



**FROM COMPLIANCE
TO CULTURE:**

A toolkit for local governments
to implement the Victorian
Charter of Human Rights and
Responsibilities

HUMAN RIGHTS MATTER LOCALLY:

Preparing your local
government to understand
and implement the Charter

Where does this fit into the toolkit?

1. **HUMAN RIGHTS MATTER LOCALLY:** Preparing your local government to understand and implement the Charter
2. **HUMAN RIGHTS IN ACTION:** Local government milestones and how to meet them
3. **HUMAN RIGHTS CHECKLIST:** Reviewing your local government's commitment to human rights

FREEDOM

RESPECT

EQUALITY

DIGNITY

HUMAN RIGHTS MATTER LOCALLY:

Preparing your local government to understand and implement the Charter

FROM COMPLIANCE TO CULTURE:

A toolkit for local governments to implement the Victorian Charter of Human Rights and Responsibilities

What's inside?

- Human rights and why they matter locally in Victoria: A note to local government decision-makers
- Overview of the C2C Toolkit
- What this toolkit offers
- Preparing a human rights implementation plan
- Mapping social justice activity against human rights standards

Toolbox

- Table 1 – Sample human rights implementation plan
- Table 2 – Mapping social justice activity against human rights standards



Access the Charter at
<http://www.humanrightscommission.vic.gov.au/human%20rights/the%20victorian%20charter%20of%20human%20rights%20and%20responsibilities/>



Human rights and why they matter locally in Victoria: A note to local government decision-makers

The Victorian Charter of Human Rights and Responsibilities is a statement about the values and principles of the Victorian community. It lays out basic freedoms that belong to all Victorians, everywhere, at all times.

Human rights do not depend on nationality, ethnic origin, gender, colour, faith or any other status. As one of the most culturally and ethnically rich states in Australia, human rights go to the core of our place as a democratic and socially inclusive society where people and communities can thrive, and flourish.

Local government – the third tier of government in Victoria – is the closest level of government to the people and communities that the Charter was written for, and about. This means your local government can play a crucial and indispensable role in seeing the Charter come to life.

As public authorities under the Charter, local governments are legally obligated to take human rights into consideration when drafting local laws, policies and programs. But human rights are not just about law. First and foremost, they are about the people that local governments are elected to represent. Through grassroots service provision and community engagement, local governments are well positioned to take the debate about human rights beyond the realm of law and compliance, to an imaginative and dynamic discussion on how local government policies, programs, and day-to-day decision-making can transform human rights into living realities for everyday Victorians in all parts of the State.

Human rights – the idea that all people should have equal access to goods, services, and life opportunities – underscore what local government in Victoria is all about: good governance and democracy. And by encompassing both rights and responsibilities – principles that move us not only to strive for better personal conditions, but also to protect and enable those around us – the Charter strikes at the heart of the notion of 'community' that local governments are mandated to build, foster and facilitate.

Integrating human rights into local government strategy and service-provision provides an excellent opportunity for local government decision-makers to enhance their positions as leaders of positive change in our societies, and build on their abilities to make real impacts on some of the most vulnerable and disadvantaged members of the community.

This is important, because sometimes it is easy to think that human rights belong to the

Why do we need the Charter?

The Charter is important for a number of reasons:

Legal

The Charter reinforces protection in existing laws and provides clear protection of 'new' rights (such as freedom of expression, freedom from forced work, and protection against cruel, inhuman and degrading treatment).

Political

The Charter ensures transparency and accountability in government, sets human rights as a priority for government, and ensures government takes human rights into account when making laws and delivering services.

Educational

The Charter increases public awareness of human rights.

Symbolic

The Charter is a statement of values and principles for the Victorian Community.

Text box 1: Why do we need the Charter?

Source: Department of Justice Victoria, Why do we need the Charter? (available at <http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/Home/Your+Rights/Human+Rights/Human+Rights+Charter>).

world of international politics, and not to local governance. But human rights are not only a common inheritance of universal values that transcend cultures and traditions. They are quintessentially local values and nationally-owned commitments grounded in national and state laws.¹

The Local Government Act (1989), for example, requires local governments to ensure the 'peace, order, and good government of their municipal districts.'² This means that working to promote human rights is not an optional extra for local governments, but core business. While complying with the Local Government Act goes some way in ensuring good governance and democracy, it does not address the full range of rights-based issues that affect people everyday throughout our State. Alongside the Local Government Act, the Victorian Charter of Human Rights and Responsibilities is therefore another piece of state legislation that has immediate value to local governments and the broader Victorian community.

"Sometimes it's difficult for... Australians who have never experienced racism or sexual harassment or negotiating a wheelchair to really appreciate [the importance of human rights]. In a rich country like Australia it's easy for people to believe that human rights abuses do not occur. Unfortunately this is not the reality for many people who suffer from discrimination or harassment every day. People are still discriminated against because of their age, their sex, their race, their religion or their disability."³

Underscoring your local government's policies and programs with the language of human rights provides a framework through which you and your community can work together to combat and end discrimination. This is not an exercise in 'ticking the box!' Human rights require sustained commitment and dynamic leadership.

As mainstays of socially progressive transformation in communities throughout Victoria, local government decision-makers are integral to the human rights cause.

Take the lead on human rights in your local government, and look to the future for more dynamic, equal and sustainable societies!

1. 60th Anniversary Universal Declaration of Human Rights (available at <http://www.un.org/events/humanrights/udhr60/declaration.shtml>).

2. Local Government Act 1989, section 1 (available at <http://www.dvc.vic.gov.au/web20/dvclgv.nsf/headingpagesdisplay/legislationlocal+government+act>).

3. Why are human rights important? (VEOHRC, available at <http://www.humanrightscmission.vic.gov.au/human%20rights/default.asp>).

Overview of the C2C toolkit

From compliance to culture: A toolkit for local government to implement the Victorian Charter of Human Rights and Responsibilities (the C2C Toolkit) provides a practical framework for your local government to live up to the rights and norms set out in the Charter.

The toolkit is made up of three manuals:

1. Human rights matter locally: Preparing your local government to understand and implement the Charter
2. Human rights in action: Local government milestones and how to meet them
3. Human rights checklist: Reviewing your local government's commitment to human rights



Manual 1 Plan

Human rights matter locally: Preparing your local government to understand and implement the Charter

This manual will assist your local government to understand the importance of human rights to people's everyday lives throughout Victoria, and make the case for human rights programming within your local government. Manual 1 can be considered the 'planning' component of the C2C Toolkit, offering clear and simple ways to identify human rights strong points in your local government's existing activities, as well as ways to prepare for systematic rather than *ad hoc* Charter implementation.

Manual 2 Act

Human rights in action: Local government milestones and how to meet them

Manual 2 provides 13 human rights milestones that span local government spheres of action, from elected council to staff, the community and third parties. Manual 2 can be considered the 'action' part of the C2C Toolkit. The manual provides easy-to-understand steps to reach each milestone, as well as practical tools to assist in the process.

Manual 3 Reflect

Human rights checklist: Reviewing your local government's commitment to human rights

Manual 3 provides a checklist for your local government to review and assess Charter implementation and commitment to human rights. This manual can be considered the 'reflect' component of the C2C Toolkit. The checklist is designed to start a discussion internally about how far your local government has gone in not only ensuring legal compliance with the Charter, but in building a culture of human rights in the community. Manual 3 also provides a list of human rights links and recommended resources for further action.

What this toolkit offers

The C2C Toolkit:

1. Offers step-by-step guidelines to ensure your local government's policies comply with the legal obligations of the Charter.
2. Can help your local government go beyond minimum compliance to build a culture of human rights in the community.
3. Can help foster deeper understandings of how human rights affect your local government's policies and day-to-day decision-making.
4. Provides a ready resource to enhance service delivery, community engagement and existing social justice practices by integrating the language of human rights across local government activities.

Ensuring legal compliance

The Victorian Charter of Human Rights and Responsibilities is a legal document requiring all public authorities to act in compliance with its standards. Your local government is legally obligated to consider human rights in all decision-making processes.

Building a culture of human rights

Human rights are not just about law. First and foremost, they are about the people that make up our communities. In programming for human rights, local governments are encouraged to be proactive in empowering the community to understand their rights and responsibilities, rather than take a risk-management approach. The C2C Toolkit can help your local government build a culture of human rights in the community, where the rights and responsibilities of all citizens flourish through mutual respect and concern for one another.

Understanding how human rights intersect with local government business

Human rights are at the centre of local government business from grass-roots service delivery to accessible, transparent governance. Human rights cut across and underscore local government policy and programs in areas such as affordable housing, transport, environmental sustainability, women's policy, people with disabilities, migrants and refugees, Indigenous issues, community engagement and good governance. Whether you are a councillor or council officer, being aware of these intersections and understanding how human rights affect planning and relationships with people in the community can greatly enhance your capacity to lead and inspire.

Building on existing social justice practices

Many local governments in Victoria are already engaged in human rights programming, often under the banner of social justice. The Charter provides a valuable opportunity to enhance your local government's activities in social justice by using the powerful language of human rights to underscore and draw links between policies and programs across the spectrum of local government activities.

Preparing a Human Rights Implementation Plan

One great way to start working with the Charter in your local government is to prepare a human rights implementation plan.

Developing an overarching vision and clear strategy for human rights implementation will assist councillors and staff in a shared understanding of what is required to live up to the laws and norms set out in the Charter, and how your local government is approaching that obligation.

Table 1 below is an example of what a human rights implementation plan might look like. Your local government may already have a plan, or wish to use an alternative model. There is no set way on how to go about this, and plans may vary according to the distinct circumstances and resources within your local government.

Table 1 lists 13 human rights milestones described in *Manual 2 – Human rights in action: Local government milestones and how to meet them*. The milestones are broken down into distinct spheres of action, according to where responsibility for implementation is likely to lie within the organisation. The spheres of action are: elected council, administration, community and third parties. *Manual 2* offers further explanation on how this breakdown can assist in reaching the milestones.

Table 1 also lists activities to assist in planning for and reflecting on implementing the milestones. Next to each suggested action there are spaces to record person(s) responsible for oversight and implementation, as well as resources required, timelines and outcomes. Recommended resources are listed to help implement some milestones and some of these are provided in *Manual 2* and *Manual 3* of the toolkit.

Your local government may appoint a human rights officer, or human rights implementation team, to oversee the process and ensure accountability for outcomes. Encouraging people from different departments to get involved in adopting human rights language in their policies and procedures is one of the best ways to move beyond legal compliance, towards building a human rights culture.



Human rights initiatives and milestones

PLAN	Persons responsible	Resources required	Timeline	Outcomes
Prepare a human rights implementation plan				
Map social justice activity against Charter standards		<i>Manual 1, Table 2</i> Mapping social justice activity against human rights standards		
ACT: ELECTED COUNCIL	Persons responsible	Resources required	Timeline	Outcomes
Milestone 1 Review strategic planning		<i>Manual 2, Flow chart 1</i> Reviewing policies, plans, and procedures for human rights <i>Manual 2, Table 1</i> Potential human rights triggers in local government policy, plans, and procedures		
Milestone 2 Review local laws		The Victorian Government's Guidelines for Local Laws Manual, available at: http://www.localgovernment.vic.gov.au/Web20/rwpgslib.nsf/GraphicFiles/Local+Laws+Manual/\$file/Local+Laws+Manual.pdf		
Milestone 3 Provide training and education for councillors		VEOHRC human rights training calendar, see the link: http://www.humanrightscommission.vic.gov.au/training		



Milestone 4

Demonstrate leadership

VEOHRC human rights brochures, see the link: <http://www.humanrightscommission.vic.gov.au/Publications/hr%20charter/>

ACT: ADMINISTRATION	Persons responsible	Resources required	Timeline	Outcomes
<h3>Milestone 5</h3> <p>Review policies and procedures</p>		<p><i>Manual 2, Flow chart 1</i></p> <p>Reviewing policies, plans, and procedures for human rights</p> <p><i>Manual 2, Table 1</i></p> <p>Potential human rights triggers in local government policy, plans, and procedures</p>		
<h3>Milestone 6</h3> <p>Review staff Code of Conduct</p>		<p>Code of Conduct for Victorian Public Sector Employees, available at:</p> <p>http://www.ssa.vic.gov.au/CA2571410025903D/WebObj/CodeofConduct2007/\$File/CodeofConduct2007.pdf</p>		
<h3>Milestone 7</h3> <p>Provide training and education for staff</p>		<p>VEOHRC training calendar, see the link: http://www.humanrightscommission.vic.gov.au/training</p>		
ACT: COMMUNITY	Persons responsible	Resources required	Timeline	Outcomes
<h3>Milestone 8</h3> <p>Review service delivery protocols</p>		<p><i>Manual 2, Text box 5</i></p> <p>PANEL: A human rights-based approach to community engagement and service delivery</p>		



<p>Milestone 9 Review community engagement practices</p>		<p><i>Manual 2, Text box 5</i> PANEL: A human rights-based approach to community engagement and service delivery</p>		
<p>Milestone 10 Review complaints mechanism</p>		<p><i>Manual 2, Text box 5</i> PANEL: A human rights-based approach to community engagement and service delivery</p>		
<p>Milestone 11 Provide information and facilitate human rights education for the community</p>				
<p>ACT: THIRD PARTIES</p>	<p>Persons responsible</p>	<p>Resources required</p>	<p>Timeline</p>	<p>Outcomes</p>
<p>Milestone 12 Ensure contracts and procurements are consistent with the Charter</p>		<p><i>Manual 2, Text box 7</i> Guidelines for engaging contractors and consultants within a human rights framework</p>		
<p>Milestone 13 Review grants and funding policies</p>		<p><i>Manual 2, Text box 5</i> PANEL: A human rights-based approach to community engagement and service delivery</p>		
<p>REFLECT</p>	<p>Persons responsible</p>	<p>Resources required</p>	<p>Timeline</p>	<p>Outcomes</p>
<p>Review the implementation of the Charter in your local government</p>		<p><i>Manual 3</i> Human rights checklist: Reviewing your local government's commitment to human rights</p>		
<p>Report on human rights progress and challenges</p>				

Table 1: Sample Human Rights Implementation Plan

Mapping social justice activity against human rights standards

Reviewing your local government's existing social justice activity is another great way to get set on a path to human rights. Policies and programs that contribute to social justice and equity outcomes are underscored by the same principles that inform human rights – non-discrimination, equality, and empowerment. This could include work in the areas of health promotion, preventing violence against women, Indigenous issues, migrants and refugees, people with disabilities, the homeless, affordable housing or community development.

Mapping your local government's activities in these areas against human rights standards can help to see where your strong points are in terms of meeting Charter requirements and building a culture of human rights.



Case study: Hume City Council's Social Justice Charter

Hume City Council's Social Justice Charter provides a policy framework through which the Council strives to build a just and inclusive City. The aims of the Charter are to promote active participation, strengthen community wellbeing, and reduce the causes of disadvantage. The Charter includes a Citizen's Bill of Rights that makes explicit the equal entitlements of every citizen of Hume to aspire to the highest quality of life to realise their full potential.

The Social Justice Charter takes sustained action on a set of social justice issues through targeted Action Plans. The Action Plans commit the council to informing and advocating on behalf of the targeted groups, as well as providing access and opportunity, and encouraging participation in programs and strategies.

The Action Plans target Aboriginal and Torres Strait Islanders, affordable housing, alcohol, other drugs and gambling, youth, and people with disabilities, and include measurable outcomes that are published every year in the Council's Social Justice Charter Annual Report.

The outcomes of the Annual Report could be mapped against the Victorian human rights Charter. This would provide Hume City Council with an overview of their strong points in terms of meeting Charter requirements, as well as areas where further work will be most required.

Access Hume City Council's Social Justice Charter at www.hume.vic.gov.au/Files/SocialJusticeCharter2007.pdf

Text box 2: Hume City Council's Social Justice Charter

The Charter protects a group of rights referred to as civil and political rights. These can be grouped under four key principles of Freedom, Respect, Equality and Dignity, and are explained in more detail below.

Fill in *Table 2* below to see what your local government is doing to promote and protect the freedom, respect, equality and dignity of the people and communities it represents.

Human rights

FREEDOM Your local government's activities or initiatives in this area

Freedom of movement, expression, assembly and association

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

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 whether orally, in writing, in print, as an artistic expression or in any other way of their choosing.

People have the right to assemble and meet peacefully, to freely associate with others and to form and join trade unions.

Right to liberty and security

Everyone has the right to freedom (liberty) and security. This means a person must not be arrested or detained arbitrarily. A person must not be deprived of his or her freedom, except when it is lawful and according to procedures established by law – for example, when someone has been arrested and charged with a crime.

If a person is arrested or detained, he or she must be told the reason at the time of their arrest or detention and promptly told about charges to be laid. A person must be quickly brought before a court and tried without unreasonable delay. Otherwise, that person must be released.

A person who is awaiting trial must not be automatically kept in custody. They may be released with conditions, guaranteeing they appear in court – for example, bail.

Any person who is deprived of their freedom by arrest or detention has the right to apply to a court for a declaration on whether the detention is lawful. The court must make a decision on this application without delay and order the release of the person if it finds that the detention is against the law.



Children in the criminal process

A child charged with committing a crime who is being detained 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.

A 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. A court or tribunal can exclude the media and the public from a hearing if a law other than the Charter allows it to do so. All judgments or decisions made by a court or tribunal must be made public unless doing so would not be in the best interests of a child, or a law other than the Charter allows it to be kept secret.

Rights in criminal proceedings

A person who is charged with a crime has the right to be presumed innocent until proved guilty according to the law.

A person charged with a crime is entitled without discrimination to a number of minimum guarantees, such as:

- to be promptly informed about the detail and reason for the charge
- access to legal representation (a lawyer)
- the help of an interpreter
- enough time and facilities to prepare a defence and communicate with a lawyer or advisor
- to be tried without unreasonable delay
- to be present at the trial
- to choose to access legal representation or have legal aid, if eligible. There is no right to legal aid beyond the eligibility set out in the Legal Aid Act 1978 (Vic).
- to examine prosecution witnesses, and to call witnesses on his or her behalf
- the right not to testify against oneself and the right not to be compelled to confess guilt.



These guarantees are set out to ensure that the person charged fully understands the process taking place and has the opportunity to answer the charges brought against them.

A child who is charged with a crime has the right to a process that takes into account their age and the desirability of promoting their rehabilitation.

Any person convicted of a crime has the right to have the conviction and sentence reviewed by a higher court in accordance with law.

Right not to be tried or punished more than once

A person cannot be tried or punished for the same offence twice if he or she has already been convicted or acquitted of that offence in a court.

Retrospective criminal laws

A person must not be found guilty of a crime if the behaviour was not against the law at the time they engaged in it. If a penalty is imposed for a crime, it must not be greater than the penalty that applied at the time the offence was committed. If a penalty for an offence is reduced after a person committed the offence, that person must be eligible for the reduced penalty. These points do not apply to offences under international law.

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. For example, banning the wearing of religious symbols could be a breach of freedom of religion.

Property rights

A person must not be deprived of his or her property except in accordance with law. For example, if there has been a breach of a mortgage contract, it may be lawful to deprive a person of their property as long as proper processes are followed.

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 (such as jury duty), or as part of a court order, or during emergency situations. For example, forced work does not include court ordered community service.



RESPECT

Right to life

Every person has the right to life and the right not to be arbitrarily deprived of life.

Protection of families and children

Families are entitled to be protected by society and the State. Public authorities should keep this in mind when carrying out their duties. Children have the right to protection according to their best interests, without discrimination.

Cultural rights, including recognition that human rights have a special importance for the Aboriginal people of Victoria

People of all cultural, religious, racial or linguistic backgrounds have the right to enjoy their culture, declare and practise their religion and use their languages.

Aboriginal people have the right to enjoy their identity and culture. They have the right to maintain their language, kinship ties and their distinctive essential relationship with the land, waters and other resources to which they have a connection under traditional laws and customs.

EQUALITY

Equal recognition before the law

Every person has the right to equal recognition and protection before the law. Everyone is entitled to equal and effective protection against discrimination, and to enjoy human rights without discrimination. This applies regardless of a person's age, gender, race, disability, religion, marital status and a range of other personal characteristics.

Some groups or individuals, such as people with a disability or members of minority groups may be disadvantaged by discrimination they experience. Measures taken to help people who are disadvantaged by discrimination will not be considered unlawful under the Charter. For example, government funded programs may be directed to particular disadvantaged groups.

Entitlement to participate in public life (including voting)

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.



DIGNITY

Protection from torture and cruel, inhuman or degrading treatment, medical or scientific experimentation or treatment without consent

A person must not be tortured, treated or punished in a cruel, inhuman 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.

Protection of privacy and reputation

A person has a right to privacy. This means that someone's personal privacy, family, home or correspondence can not be unlawfully or arbitrarily interfered with. The Charter also prohibits unlawful attacks on a person's reputation.

Humane treatment when deprived of liberty

All people deprived of their freedom (liberty) must be treated with humanity and respect for their dignity.

An accused person or someone who is detained without charge must be held separately from people who have been convicted of offences, except where reasonably necessary. They must be treated in a way that is appropriate for someone who has not been convicted.

Table 2: Mapping social justice activity against human rights standards

Adapted from: VEOHRC, *Your rights explained* (available at <http://www.humanrightscommission.vic.gov.au/human%20rights/the%20victorian%20charter%20of%20human%20rights%20and%20responsibilities/>).

FREEDOM RESPECT EQUALITY DIGNITY



*Connecting Communities
Strengthening Democracy*



Graphic Design:
Gozer Studio –
www.gozer.com.au