

**HUMAN RIGHTS MATTERS LOCALLY**  
**HUMAN RIGHTS ASSESSMENT TOOL**





## FOREWORD



*Local governments have the responsibility to comply with the Charter as we go about developing and fulfilling policies, providing services and making laws. We have the responsibility to see that human rights values flourish in Victorian communities.*

The VLGA supports and facilitates local governments and communities to work together for progressive outcomes and good governance. With this as our mission, it was not surprising that the VLGA would be involved in assisting local governments embrace the Charter of Human Rights and Responsibilities.

At their core human rights are about basic values we all share and wish to live by. The Victorian Human Rights and Responsibilities Charter collates and expresses our civil and political rights in a clear commonsense way that can be understood by all citizens. On the 1<sup>st</sup> January 2008 every public servant in Victoria was legally required to proactively comply with the Victorian Charter, legally prohibited from acting in ways that are incompatible with our rights protected by the Charter and prohibited from failing to give proper consideration to relevant human rights when making decisions, or failing to act or make decisions.

Local governments have the responsibility to comply with the Charter as we go about developing and fulfilling policies, providing services and making laws. We have the responsibility to see that human rights values flourish in Victorian communities.

The VLGA and our partners, The Australian Centre for Human Rights Education at RMIT, sought funding through the Department of Justice to run a project called *Human Rights Matters Locally*. With 5 local government partners, the Cities of Boroondara, Latrobe, Hume, Port Phillip & Wodonga, a set of practical and supportive tools has been developed to assist Victorian local governments in meeting our obligations under the Charter and to implement a human rights framework for local communities.

I am pleased to present this report as a key resource for local governments in Victoria.

A handwritten signature in black ink that reads "Rosie Iser". The signature is written in a cursive, flowing style.

**Cr Rose Iser**  
**President**

# 1. INTRODUCTION

The 'Human Rights Matters Locally Milestones Project' is intended to provide a simple, standardized means across all local governments of measuring progress towards human rights compliance, compatibility and culture.

It consists of four parts;

1. a *Handbook*;
2. a '*Human Rights Implementation Tool*', which can also be used as a template Human Rights Implementation Plan (HRIP);
3. an '**Assessment Table**'; and
4. a '**toolbox**' of available resources which may assist in implementing the HRIP.

*The handbook* describes the model and how to use it. It provides some examples and suggestions for implementation, and – where relevant – indicates what tools are already available for each stage of implementation.

*The Human Rights Implementation Tool* outlines the key areas of action necessary to become a 'human rights community'.

It is designed to be a flexible tool that can be adapted for use by local governments at varying stages of human rights implementation: for those who are in the early stages of implementation, it provides a blueprint for action including links to useful tools and strategies. For those who have undertaken significant work already, it can be used as a framework for collating and documenting the action already underway.

The Human Rights Implementation Tool can be used as a template HRIP for those who do not already have a comprehensive HRIP in place.

*The Assessment Table* is a means of evaluating the progress achieved over the course of a year. It plots the milestones in the Human Rights Implementation Tool against a series of indicators to gauge the outcome of implementation. It can also be used as a self-assessment pro forma for completion on an annual basis, giving some measure of how well the local government is going in moving towards implementing human rights and establishing a working culture.

*The toolbox* is a collection of available resources to assist in implementation. They have been gathered from mostly Victorian agencies which have created tools to help with implementation of the Victorian Charter, but also include some international sources. These tools are provided as a resource only, and are not produced by the VLGA.

## THE MILESTONES MODEL

The Milestones Model has been developed as a human rights framework that can be implemented across all local governments. It is designed to build on existing frameworks and mechanisms already in use, and as far as possible, it attempts to harmonise with existing local, state-wide, national and international mechanisms to 'build-in' human rights to existing processes.

The impetus for the Human Rights Milestones Project was the introduction of the *Victorian Charter of Human Rights and Responsibilities Act 2006* ('the Charter') and the consequent obligations imposed on local governments as 'public authorities' to act compatibly with human rights and to take human rights into consideration when making decisions. This is a legal obligation with which local governments are required to comply, but the intention of the Charter (and of this tool) is not to impose a narrow legal compliance, but rather to foster an environment in which human rights are respected and can flourish.

When designing and implementing a human rights plan, local governments are encouraged to take a 'best practice' approach rather than a 'risk management' or a 'compliance' approach. Human rights are at the centre of local government business, from grass-roots service delivery to accessible, transparent local-level governance. This tool is intended to help local governments consciously *integrate* human rights and human rights language into all levels of their operations and to see this as an opportunity to improve good practice rather than as a burden.

For this reason, while the tool identifies the actions that need to be taken for Charter-focused minimal compliance it encourages local governments to consider the broader human rights environment. Local governments are encouraged, for instance, to not only comply with the rights in the Charter but to consider including other rights recognised by Australia in international law<sup>1</sup>, many of which provide guidance on the immediate relevance of human rights to the many groups impacted by local government business.

The model recognises that local governments will be in different stages of preparedness and implementation, and the milestones are intended to be flexible enough to take this variance into consideration. Within each milestone, a local government is able to decide on their level of commitment in each year of the plan, to enable them to plan for a 'desirable' outcome, even if they are only able to achieve the 'essential' elements in year<sup>1</sup>.

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<sup>1</sup> Australia is a signatory to many international Conventions, Covenants and Declarations, including the International Covenant on Economic Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of Racial Discrimination (CERD), the Convention on the Rights of Persons with Disabilities (CPD), the Convention Against Torture (CAT) and the Convention on the Status of Refugees (the Refugee Convention). The Australian Government has also recently announced its support for the Declaration on the Rights of Indigenous Peoples (DRIP). The Victorian Charter mostly includes the rights in enshrined in the ICCPR. See **tool 2** in the Toolbox for a comprehensive list of rights.

## HOW TO USE THE MILESTONES TOOL

The Milestones Tool comprises of two tables.

The first, the Human Rights Implementation Tool, is a table that lists the action points or ‘milestones’ required for local governments to meet in order to implement human rights. It plots the milestones against the key personnel, a timeline for progress, resources required, and outcomes.

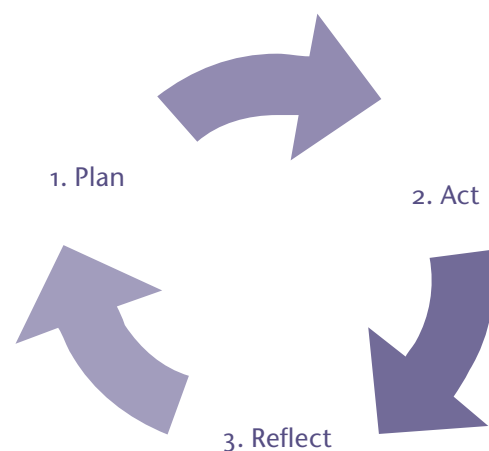
The second, the Assessment Table, is a table that can be used to self-evaluate progress at the end of each reporting cycle. It plots the milestones in the Human Rights Implementation Tool against a series of indicators.

VLGA has also collated some available tools to assist local governments to implement the milestones. These tools are listed in the ‘resources’ column, and provided in the attached Toolbox.

## The Milestones

The milestones have been broken down into three Implementation Stages, consistent with a continuous quality improvement framework. They are:

1. Plan
2. Act
3. Reflect



There are nine milestones within these three stages. The stages are sequential, but the milestones *within* each stage are consequential, i.e. Stage 1: ‘Plan’ should be completed before beginning on Stage 2: ‘Act’. The milestones within each stage, however, should be undertaken simultaneously, for example the review of local laws can occur at the same time as the review of policies is being performed. In many cases, responsibility for the milestones in Stage 2 will rest with different people and should not be onerous to implement simultaneously.

## 2. METHODOLOGY

The nine milestones are:

### Stage 1: Plan

Milestone 1. Preliminary Assessment

Milestone 2. Preparation

### Stage 2: Act

Milestone 3. Council

3.1. Governance

3.2. Councillors

3.3. Laws

3.4. Leadership

Milestone 4. Administrative Arm

4.1. Process

4.2. Policies & Procedures

4.3. Human Resources

Milestone 5. The Community

5.1. Service Delivery

5.2. Community engagement

5.3. Community information

Milestone 6. Third parties

6.1. Contractors

6.2. Grants and funding

### Stage 3: Reflect

Milestone 7. Monitor

Milestone 8. Report

Milestone 9. Review

The model is intended to be flexible and adaptable to each local government's circumstances. The milestones reflect elements that should be contained in *all* human rights implementation plans, whether or not you choose to use the template as your Human Rights Implementation Plan. For example, all local governments must review their policies, but you can either do so in the way suggested using the Human Rights Impact Assessment tool provided, or you may choose to use your own system of review.

A handbook has been produced to accompany the Milestones tool. This provides further information about its implementation and examples of how this might be achieved.

# STAGE 1: THE PLAN

## Milestone 1 – Preliminary Assessment

**Conduct a baseline assessment of the current state of human rights implementation.**

*Why:* A baseline assessment establishes the current state of human rights integration within local government and the degree to which the local government has taken steps towards becoming a Human Rights Community. It provides a starting point for developing a plan of action, and it provides a benchmark against which to measure progress at the review stage of the cycle.

*How:* The criteria used to conduct a preliminary assessment will determine what actions need to be taken, and how progress is measured.

Local governments may choose to use their own assessment methods, or they can use the Self-Assessment Tool (*Tool 1*) developed by VEOHRC which is provided in the toolbox below.

Most local governments have already used the tool in 2008 to complete a basic assessment of their current human rights status as part of their annual reporting requirements to VEOHRC under the Charter, and it provides consistent criteria across all local governments for measuring human rights status.

The 2009 VEOHRC questionnaire will be based on the criteria in the Assessment Table, which can then be used as the baseline assessment for the following year.

## Conduct Audits

*Why:* Detailed audits will provide a more comprehensive picture of human rights status and provide a more nuanced measurement of actual outcomes.

*How:* Local governments regularly measure outcomes in a variety of performance areas, and most will have data available through which you can assess your performance on specific issues such as gender equality or health status of the local community. Such data sources may include Community Indicators Victoria, the Australian Bureau of Statistics, DPCD *Local Government Community Satisfaction Survey*, and internal local government data collection procedures.

A human rights audit may map existing indicators and measurable outcomes against specific human rights (see *tool 2* for a list of human rights and their source, including the rights in the Victorian Charter.)

## Example

Hume City Council introduced a Social Justice Charter in 2001, which was amended in 2007 to include a Citizen's Bill of Rights<sup>2</sup>. To implement the Social Justice Charter, Hume City has developed eight Social Justice Action Plans. These target Aboriginal and Torres Strait Islanders, Affordable Housing, Alcohol, Other Drugs and Gambling, Community Empowerment, One City Many Cultures, People with Disabilities, Poverty, and Young People. Each of these Action Plans includes measurable outcomes which are published every year in the Social Justice Annual Report.

The outcomes of the Social Justice Action Plans could be used as the starting point for a human rights audit by mapping them against human rights in the Charter or in international law.

In subsequent years, a local government may refine their audit based on specific human rights indicators developed during the 'Action' stage.

## Milestone 2 – Preparation

**Prepare a Human Rights Implementation Plan.**

*Why:* A Human Rights Implementation Plan (HRIP) establishes a comprehensive road map for progress towards status as a 'Human Rights Community'. It provides clear actions and targets for a 'whole of organization' approach to human rights implementation. It ensures that local governments have a clear, shared vision of what is required for human rights implementation, and that a planned – rather than *ad hoc* – approach is taken.

*How:* Local governments may have already developed their own implementation plan, or you can use the Human Rights Implementation Tool as a template HRIP.

<sup>1</sup> This handbook is designed to accompany the Human Rights Implementation Tool, which follows.

<sup>2</sup> Hume City Council *Social Charter 2007*.

The Human Rights Implementation Tool provided lists the actions that need to be taken for a comprehensive human rights approach to local government. It provides for identification of the personnel involved, including the key person responsible and others who are affected; a description of human and financial resources required to complete the task, including links to available tools; indicators for measuring the success of each stage; and timelines for completion (if used as a planning tool) or progress achieved (if used as a reporting tool).

It is designed to be customized for use by each local government according to your specific circumstances and updated yearly as part of the review process.

When customising the tool, consider:

- Whether or not to include a statement of core principles which guide human rights implementation at your local government. You might want to consider here the 'PANEL' principles of participation, accountability, non-discrimination, empowerment and linkages to human rights principles and standards (see tool 5 – PANEL Matrix);
- What are the aims of having a local government-wide human rights implementation plan;
- What is the desired outcome of having a local government-wide human rights implementation plan;
- What process of consultation is needed to design and implement the plan;
- How you will measure success and what indicators you will use.

If you develop your own implementation plan, you should consider whether or not you have covered all the areas included in the 'Milestones' column. Remember that all areas of local government's operation will need to consider human rights, including the elected Council, the organisation, the community and third parties who have dealings with the local government.

## STAGE 2: ACT

The Action stage has been divided into four spheres of action:

- the elected Council;
- the Organisation;
- the Community; and
- Business and Procurement.

As the third tier of government in Victoria, local governments and their employees are public authorities under the Charter and consequently have obligations in each of these four spheres to respect, protect, promote and fulfil human rights. Local governments will therefore need to consider action in ALL of these areas when devising their HRIP.

For this reason, the four areas of operation should be approached concurrently. It is likely that different arms of local government will have responsibility for each of the areas, making simultaneous operationalisation less onerous. The milestones outline the actions that are required within each of the areas to fully implement human rights. We are aware that many of these actions overlap categories, for instance we have included 'participatory practices in governance' within the section on elected Council, rather than the Community section even though they could be seen equally as a form of community participation. While in many cases the action could fall into either category, we have tried to place actions in the category in which they would most logically be implemented, although we are aware that the boundaries may blur.

For local governments using their own format rather than the template Human Rights Implementation Plan provided, we strongly suggest that each of these four areas of action are included in your Plan.

You might consider assigning a priority ranking to actions depending on whether they are 'essential', 'expected', or 'desirable' activities<sup>3</sup>. This prioritising of tasks can also be expressed as a 'must', 'should' and 'could' approach – what *must* you do to meet minimum requirements; what you *should* do to fulfil your obligations; and what you could do to extend your work and ensure human rights underpin the area you're addressing.

Contractors

Grants and funding

Leadership

Councillors

Governance

Laws

Community Information

Community Engagement

Service Delivery

Human Resources

Procedures

Policies

## Example

Ensuring that no local law is in breach of the Victorian Charter is a legal requirement. This would be an *essential* action.

Providing information to staff and councillors about their legal obligations as ‘public authorities’ is not itself a legal requirement, but failure to do so may result in a breach of their obligations. This would be an *expected* action.

Introducing a Council Charter of Rights could signal a commitment to human rights principles and provide a framework for all planning, decision-making and practice within the local government. This would be a *desirable* action.

## Milestone 3 – Council

Council is the elected arm of local government. Many Council processes are regulated by legislation, such as statutory consultation<sup>4</sup>, the obligation to pass a local law covering meeting procedures<sup>5</sup>, or councillors’ conduct<sup>6</sup>. There is a great deal of discretion, however, in the ways in which these obligations are operationalised and this varies greatly between local governments.

The challenge for elected Councils is to ensure that they are not only meeting their statutory obligations, but that the ways in which they do so take into consideration the human rights of the community they serve.

<sup>3</sup> Victorian Equal Opportunity and Human Rights Commission (2008), *From Principle to Practice: Implementing the Human Rights Based Approach in Community Organisations*, p35.

<sup>4</sup> *Local Government Act 1989 (Vic) s 223, and the Planning and Environment Act 1987 (Vic)*.

<sup>5</sup> *Local Government Act 1989 (Vic) s 91*.

<sup>6</sup> *Local Government Act 1989 (Vic) Division 1A*.

<sup>7</sup> *Local Government Act 1989 (Vic) s 91 (1)* Conduct of meetings  
A Council must make local laws governing the conduct of meetings of the Council and special committees.

<sup>8</sup> City Of Boroondara, *Meeting Procedure Local Law 2007*. *The relevant sections originally read:*

60.7 A question may be disallowed by the Chairperson if it: ...  
91.4 A submission/presentation at a Special Committee meeting may be disallowed by the **Chairperson** at any stage of the submission/presentation if: ...

## Milestone 3.1 Governance

### Part 1: Review participatory practices currently in place.

*Why:* The means by which citizens can engage with their elected local representatives is the cornerstone of democratic decision-making processes. Local government already has the most participatory democratic procedures of all tiers of government. A human rights approach to participatory practices will put citizens at the centre of decision-making processes. It also applies directly to section 18 of the Charter guaranteeing the right to participate in public life.

*How:* Consider what mechanisms are in place to ensure that citizens have access to local government decision-making. This may include the local law governing conduct of meetings, a Community Engagement Strategy, or any other relevant policies or strategies.

Consider whether the right to participate in public life is being limited by any of these mechanisms. Further guidance on the meaning of section 18 can be found in *The Victorian Charter of Human Rights and Responsibilities: Civil and political rights explained*, by VEOHRC (see *tool 3 ‘Recommended Resources’*). If the right to participate in public life is being unreasonably limited, then the relevant law, policy or procedure will require amendment.

## Example

Section 91(1)<sup>7</sup> of the *Local Government Act 1989* specifies that all local councils must enact a local law governing meeting procedures. The content of these laws, however, is a matter for each Council to decide.

Boroondara City Council reviewed all its local laws. They received advice that two clauses in its Meeting Procedure Local Law relating to public question time and presentations at Special Committee meetings may limit the role of those wanting to participate in Council meetings<sup>8</sup>.

Although the limitation would probably be reasonable, the advice received was to amend the clauses to begin with “Considering the general right of citizens to take part in the conduct of Council affairs...”

## Part 2: Review key strategic documents

*Why:* Council's strategic planning provides a framework within which all the local government's operations must perform. Embedding human rights at the strategic level ensures that it permeates all aspects of the local government's work, and is one of the most effective ways to create a human rights culture within the organisation.

*How:* Consider which key documents are produced at the Council level. This will include the Council Plan, the Municipal Public Health Plan and the Strategic Resource Plan and may include a Community Plan, a statement of governance principles, a Vision Statement or other similar documents.

Review for compatibility with human rights. At the strategic level, it is worth considering whether human rights *principles* are embedded in the key documents, as well as the substantive rights.

A 'Human Rights Impact Assessment Table' produced by the Victorian Department of Justice is provided in the toolbox (*tool 4*) for analysing the effect of substantive rights in the Charter on law or policies. The list of rights (*tool 3*) can be used to amend this table for a broader approach to human rights protection. The 'PANEL Matrix' can be used for guidance on human rights principles (*tool 5*).

## Milestone 3.2 Councillors

*Why:* Elected Councillors have obligations as 'public authorities' under the Charter<sup>9</sup>. It is unlawful for a public authority to act in a way that is incompatible with a human right or to fail to give proper consideration to human rights when making decisions. Unless Councillors are aware of their responsibilities they risk inadvertently breaching their legal obligations.

*How:*

### Step 1 – Ensure **incumbent Councillors** have received Charter training.

For local governments with the capacity to deliver their own training, Victoria University has produced a train-the-trainer manual on behalf of the Victorian Department of Justice for human rights training across government (see **tool 3** 'Recommended Resources' for information on accessing this document).

For local governments who do not have the capacity to provide the training in-house, training is available from the VEOHRC. VEOHRC provides Charter training tailored to local government as part of their regular training calendar or can be contracted to provide on-site fee-for-service training. The current VEOHRC training calendar is provided in the toolbox (*tool 6*).

Some private providers also now offer Charter training for a fee.

### Step 2 – Ensure Charter training is included in the Councillor Induction program for all new Councillors. Whether or not this training is provided in-house, you should ensure that Councillors' obligations under the Charter are included in the induction program.

### Step 3 – Ensure that information on the Charter is made available to Councillors. Providing Charter information reinforces the training provided, and ensures that Councillors are able to refresh or extend their knowledge if and when they require it.

Charter information brochures and posters have been included in the toolbox (*tool 7*).

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<sup>9</sup> Charter section 4 (1) For the purposes of this Charter a public authority is—  
(e) a Council within the meaning of the **Local Government Act 1989** and Councillors and members of Council staff within the meaning of that Act;

<sup>10</sup> *Local Government Act 1989 (Vic)* s 76C.

<sup>11</sup> *Local Government Act 1989 (Vic)* s 76C(e).

A 34-page publication called *The Victorian Charter of Human Rights and Responsibilities: Civil and political rights explained* has been produced by the VEOHRC and looks at Charter rights in detail (see *tool 3* 'Recommended Resources' for information on accessing this document).

**Step 4 – Review the Code of Conduct for Councillors.** The Local Government Act requires that all local governments must have a Code of Conduct in place for Councillors, to be reviewed within 6 months of every general election<sup>10</sup>. This Code 'may include any other matters relating to the conduct of Councillors which the Council considers appropriate'

### Milestone 3.3 Laws:

- Review local laws for compatibility with Charter and human rights principles.

A Human Rights Impact Assessment Tool is available in the toolbox for assessing compliance with the Charter (*tool 4*), or you may choose to seek independent legal advice.

- Amend laws in breach of Charter rights.
- Consider amending laws consistent with human rights, not limited to the human rights listed in the Charter.
- Design and implement a procedure for developing new laws compatibly with human rights.

### Milestone 3.4 Leadership

*Why:* To move towards a 'Human Rights Community', local governments must do more than comply with the minimum legal requirements of the Charter. Best practice includes taking initiatives to demonstrate leadership in creating a human rights culture.

*How:* The ways in which this can be done are unlimited. Some suggestions include:

- Participate in human rights pilot projects and initiatives.

#### Example

The Victorian Equal Opportunity and Human Rights Commission has initiated a pilot project in the City of Hume called '*Everyday People, Everyday Rights*'. The project will engage with local community members to relate human rights to their everyday experiences. 10 community members will be trained as facilitators for human rights training, and new human rights resources will be produced.

- Introduce a Council Human Rights Charter

#### Example

The Women's Institute for Leadership Development (WILD) for Human Rights in the United States<sup>12</sup> was frustrated that the United Nations Women's Convention (CEDAW) was not being implemented locally. They engaged in an education and advocacy campaign that resulted in the City of San Francisco passing an Ordinance to adopt CEDAW as local law.

- Join the 'Cities for Human Rights' program<sup>13</sup>. 'Cities for Human Rights' is a global initiative which aims to bring human rights to the local government level.
- Develop your own human rights initiatives.

#### Example

The City of Port Phillip introduced a 'Smiles per Hour' project as part of their Health and Wellbeing strategy. 'Smile spies' count the number of people who smile or return a positive greeting, and the project is a creative way to measure friendliness as an indicator of wellbeing and happiness in the community. It is one of four measures of 'Community Connectedness' in Port Phillips 'Community Pulse' Sustainable Community Progress Indicators.

<sup>12</sup> See <http://www.wildforhumanrights.org/programs.html#human>

<sup>13</sup> 'Cities for Human Rights' was instigated by PDHRE, an international human rights NGO and is supported by the United Nations Development Program. For more information see <http://www.pdhre.org>

<sup>13</sup> *Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic)*

## Milestone 4 – Administration

The Administration is the operational arm of Local Government and is responsible for the day to day operation of local government business.

### Milestone 4.1 Process

Develop internal procedures for overseeing human rights implementation.

For example: establishing a Human Rights Interdepartmental Committee; appointing a Human Rights Officer; creating a Watching Brief, etc.

### Milestone 4.2 Policies and Procedures

*Why:* Public Authorities have an obligation to act compatibly with human rights, and to take human rights into account when making decisions<sup>14</sup>. This includes the requirement to interpret other relevant legislation (for example the Disability Services Act<sup>15</sup>, or the Children, Youth and Families Act<sup>16</sup>) as far as possible to be compatible with human rights<sup>17</sup>. A crucial element of this requirement is being able to demonstrate that all new and existing policies and procedures are compliant with human rights.

*How:*

**Step 1 – Identify all policies and procedures in operation. Consider those which are operating across the organisation, as well as those that apply at a departmental or section level.**

Examples of organisation-wide policies and procedures may include Equal Opportunity Employment Policies, Cultural Diversity Plans, procedures for conducting elections, Client Service Charters, Complaints Procedures or a Privacy Policy.

Examples of department-specific policies may include a Residential Design Policy, a Bicycle Strategy, Community Grants Guidelines, procedures for Debt Collection or a Childcare Strategy.

## Step 2 – Review for compatibility with human rights.

A ‘Human Rights Impact Assessment’ tool is provided in the toolbox (**tool 4**) for analysing the effect of substantive rights on law or policies.

The Victorian Equal Opportunity and Human Rights Commission has produced a guide for potential human rights ‘triggers’ in policy, which has been adapted from material produced by the Victorian Department of Justice. This resource can be a useful guide for identifying potential policies that may impact on human rights. It has been reproduced in the toolbox below (*tool 8*).

## Step 3 – Identify and amend policies in breach of the Charter.

**Step 4 – Consider amending all policies, particularly if a broader approach to human rights implementation has been included in the strategic vision or Council Plan.**

### Example

The City of Boroondara has revised its Guidelines for Council staff in preparing reports for Council and Committee meetings. Following review, a new section on Governance Issues has been inserted which is a mandatory requirement under the revised Guidelines. The new section reads:

This section must address two key governance issues:

<sup>14</sup>38 Conduct of public authorities

(1) Subject to this section, it is unlawful for a public authority to act in a way that is incompatible with a human right or, in making a decision, to fail to give proper consideration to a relevant human right.

<sup>14</sup> *Disability Services Act 1991* (Vic)

<sup>15</sup> *Children, Youth and Families Act 2005* (Vic)

<sup>16</sup> *Victorian Charter of Human Rights and Responsibilities Act 2006* (Vic), s32

<sup>17</sup> (1) So far as it is possible to do so consistently with their purpose, all statutory provisions must be interpreted in a way that is compatible with human rights.

1. Under Section 80C of the *Local Government Act 1989*, staff providing advice or reports to a Council or Committee meeting must disclose any direct or indirect interest they may have in the subject matter of the report.

2. Consistent with the *Charter of Human Rights & Responsibilities Act 2006*, this section should also identify whether there are any human rights issues arising in the context of the report and whether any such rights are impacted or infringed as a consequence of the recommendation

If there are no conflict of interest or human rights issues, the standard text to be used in this section is:

**The implications of this report have been assessed in accordance with the requirements of the Charter of Human Rights and Responsibilities.**

**The officers responsible for this report have no direct or indirect interests requiring disclosure.**

**Step 5 – Consider drafting a specific Council Human Rights Policy. This could provide guidance for action and decision-making across all levels of local government operation.**

**Step 6 – Develop and implement a procedure for writing new policies to be compatible with human rights.**

**Step 7 – Distribute policies to managers and staff.**

<sup>18</sup> *Victorian Charter of Human Rights and Responsibilities Act 2006* (Vic)

s 38 Conduct of public authorities

(1) Subject to this section, it is unlawful for a public authority to act in a way that is incompatible with a human right or, in making a decision, to fail to give proper consideration to a relevant human right.

<sup>19</sup> *Local Government Act 1989* (Vic) s 95AA Code of conduct for Council staff.

(1) A Chief Executive Officer must develop and implement a code of conduct for Council staff.

## Milestone 4.3 Human Resources

### Staff Training

*Why:* Public Authorities – which include local government staff – have an obligation to act compatibly with human rights, and to take human rights into account when making decisions<sup>18</sup>. This means that all staff must be aware that both their actions and their decision-making processes must consider human rights.

*How:*

**Step 1 – Ensure existing staff have received Charter training.**

A comprehensive train-the-trainer kit has been produced for the Department of Justice by Victoria University, and is available for use by local governments who wish to conduct their own in-house training. The kit is designed to be easily customised according to individual requirements. For a copy of this kit, see **tool 3** ‘Recommended Resources’ for information on accessing this document.

A train-the-trainer kit has also been produced by the Human Rights Law Resource Centre (HRLRC). The kit is specifically designed for community organisations, but can be adapted for use by local government, particularly those areas concerned with service delivery. It consists of a manual, a PowerPoint presentation, case studies and fact sheets (see **tool 3** ‘Recommended Resources’ for information on accessing this document).

For local governments who do not have the capacity to provide the training in-house, training is available from the VEOHRC. VEOHRC provides Charter training tailored to local government as part of their regular training calendar or can be contracted to provide on-site fee-for-service training. The current VEOHRC training calendar is provided in the toolbox (*tool 6*).

Some private providers also now offer Charter training for a fee.

**Step 2 – Ensure Charter training is included in the staff induction program for all new staff. This should include information about staff obligations as public authorities under the Charter, as well as any relevant local government policies or strategic documents.**

## Staff Conduct

**Step 1** – Ensure that position descriptions for all staff include the obligation to respect and uphold human rights. This should include reference to obligations under the Charter, as well as to any relevant local government policy documents.

**Step 2** – Review the **Code of Conduct** for staff. The Local Government Act requires that all local governments must have a Code of Conduct in place for staff<sup>19</sup>. The Code of Conduct provides an opportunity to embed human rights principles into staff conduct.

### Example

The Code of Conduct for Victorian Public Sector Employees<sup>20</sup>, which is binding on all public sector employees, now includes explicit reference to the Charter. Demonstrating commitment to Human rights is one of the 7 public sector values which employees must adhere to.

**Human Rights** – public officials should respect and promote the human rights set out in the *Charter of Human Rights and Responsibilities* by:

- (i) making decisions and providing advice consistent with human rights; and
- (ii) actively implementing, promoting and supporting human rights.

## Milestone 2.2.4 Information and awareness

**Step 1** – Ensure that **information** on the Charter is made available to staff. Providing Charter information reinforces the training provided, and ensures that staff are able to refresh or extend their knowledge if and when they require it.

Information provided could include:

- Who to contact within local government;
- A library of human rights resources;
- A resource guide of where to get further information, including websites and telephone numbers;
- Detailed information on the rights in the Charter and how to apply them.

**Step 2** – Display information prominently. This may include Charter posters or brochures, local government Client service Charters, or other material developed by the local government.

General Charter information brochures and posters have been included in the toolbox (*tool 7*), as well as Charter information brochures and posters specifically for public authorities (*tool 9*).

<sup>20</sup> VEOHRC *Principles to Practice*, p39, 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*.

## Milestone 5: The Community

### Milestone 5.1 Service Delivery

#### *Service delivery protocols*

*Why:* Local governments are responsible for delivering a range of services to the community, including disability services, aged services, youth services and health services. In many cases the people accessing local government services are amongst the most vulnerable in the community. The ways in which these services are delivered are integral to ensuring the dignity of the people who receive them. It is also a requirement under the Charter that public authorities act compatibly with human rights, and ensuring that service delivery protocols are provided within a human rights framework will significantly address this obligation.

*How:* You might consider using the 'PANEL Matrix' to map protocols against core human rights principles<sup>21</sup>. The PANEL matrix principles are Participation, Accountability, Non-discrimination, Empowerment, and Linkage to human rights principles and standards.

The PANEL Matrix is reproduced in the toolbox (*tool 5*)

#### *Client Service Charter*

Many local governments already have a Client Service Charter or its equivalent in place which provides a clear statement of the standards and principles to which the local government agrees to adhere to when dealing with clients. Introducing a Client Service Charter, or revisiting the existing Client Service Charter to align its principles more explicitly with human rights, can communicate to users of local government services that they are rights-bearers and can expect staff to treat them accordingly.

#### *Complaints mechanism*

Ensure that existing complaints mechanism for the community are adapted to accommodate human-rights based complaints.

#### Example

A community sector organisation recently reviewed its complaints procedure as part of a human rights review. Prior to the review, their complaints procedure stipulated that complaints must be made in writing.

The review considered the impact of this condition on clients with disabilities who may have communication difficulties and may therefore find it difficult to comply with this requirement. The complaints procedure has now been amended to accept non-written complaints<sup>22</sup>.

#### *Develop action plans*

*Why:* Action plans can be an effective means for targeting a particular demographic group within the community, or a particular issue of concern.

*How:* An Action Plan should include clear goals, strategies for achieving these goals, a statement of desired outcomes and indicators for measuring these outcomes, and a timeframe for completion.

### Milestone 5.2 Community Engagement

*Why:* Community engagement is broader than the participatory democratic process used in local government decision-making. It is about integrating community involvement into all aspects of local government actions and decisions.

#### *How:*

The ways in which this can be achieved are broad. Some possible strategies include:

- specific purpose advisory groups;
- strategies for involving particularly disadvantaged or marginalised groups in the community who may not traditionally have input into local government operations, or who are not well represented in service use; and
- facilitating or supporting human rights initiatives within the community.

## Milestone 5.3 Community Information

*Provide Charter education for the community;*

**Step 1 – Ensure that information on the human rights is made available to the community.**

Information provided could include:

- Who to contact within local government in relation to human rights issues;
- Information about local government human rights policies or strategies, including the procedure by which the community can make complaints;
- A resource guide of where to get further information, including websites and telephone numbers

**Step 2 – Disseminate information widely. This could include providing written information that is distributed to households or made available at key locations such as libraries or maternal and child health services, ensuring information is on the local government’s website, publishing information in community newsletters or other forms of information provision.**

**Step 3 – Consider the capacity of local government to provide human rights education to the community. Methods of delivering community education may include:**

- Community event
- Training
- Information sessions
- Online networks
- Human Rights Ambassadors or Leaders
- Other

## Milestone 6 – Business and Procurement

*Why:* Local governments should be aware that the Charter creates both ‘specified’ and ‘functional’ public authorities.

Specified public authorities are those defined in the legislation, and include all councillors and employees in local government<sup>23</sup>. Functional public authorities are entities performing public functions on behalf of a public authority<sup>24</sup>. It is not completely clear who falls under this definition, but it is very likely that it will include some businesses and some not-for-profit organisations contracted or funded by local government to provide services.

Local governments’ obligations in relation to these bodies are two-fold:

1. As a public authority, local governments will be responsible for ensuring that their procurement policies and expenditure are consistent with their human rights obligations.
2. Local governments should *not* assume that contracting an organisation or business to deliver services on their behalf means that the obligation now rests with the third party, and relieves the local government of the responsibility to protect human rights. It is possible that local governments will be held vicariously liable for actions and decisions made by third parties on their behalf, and as such, local governments would be wise to ensure that all contracts they enter contain a requirement that the entity is also compliant with human rights practice.

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<sup>23</sup> Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic) s 4 (1) For the purposes of this Charter a public authority is—

(e) a Council within the meaning of the *Local Government Act 1989* and Councillors and members of Council staff within the meaning of that Act;

<sup>24</sup> Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic)

s 4 (1) For the purposes of this Charter a public authority is—  
(c) an entity whose functions are or include functions of a public nature, when it is exercising those functions on behalf of the State or a public authority (whether under contract or otherwise);

The definition of a functional public authority is not exhaustive and will be determined on a case-by-case basis. Entities may seek legal advice regarding the likelihood of being considered a public authority, but a definitive answer will only be possible if a matter goes to court and a Judge is required to decide the issue. For further discussion of what constitutes a functional public authority, see Victorian Equal Opportunity and Human Rights Commission, *The Meaning of “Public Authority” Under the Charter*.

## Milestone 6.1 Contractors

### Step 1: Prepare

Develop specific procurement and other policies. This may be a decision taken by local government that all Calls for Tender will specify respect for human rights as a condition, or that local government will only award contracts to companies who agree to adhere to the same Code of Conduct as local government employees. This may be incorporated into your Quality and Costs Standards as part of Council's Best Value Principles.

Guidelines for engaging contractors and consultants have been developed by the VEOHRC and are available in the toolbox (**tool 10**)

### Step 2: Inform

- Inform Third Party Contractors of obligations: All contractors should be made aware:
- That the local government has a procurement policy (if applicable), and the relevant elements of that policy;
- that the local government has obligations as a public authority under the Charter;
- that as a contractor, the third party may also be a public authority and have obligations under the Charter if they are contracted to perform functions of a public nature;
- Include information on third party obligations on the local government website;
- Include human rights indicators in all tender requirements;
- Include human rights indicators in all external contracts;

## Milestone 6.2 Grants and funding

Many local governments provide recurrent or one-off grants to community or non-profit organisations to run projects or deliver services. Human rights considerations might provide a framework for reconsidering who local government funds or prioritises for funding, taking into account special needs or vulnerability.

### Step 1: Prepare

Review funding policies. For instance, local governments may decide to specify that all recipients of grants or local government funding to deliver services must adhere to the same Code of Conduct as local government employees.

### Step 2: Inform

Inform recipients of Grants and funding of their obligations: All recipients should be made aware:

- That the local government has a Grants and Funding policy (if applicable), and the relevant elements of that policy;
- that the local government has obligations as a public authority under the Charter;
- that as a funded body, the third party may also be a public authority and have obligations under the Charter if they are funded to perform functions of a public nature;
- Include information on third party obligations on the local government website
- Include human rights indicators in all funding agreements;

## Milestone 7: Monitor

### **Monitor results.**

**Why:** Monitoring, reporting and reviewing the HRIP closes the loop of continuous quality improvement, in line with the Best Value Principles outlined in the LGA<sup>25</sup>. Having systems in place to monitor the progress of the HRIP provides for clear reporting procedures and allows adjustment of the HRIP during its course if required.

**How:**

### **Step 1: Set relevant performance indicators for each milestone.**

Local governments already collect data, or have access to data sources relevant to local government performance. We suggest that as far as possible, existing data sources should be used or modified to collect information on human rights impact.

### **Step 2: Prioritise the areas designated for reporting.**

You may choose to use the ‘essential, expected and desirable’ Matrix created by VEOHRC, which has been provided in the toolbox (**tool 11**).

### **Step 2: Decide on methods that will be used to monitor progress. Some possible methods include:**

- Include human rights considerations as key performance indicators in all staff workplans. This not only ensures that staff incorporate human rights considerations into their daily practice, but also that staff performance appraisals can be used as a method of information collection.
- Establish a procedure for documenting progress taken toward implementation of the HRIP, including effective outcomes and best practice examples.

### **Example**

Hume City Council uses a web-based reporting tool available on the staff intranet for logging progress towards their Action Plans. The tool allows any staff member to log in and upload Action Plan outcomes or relevant documents.

- Internal reporting procedures. Consider what reporting procedures are already in place that may be adapted. For instance, there may be a requirement that Departmental Plans are reported quarterly, which feed in to the quarterly Division Plan, which feeds in to the Council Annual Report.

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<sup>25</sup> Local Government Act 1989 (Vic) s 208B.

## STAGE 3: REFLECT

**How:** Local governments have a combination of internal and external reporting procedures. We suggest that reporting on human rights implementation is embedded into existing reporting structures:

*Internal reporting procedures* may include regular reporting to line managers, project reports, and reports to Council.

*External reporting procedures* are those which report to either key stakeholders or the general community.

Local governments are required under the *Local Government Act 1989* to produce a Council Annual Report, which includes reporting on the Council Plan and Strategic Resource Plan<sup>26</sup>.

Local governments may also report on:

- A Community Plan
- A particular project or strategic direction. For example, the City of Hume produces a Social Justice Annual Report, to report on the operation of the Hume Social Justice Charter.

Local governments are also expected to report to the community. The methods and frequency with which this is done vary, but may include community newsletters or bulletins, e-distribution lists, or information supplied directly to households.

You should establish the frequency and method of community reporting on human rights implementation measures.

Local governments are required to contribute a report specifically on their human rights implementation to VEOHRC as part of their annual reporting on the operation of the Charter.

**The Assessment Table** below has been designed to measure progress against the milestones using a series of indicators. The Assessment Table is likely to form the basis of the annual report to VEOHRC in 2009. The indicators have been designed as a flexible measure for local governments to self-assess their progress.

For each milestone, there is a choice of 'early stage indicator', 'strong indicator' or 'very strong indicator'. Early stage indicators can be given a value between 1 and 3, depending on the degree to which local government has progressed. Strong indicators can be given a value between 4 and 6, while very strong indicators can be given a value between 7 and 9.

### Milestone 9 Review

Review results.

- Review the actual outcomes against the target outcomes of the HRIP. An Evaluation Step by Step Guide is available from the Department of Planning and Community Development (see tool 3 'Recommended Resources' for information on accessing this document)
- Consider particularly those areas in which the outcomes have not been achieved, and

Revise the HRIP accordingly for the next year.

<sup>26</sup> *Local Government Act 1989* (Vic) s 131.

## GLOSSARY

CAT	Convention Against Torture
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CERD	Convention on the Elimination of Racial Discrimination
Council	The elected arm of local government, comprising the councillors and the mayor
The Charter	Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic)
CPD	Convention on the Rights of Persons with Disabilities
CRC	Convention on the Rights of the Child
HRAP	Human Rights Action Plan
HRIP	Human Rights Implementation Plan
ICESCR	International Covenant on Economic Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
LGA	Local Government Act 1989 (Vic)
Local Government	The elected Council and the administrative or operational arm. It includes the CEO, the Mayor, all staff, and councillors.
NGO	Non-government organisation
Refugee Convention	Convention on the Status of Refugees
VEOHRC	Victorian Equal Opportunity and Human Rights Commission



