



FROM COMPLIANCE TO CULTURE:

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

HUMAN RIGHTS IN ACTION:

Local government milestones
and how to meet them

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 IN ACTION:

Local government milestones and how to meet them

FROM COMPLIANCE TO CULTURE:

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

What's inside?

Human rights milestones

Elected council

- Review strategic planning
- Review local laws
- Provide training and education for councillors
- Demonstrate leadership

Administration

- Review policies and procedures
- Review staff Code of Conduct
- Provide training and education for staff

Community

- Review service delivery protocols
- Review community engagement practices
- Review complaints mechanism
- Provide information and foster human rights education for the community

Third parties

- Ensure contracts and procurement are consistent with human rights
- Review grants and funding policies

Toolbox

[Flow Chart 1](#) – Reviewing policies, plans and procedures for human rights

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Human rights milestones

This manual describes 13 human rights milestones to assist your local government to live up to its legal obligations under the Charter, and build a human rights culture within council and the community.

The milestones are broken down into distinct spheres of action: elected council, administration, community and third parties. *Figure 1* below shows the spheres of action and the areas of local government work that belong to each. These areas in turn inform the human rights milestones.

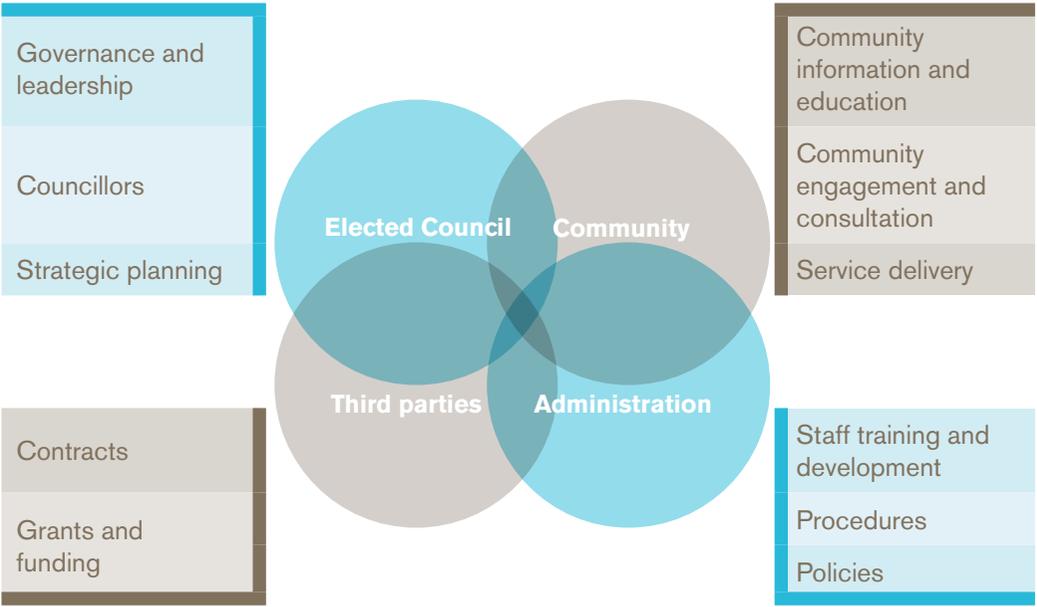


Figure 1: Spheres of action for human rights implementation within Local Government



Essential, expected, and desirable actions

Essential

actions are what you must do to meet the minimum legal requirements of the Charter. For example, ensuring that no local law is in breach of the Victorian Charter is a legal requirement. This would be an essential action.

Expected

actions are what you should do to fulfil obligations as a public authority under the Charter. Providing information to staff and councillors about their legal obligations as public

authorities is not a legal requirement, but failure to do so may result in a breach of their obligations. This would be an expected action.

Desirable

actions are what you could do to extend your work and ensure human rights underpin programming across council. For example, introducing a Council Charter of Rights could signal a commitment to human rights principles and provide a framework for all planning, decision-making and programming within the local government. This would be a desirable action.

Text box 1: Essential, expected, and desirable actions

In practice the four spheres of action shown in Figure 1 overlap and influence one another. Nevertheless, the breakdown helps to spread the responsibility of human rights milestones across the organisation, and means some milestones can be undertaken simultaneously depending on resources. Tools to help achieve the milestones are provided throughout this manual.

The 13 milestones are not an exhaustive list of the activities and initiatives your local government can take to implement the human rights Charter. Your local government might be well along a path to building a human rights culture within the community, or you might be just beginning to ensure the organisation is meeting the minimum legal requirements of the Charter. The implementation of the milestones may vary according to the distinct circumstances of the 79 local governments throughout Victoria.

Whatever stage your local government is at in engaging with human rights, there is something in the human rights milestones for everyone.

You may wish to assign priority rankings to the milestones according to resources, and how far along your local government is on the human rights path. One way to do this is to use the essential, expected, desirable matrix described in *Text box 1* on the left.

Case study: Brimbank City Council's Social Justice Charter

In 2009 Brimbank City Council revised its Social Justice Charter to reflect the impact of the human rights Charter. In his introduction to the document former Mayor of Brimbank City Council, Sam David, links local government programming in social justice with human rights expressed in international and national norms. The Mayor states:

"Brimbank City Council recognises that social justice is founded upon human rights which are essential in a society committed to fairness and equity."

The council's Social Justice Charter incorporates human rights into the guiding principles and other relevant sections of the document.

Access Brimbank City Council's Social Justice Charter at http://www.brimbank.vic.gov.au/Files/Social_Justice_Charter.pdf

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

VEOHRC, *The 2009 report on the operation of the Charter of Human Rights and Responsibilities – Making Progress*, p. 71 (available at <http://www.humanrightscommission.vic.gov.au/publications/charter%20reports/>)

Elected council

Milestone 1 Review strategic planning

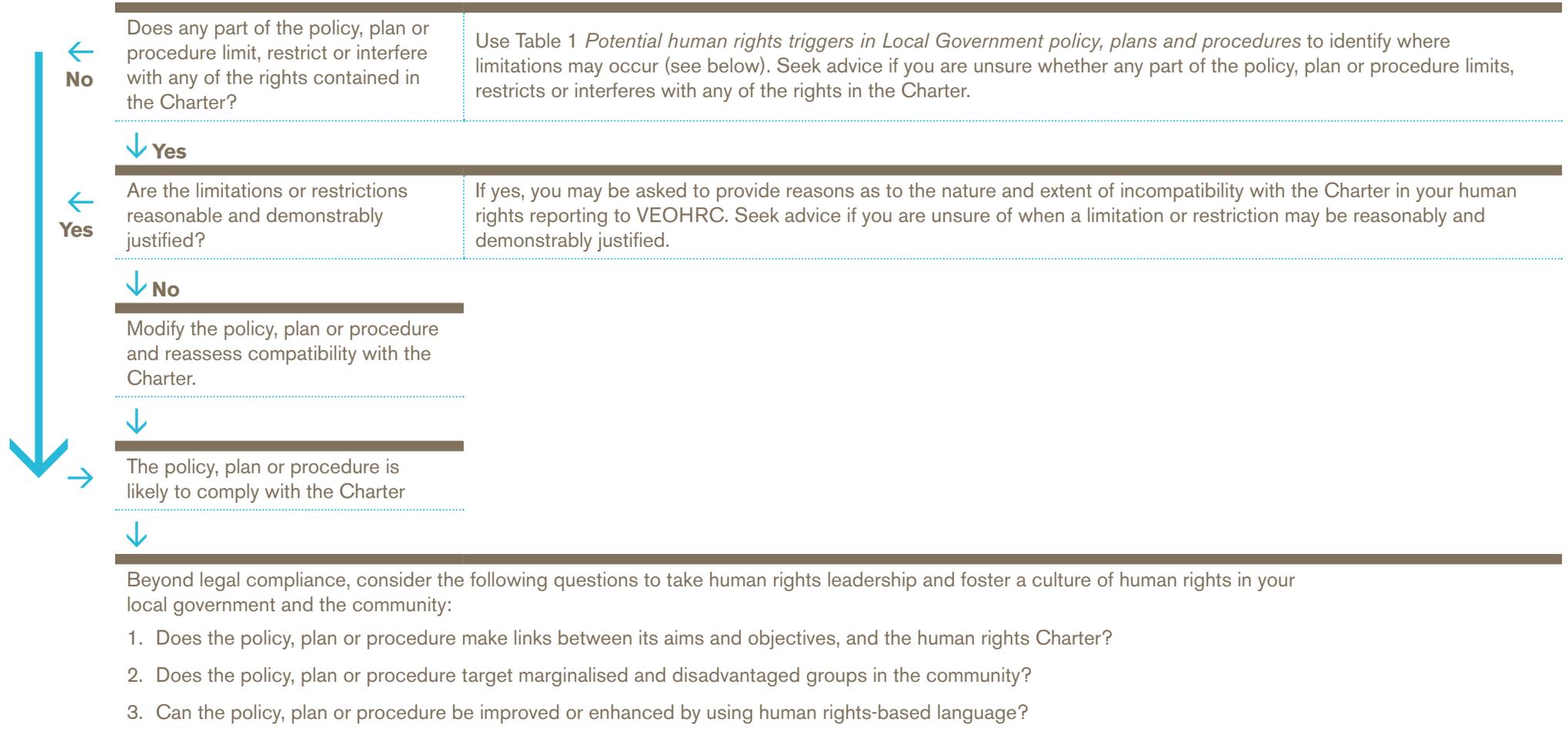
Why?

Strategic planning provides an overarching framework within which local government operations are performed. Embedding human rights at the strategic level can help to ensure they filter down and across the organisation, rather than remain confined to a separate and isolated work area. This is one of the most effective ways to create a human rights culture within the organisation.

How?

Consider the strategic planning documents to review for compatibility with human rights. This may include the Council Plan, the Code of Conduct for Councillors, or your Vision Statement. Follow *Flow chart 1* and use *Table 1* below to review the documents.

Flow chart 1 and *Table 1* refer not only to local government plans, but also policies and procedures. They will also assist in implementing *Milestone 5: Review policies and procedures*, in the administration sphere of action.



Flow chart 1: Reviewing policies, plans and procedures for human rights

Potential human rights triggers in local government policy, plans and procedures

This table is designed to help you determine when a local government policy, plan or procedure may need to be modified to ensure compatibility with the Charter.

The column on the left shows the human rights that would need to be considered when a policy, plan or procedure contains any of the measures shown in the column on the right.

The rights are organised under the four key principles of civil and political rights: Freedom, Respect, Equality and Dignity.

Key principles of civil and political rights: Freedom, Respect, Equality and Dignity.

FREEDOM

You'll need to take this human right into consideration...

Freedom of movement, expression, assembly and association

...if your local government's policy, plan or procedure

- 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 an individual's movements.
- Limits the ability to move through, remain in, or enter or depart from areas of public space or on private land.
- 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.
- 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.



Right to liberty and security	<ul style="list-style-type: none"> • 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.
Children in the criminal process	<ul style="list-style-type: none"> • Enables you to detain children for any length of time. • Authorises you to hold children in amenities that have limited facilities or services for the care and safety of detainees. • Enables you to undertake personal searches of a detained child. • Impacts on the environmental design or conditions under which children are detained. • Establishes or alters programs in prisons, youth training centres or residential centres. • Otherwise regulates the custodial care of children.
A fair hearing	<ul style="list-style-type: none"> • Creates or restricts review of administrative decision-making and appeals processes. • Reverses the onus of proof of a matter. • Amends the way in which 'evidence' is collected and presented. • Regulates complaints procedures or allows changes to their impartiality and independence.
Rights in criminal proceedings	<ul style="list-style-type: none"> • Impacts on the right to be presumed innocent. • Deals with the admissibility of 'evidence.' • Impacts on the bringing of disciplinary actions. • Restricts access to information and material to be used as 'evidence.' • Establishes time limits on the lodging of complaints or appeals. • Regulates the procedures for investigation and prosecution of 'offences.' • Amends 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. • Establishes guidelines or procedures for the provision of assistants, translators and interpreters. • Impacts on the treatment of children in complaint and disciplinary proceedings. • Amends or alters procedures under which a person is able to appeal against or seek review of a decision.
Right not to be tried or punished more than once	<ul style="list-style-type: none"> • Allows a person to be punished a second time for the same 'offence.'
Retrospective criminal laws	<ul style="list-style-type: none"> • Seeks to sanction a person for conduct that was not contrary to policy, procedure or practice at the time the conduct was undertaken. • Applies more severe penalties for conduct by a person than those that existed at the time the conduct was undertaken. • Fails to apply less severe penalties for conduct by a person if penalties have decreased since the conduct was undertaken.



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 and 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.

Property rights

- Provides for acquisition, seizure or forfeiture of a person's property.

Freedom from forced work

- Compels the provision of any labour or the performance of any service under threat of a penalty.

RESPECT

You'll need to take this human right into consideration...

...if your local government's policy

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.

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.

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

- 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 cultural 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.



EQUALITY

You'll need to take this human right into consideration...

...if your local government's policy

Equal recognition 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.
- Uses neutral language 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.

Entitlement to participate in public life (including voting)

- Limits the ability to take part in municipal and parliamentary elections.

DIGNITY

You'll need to take this human right into consideration...

...if your local government's policy

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

- 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.
- 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.



Protection of 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.
- 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.

Humane treatment when deprived of liberty

- Enables you to detain individuals or relates to the conditions under which a 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.

Table 1: Potential human rights triggers in local government policy, plans and procedures

Milestone 2

Review local laws

Why?

The Charter is a set of human rights and responsibilities protected by law. Local governments must observe these rights when they create local laws, set policies, and provide services. All new laws are required to be checked against the Charter.

How?

It may be useful for your local government to seek independent legal advice, or engage in-house legal counsel, to review local laws for compatibility with the human rights Charter. If you are unable to engage legal advice, local laws can be subjected to the same process described for reviewing policies, plans and procedures in Milestone 1. Use *Flow chart 1* and *Table 1* to see where local laws may restrict, limit or interfere with the rights in the Charter.

Laws found to be in breach of the Charter will need to be amended or removed. The development of new laws must follow procedure that ensures compatibility with human rights and the Charter.

Consult Local Government Victoria's *Guidelines for Local Laws Manual*, which makes specific reference to reviewing draft laws vis-à-vis the Charter.

Access the *Local Laws Manual* at [http://www.localgovernment.vic.gov.au/Web20/rwpgslib.nsf/GraphicFiles/Local+Laws+Manual/\\$file/Local+Laws+Manual.pdf](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

Why?

Elected councillors have legal obligations as public authorities under the Charter.¹ This means they must act in a way that reflects the principles of freedom, respect, equality and dignity that inform the Charter, and give proper consideration to human rights when making decisions. Through education and training in human rights, councillors can ensure they are fully informed so as not to inadvertently breach obligations.

Beyond ensuring legal compliance with the Charter, in taking up human rights training and education, councillors can boost their positions as representatives of their people and communities – the very people and communities that the Charter was written for, and about. Participating in human rights education and training is an excellent way for councillors to enhance their abilities to have positive impacts on some of the most vulnerable and disadvantaged members of their community.

How?

Provide incumbent councillors with human rights training and ensure training is included in the councillor induction program.

The Victorian Equal Opportunity & Human Rights Commission (VEOHRC) runs a range of human rights workshops. The workshops are tailored to suit different audiences, including local government.

To see the training calendar go to <http://www.humanrightscommission.vic.gov.au/training>

Information on human rights and the Charter should be made readily available to councillors. See the section on *Useful Links and Recommended Resources* in Manual 3 of this toolkit for some good starting points.

Case Study: Local government leadership on human rights

Stonnington City Council's Statement of Human Rights

Stonnington City Council has taken leadership in making a clear commitment to human rights by developing and passing the following Statement of Human Rights:

"The City of Stonnington recognises and respects that everyone has the same human rights entitlement to allow them to participate in, and contribute to, society and our community. We recognise that all persons have equal rights in the provision of, and access to, council services and facilities. We recognise that, at times, such rights may be limited, insofar as to strike a balance between individual rights and the protection of public interest."

Darebin City Council's Charter steering group

Darebin City Council has chosen to appoint a Charter steering group, made up of managers from across the Council's program areas, to help implement human rights within the organisation and across the community. The following excerpt from their report to the Victorian Equal Opportunity and Human Rights Commission in 2009 shows how appointing human rights drivers within council heightened awareness amongst staff of the rights of people in the community, and the need to consider those rights in programming and the delivery of services:

"The Charter has been a powerful tool for reflection and change at our Council. By involving managers from across Council in a Charter steering group we've been on a 'learning journey' together. This model has also generated an appreciation that the Charter impacts all parts of Council, not just the 'soft' areas like community services."

Text box 3: Local government leadership on human rights

Excerpts from VEOHRC, *The 2009 report on the operation of the Charter of Human Rights and Responsibilities – Making Progress*, pp. 71 and pp. 80 (available at <http://www.humanrightscommission.vic.gov.au/publications/charter%20reports/>).

Milestone 4 Demonstrate leadership

Why?

To move towards more respectful and equal societies where the rights and responsibilities of all people flourish, it's important to think about doing more than meeting the minimum legal requirements of the Charter. Best practice in human rights means taking leadership to create a culture of human rights within local government and the community. As leaders of change at the closest level of government to the community, councillors are well placed to lead everyday Victorians towards futures where discrimination against people because of age, sex, race or disability becomes something of the past.

How?

Your local government could demonstrate leadership in human rights in many different ways. Here are some suggestions:

- Seek more information and participate in human rights projects and initiatives run by organisations such as the Victorian Local Governance Association, or VEOHRC.
- Introduce a council human rights charter, statement or strategy.
- Display information on human rights prominently in the council chambers, and at other venues in the municipality. This could include posters and pamphlets, as well as clear links to online resources and telephone numbers where necessary. VEOHRC provides brochures on human rights, including in languages other than English. Access the human rights brochures at <http://www.humanrightscommission.vic.gov.au/Publications/hr%20charter/>
- Appoint and foster Human Rights Ambassadors who would informally promote or prompt discussions on human rights through their existing roles in the community. These could include people such as: councillors, librarians, teachers, hairdressers, local comedians or radio personalities, newspaper journalists, and others who have existing leadership, social, or media roles in the community.

Case Study: Human rights and local government policies and procedures

The Victorian Equal Opportunity and Human Rights Commission's 2009 report on the operation of the Charter notes that several councils have devised community charters that sit alongside the Victorian human rights Charter and often go beyond its parameters:

Mansfield Shire Council has introduced a Community Development Charter that includes the Victorian Charter, national and international documents that protect a broader spectrum of rights – such as the United Nations Universal Declaration of Human Rights (1948) and the UN Millennium Declaration (2000) – and the Commonwealth Government's Principles for Social Inclusion in Australia.

The Youth Team at Bayside City Council has developed a Youth Charter outlining key values and objectives for working with young people that draws upon the Charter of Human Rights and Responsibilities.

Text box 4: Human rights and local government policies and procedures

Excerpts from VEOHRC, *The 2009 report on the operation of the Charter of Human Rights and Responsibilities – Making Progress*, p. 74 (available at <http://www.humanrightscommission.vic.gov.au/publications/charter%20reports/>).

Administration

Milestone 5 Review policies and procedures

Why?

Local government policies and procedures govern the everyday work of staff. Embedding human rights within policies and procedures can help staff conduct their existing activities and initiatives within a human rights framework, rather than seeing human rights as an isolated program area that is separate from the wide range of local government work areas. Human rights can enhance and facilitate local government policies and programs in areas such as public health and wellbeing, Indigenous issues, women's policy and preventing violence against women, affordable housing and homelessness, migrants and refugees, and community development.

How?

Consider the policies and procedures to review for compatibility with human rights. Follow *Flow chart 1* and *Table 1* above.

Milestone 6

Review Staff Code of Conduct

Why?

The Charter is an agreed set of human rights, freedoms, and responsibilities protected by law. This means that all representatives of local government, including council officers, are required to conduct their work in a way that is consistent with the human rights protected under the Charter.

Yet taking human rights into account in day-to-day operations provides local government staff with more than just a tick in the legal box. Working within a human rights framework is an excellent opportunity for local government staff to build on and enhance the quality of their services and interactions with the public.

How?

Ensure position descriptions for all staff include the obligation to respect and uphold human rights as embodied in the Charter.

Review the staff Code of Conduct. Updating the Code of Conduct using the language of rights and responsibilities provides an opportunity to embed human rights principles into staff behaviour, expectations and management.

The *Code of Conduct for Victorian Public Sector Employees* provides an excellent example of how to embed human rights as a core consideration in employee codes of conduct, dedicating a section to 'demonstrating commitment to human rights.'

Access the Code of Conduct at [http://www.ssa.vic.gov.au/CA2571410025903D/WebObj/CodeofConduct2007/\\$File/CodeofConduct2007.pdf](http://www.ssa.vic.gov.au/CA2571410025903D/WebObj/CodeofConduct2007/$File/CodeofConduct2007.pdf)

Milestone 7

Provide training and education for staff

Why?

Providing human rights education and training for staff across local government is an excellent way to foster deeper understandings of how the Charter intersects with and impacts distinct areas of local government programming.

The quality of local government services can be greatly enhanced when staff are equipped with knowledge and tools that take them beyond legal requirements, to the substance of human rights and how they relate to the mandate of local government.

How?

Encourage and facilitate staff from across local government to attend human rights training and education. Consider making human rights training and education a core part of the staff induction program.

For information on human rights training and education programs run by VEOHRC go to: <http://www.humanrightscommission.vic.gov.au/training>

Ensure information on human rights and the Charter is readily available to staff. See the *Useful links and recommended resources* section of Manual 3 for some useful starting points.

Community

Milestone 8

Review service delivery protocols

Why?

Local governments are responsible for delivering a range of services to the community, including for those who have disabilities, are elderly, homeless or under housing stress, of Aboriginal or Torres Strait Island descent, or are women, migrants or refugees.

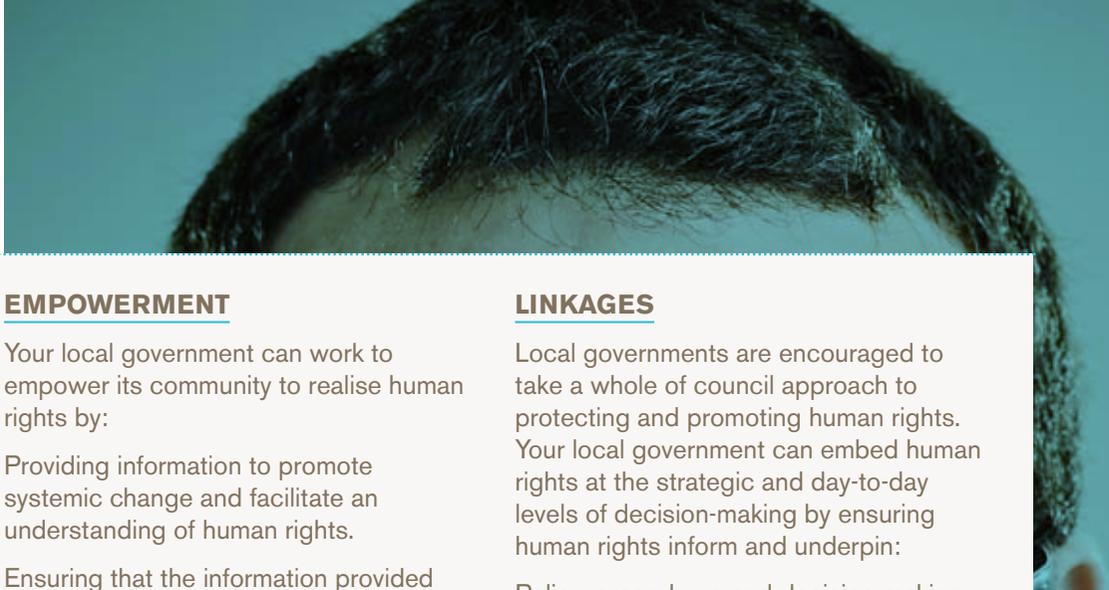
The quality of your local government's services, and the ways in which they are delivered, are integral to the health, wellbeing and dignity of the people they target. Oftentimes these people are among the most disadvantaged and vulnerable in the community. Providing services within a human rights framework can significantly enhance the process and outcome of the services, and allow your local government to live up to its obligations under the human rights Charter.

When users of local government services are approached in ways that explicitly recognise their status as holders of rights, and bearers of responsibility, the impacts can be powerful. Not only can service users feel a sense of respect and empowerment from your local government, but trust between the two entities can increase. Taking a human rights-based approach to service delivery can be seen as a long-term strategy in community engagement and capacity building. In its 2009 report on the operation of the Charter, VEOHRC found that 'councils report seeing an improvement in community perceptions of council and in the level of community engagement with council processes as a result of greater awareness and participation in the human rights dialogue.'²

How?

Review your local government's service delivery protocols for compatibility with the principles of PANEL: Participation, Accountability, Non-discrimination, Empowerment, and Linkages.

2. VEOHRC, *The 2009 report on the operation of the Charter of Human Rights and Responsibilities* – Making Progress, p. 80 (available at <http://www.humanrightscommission.vic.gov.au/publications/charter%20reports/>).



PANEL: A human rights-based approach to community engagement and service-delivery

PARTICIPATION

Local governments are mandated to ensure that the community and service users have the opportunity to participate in decisions that directly affect their lives. Your local government can promote the participation and build the capacity of members of the community by:

Raising awareness of its services.

Making services accessible.

Tailoring information and training to suit the needs of different and diverse target groups in the community.

Identifying and removing barriers to participation.

Supporting activities that encourage individual community and stakeholder engagement.

ACCOUNTABILITY

Local governments are accountable to their communities. Your local government can ensure accountability to the community in human rights framework by:

Seeking and utilising feedback from the community.

Providing information and reports to the community.

Regularly reviewing processes to ensure consistency in decision making, compliance with legislation, and compatibility with human rights.

NON-DISCRIMINATION

Some groups and people are more vulnerable to human rights abuses than are others. Your local government can strive to make services more accessible by:

Researching issues and liaising with a broad range of people, organisations and community groups.

Ensuring communication is tailored to specific audiences in the community.

Contributing to the development of a human rights culture in Victoria.

EMPOWERMENT

Your local government can work to empower its community to realise human rights by:

Providing information to promote systemic change and facilitate an understanding of human rights.

Ensuring that the information provided and services offered are accessible and assist people to make their own decisions.

Providing a timely, impartial, and no-cost complaints mechanism for people who may have experienced discrimination, victimisation, sexual harassment or racial or religious vilification in the community.

Assisting people to access services relevant to their needs.

LINKAGES

Local governments are encouraged to take a whole of council approach to protecting and promoting human rights. Your local government can embed human rights at the strategic and day-to-day levels of decision-making by ensuring human rights inform and underpin:

Policy, procedures and decision-making functions.

The manner in which complaints are handled.

The way in which services are delivered.

Strategic planning and reporting.

Text box 5: PANEL: A human rights-based approach to community engagement and service-delivery

Adapted from VEOHRC, *Service standards: Our commitment to human rights* (available at <http://www.humanrightscommission.vic.gov.au/about%20us/servicestandards.asp>).

Case study: Human rights and community engagement

According to the Victorian Equal Opportunity and Human Rights Commission's 2009 report on the operation of the Charter, *Making Progress*, a number of councils have taken steps to tackle accessibility issues for groups that traditionally find it difficult to contribute to council decisions:

Brimbank City Council has tailored sessions for Indigenous and non-English speaking community members, including the use of bi-lingual employees, to develop their Community Plan.

Mornington Peninsula Shire Council has established a Junior Council, in partnership with secondary colleges, to provide young people with an insight into local government and an opportunity to have influence in planning for the future of the Shire.

Gannawarra Shire Council has taken the draft Council Plan and draft Budget documents to community meetings (such as progress associations, community planning groups and others) and conducted presentations instead of simply inviting comment.

Text box 6: Human rights and community engagement

Excerpts from VEOHRC, *The 2009 report on the operation of the Charter of Human Rights and Responsibilities – Making Progress*, p. 71 (available at <http://www.humanrightscommission.vic.gov.au/publications/charter%20reports/>).

Milestone 9 Review community engagement practices

Why?

Facilitating meaningful community access to local government decision-making is a cornerstone of good governance. Yet community engagement is broader than the participatory democratic process used within council. It is about integrating the community into all aspects of local government actions and decisions. This involves listening to and taking into account a diversity of viewpoints and positions, including from disadvantaged members of the community, such as the homeless, and those who have not traditionally had extensive access to local government, such as youth.

Taking a human rights approach to community engagement and consultation can help put a diversity of people and viewpoints at the centre of the decision-making process.

How?

Consider the community engagement and consultation mechanisms your local government has in place. For many local governments this will include the Community Engagement Strategy. Review the policies using the principles of PANEL in *Text box 5*.

Here are some further tips to ensure your local government's community engagement strategies are meaningfully consistent with human rights standards:

Develop targeted engagement strategies for disadvantaged or marginalised members of the community, who are often without the resources, opportunities, and access necessary to make their voices heard. This includes people such as the homeless, migrants and refugees, and people of Aboriginal or Torres Strait Islander descent.

Target other demographics that may experience difficulty in engagement or who have not traditionally had equal access to local government decision-making. This includes youth, women, older people, people with disabilities, and culturally and linguistically diverse people.

Form community advisory groups to gather grassroots input and advice based on everyday experience in issues such as climate change, local food security, housing, and transport. The groups could be made up of community members from schools, universities, community organisations, business, and retail.

Facilitate and support community-driven human rights initiatives.

Milestone 10

Review complaints mechanism

Why?

There are times when members of the public may have problems with their local council. It is important that all members of the community are assisted to understand the way council functions, and how to work with it to solve problems.

By law, this process involves having a complaints mechanism in place whereby citizens can formally lodge grievances with the council on particular issues. This can sometimes be a difficult process, yet if steps are taken to welcome community feedback and constructive criticism of issues this can greatly improve the function and services of your local government.

As public authorities under the Charter, local governments have a responsibility to ensure their complaints mechanisms comply with human rights standards.

How?

To ensure existing complaints mechanisms meet human rights standards, and accommodate rights-based claims and complaints, your local government may wish to seek legal advice.

You could begin the process by considering whether your local government's procedures meet the criteria of the VEOHRC complaints mechanism. VEOHRC states that in receiving complaints it will:³

1. Operate in a fair, timely and impartial manner.
2. Treat everybody with dignity and respect.
3. Provide the information that people need and ensure the format is suitable for distinct audiences.
4. Assist people in making the complaints.

³. Victorian Equal Opportunity and Human Rights Commission, Step 3 of 6 – Make a complaint (available at <http://www.humanrightscommission.vic.gov.au/making%20a%20complaint/step%203%20-%20make%20a%20complaint/default.asp>).

Third parties

Milestone 11

Provide information and facilitate human rights education for the community

Why?

Human rights are about people. They are about the mutual equality, respect, and dignity of all people, everywhere, at all times. These ideals are at the very core of the notion of community that local governments are mandated to represent and play a strong role in building.

The language of human rights and responsibilities is a language of empowerment. Truly representative local governments seek to empower their constituents to build stronger, safer, more dynamic communities. This could include providing easy-to-understand information and accessible education to all members of the community on human rights and the Charter.

How?

Consider the kind of information of value to the community. This could include:

- Who to contact within your local government in relation to human rights issues.
- Information about your local government's human rights policies or strategies.
- Clear information on the procedure by which community members can make claims or complaints.
- Where to get further information, including human rights websites and telephone numbers. See *Manual 3* for useful links and recommended resources.

Consider different formats and disseminate the information widely. This could include:

- Brochures or pamphlets distributed to households or made available at key locations such as libraries or maternal and child health services.
- Including the information on the council website.
- Publishing in community newsletters or newspapers.

Consider the capacity of your local government to provide or facilitate human rights education for the community. The Victorian Equal Opportunity and Human Rights Commission can be contracted to provide on-site education and training. Methods of delivery in the local government context could include community events, information sessions, or online networks.

Guidelines for engaging contractors and consultants within a human rights framework

Local government contracts and procurements comply with human rights standards when:

1. Contracting arrangements identify human rights risks, as well as best practice opportunities in line with Charter obligations.
2. The council requires third parties to protect, respect, and promote the human rights of service users in contracts and partnerships.
3. Key contracts contain clauses explicitly articulating expectations and responsibilities in relation to the protection, promotion, and respecting of relevant stakeholders' human rights.
4. The procurement policy considers the human rights credentials of suppliers.
5. There is a contract plan that includes how contractors/

partners will be monitored against compliance with the Charter.

6. A system is in place to respond to third party complaints regarding external contractors and partners.
7. Contract monitoring sets out how to deal with serious failures of non-compliance with human rights principles and the Charter.
8. 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.
9. An appeals process is in place that allows external contractors and partners to question the decision-making process.
10. Councillors and staff know where to access advice and support to assist with contracting and partnering arrangements.

Text box 7: Guidelines for engaging contractors and consultants within a human rights framework

Adapted from VEOHRC, *From Principle to Practice: Implementing the Human Rights Based Approach in Community Organisations*, p. 46. (available at <http://www.victorianhumanrightscommission.com/www/files/FromPrincipletoPractice.pdf>)

Milestone 12

Ensure contracts and procurements are consistent with the Charter

Why?

The Charter makes reference to both specified and functional public authorities.

Specified public authorities are those defined in legislation and include all councillors and employees in local government. Functional public authorities are entities performing public functions on behalf of a public authority.⁴ This may include businesses and not-for-profit organisations contracted or funded by local government to provide services.

Your local government has two key responsibilities in relation to specified and functional public authorities:

- As a public authority, your local government is responsible for ensuring procurement policies are consistent with its obligations under the Charter.
- Contracting an organisation or business to deliver services does not relieve your local government of the obligation to protect human rights. Your local government could be held liable for actions and decisions made by the third party.

How?

See the guidelines to the left on engaging contractors and consultants within a human rights framework.

Inform all third parties of their obligations. All contractors should be made aware that:

- As a public authority the local government has human rights obligations under the Charter.
- As a contractor, the third party may be considered a functional public authority and have obligations under the Charter if they are contracted to perform functions of a public nature.

Freedom
Justice
Freedom
+ Respect
Freedom
+ Dignity



Milestone 13

Review grants and funding policies

Why?

Many local governments provide recurrent or one-off grants to community or non-profit organisations to run projects or deliver services. Human rights can provide a framework for considering who your local government funds or prioritises for funding, as well as for taking into account special needs or vulnerability of some groups.

How?

The principles of PANEL – Participation, Accountability, Non-discrimination, Empowerment and Linkages – may prove useful in ensuring funding policies comply with human rights standards, and that funds get to more disadvantaged and vulnerable groups in the community such as older people, people with disabilities, Aboriginal people, and migrants and refugees.

Inform grant or funding recipients of their obligations. All recipients should be aware that:

- As a public authority your local government has human rights obligations under the Charter.
- As a funded body, the recipient of funds or grants may also be a public authority and have obligations under the Charter if they perform functions of a public nature.

The requirement that funded bodies comply with human rights standards must be made clear in all funding agreements.



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