **Prohibition on torture and cruel, inhuman or degrading treatment**
- Freedom from forced work
- Freedom of movement
- **Protection of privacy & reputation**
- Freedom of thought, conscience, religion & belief
- Freedom of expression
- Right to peaceful assembly & freedom of association
- **Protection of families & children**
- **Entitlement to participate in public life**
- Cultural rights
- Property rights
- **Right to liberty & security of person**
- **Humane treatment when deprived of liberty**
- **Appropriate treatment of children in the criminal process**
- **Fair hearing**
- **Rights in criminal proceedings**
- **Right not to be tried and punished more than once**
- **Protection from retrospective criminal laws**

# Charter responsibilities on public authorities & others providing public functions on behalf of government

- Broad concept to respect, protect, promote fulfil human rights – includes positive duties
- Public authorities must act compatibly and give proper consideration to human rights when making decisions, developing and interpreting laws and policies, and providing services
- Any limits on rights must be demonstrably reasonable, necessary, justified AND proportionate
- Consider the Charter in terms of best practice, rather than compliance

# Charter impact/relevance

Significant opportunities:

1. Improved service quality – a human rights based approach means laws, policies and services are considered in light of their practical impact on people and communities.
2. Individual and systemic advocacy – “doing the right thing” has become obeying the law, which itself is linked to a rigorous, objective international benchmark.
3. Increased opportunities for client involvement in AOD treatment responses – at both a systems and service level
4. Review of relevant legislation

# Human rights based approach

Consider both *what* we do and *how* we do it, in order to build a stronger culture of rights by:

- Identifying and understanding stakeholder relationships and expectations – people are key actors not passive recipients
- Proactively implementing human rights principles and standards at a practical level
- Modelling desired standards across government and NGOs
- Maximising stakeholder independence, choice and control – participation and empowerment are both means and goals
- Shifting alleviation of disadvantage from benevolent welfare to something rightfully claimed
- Maintaining accountability and encouraging feedback

# Advocacy opportunities

**Legal:** Canadian finding that applying possession laws against people accessing the safe injecting facility is a breach of the right to life and security of person (*HRLRC Bulletin July 2008* [www.hrlrc.org.au](http://www.hrlrc.org.au))

**Systemic:** Access to NSPs in prisons (*HRLRC Bulletin December 2007*),  
Drug & Alcohol Treatment Bill: human rights at risk campaign ([www.fitzroy-legal.org.au](http://www.fitzroy-legal.org.au))

Harm Reduction and Human Rights: The Global Response to Drug-Related HIV Epidemics (*IHRA 2009* [www.ihra.net](http://www.ihra.net))

**Individual:** Review of a decision to withdraw service from a challenging client who had been violent and threatening to staff (*VCOSS, Using the Charter in policy & practice*, [www.vcooss.org.au](http://www.vcooss.org.au))

Review of a decision not to assist a man detained in a maximum security mental health hospital who repeatedly soiled himself (*The Human Rights Act – Changing Lives* [www.bihhr.org.uk](http://www.bihhr.org.uk))

# Challenges ahead

- The need for public awareness to illustrate the benefits of the human rights charter
- Meaningfully embedding human rights in all organisational activities given the increasing demands placed on AOD services
- Clients with complex needs who have contact with various service systems (e.g. mental health, corrections) being vulnerable to violations of rights enshrined in the charter
- Addressing fragmented treatment system to respond to the shifting patterns of AOD use in the community & ensure improved client experience and outcomes

# Final thought

“The Charter sets standards which the public knows it can expect as an entitlement. In simple human terms it requires the agencies of government to treat every individual with the respect that is his/her due. In those terms it requires what I asked of my bureaucratic letter writers as Minister for Social Security, that they write as they would to a parent, brother, sister or friend. They should write as they would like to be written to themselves. The same principle applies in every other aspect of agency activity. This is what a culture of human rights in the bureaucracy would look like. It would restore the meaning of the term *public servant*.”

The Hon Fred Chaney AO

Chairperson – Consultation Committee for a Proposed WA Human Rights Act

11th December 2007

# Further information and resources

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