PURPOSE/OBJECTIVES

The aim of this Policy is to confirm Council’s commitment to considering and respecting human rights when making decisions that impact people and the community, while at the same time ensuring compatibility and compliance with the Charter of Human Rights and Responsibilities Act 2006. We must ensure all Council employees, contractors, volunteers and Councillors are aware of the Council’s commitment to each person receiving equality of treatment and the opportunity to progress to their full potential.

Note1: The term “employee/s” for the purpose of this policy will include unpaid staff such as volunteers, together with community representatives involved in Council advisory committees, steering committees, working groups, etc, whether in a voluntary or remunerated capacity.

Note2: A copy of the Charter of Human Rights and Responsibilities for Local Government can be found in TRIM file IN117/6052.

SCOPE

This policy applies to all Mansfield Shire Council employees, Councillors, volunteers and contractors.

DEFINITIONS

VEOHRC
Victorian Equal Opportunity and Human Rights Commission
Discrimination
To treat someone unfairly on the basis of one or more of the following grounds:
- Gender (male/female)
- Age
- Race (includes colour, nationality, descent, ethnicity, ethno-religious background)
- Religious belief/activity
- Impairment or disability (includes past, current and future disability such as physical, neurological, psychiatric, intellectual disability and the presence in the body of disease causing organisms)
- Marital status
- Family responsibilities - parental or carer status (includes step-parent, adoptive parent, foster parent, guardian)
- Pregnancy or potential pregnancy
- Breastfeeding
- Physical features (a person’s height, weight, size or other bodily characteristics)
- Political belief/activity
- Industrial activity
- Sexual orientation and/or lawful sexual activity (gay, lesbian, bi-sexual trans and intersexual or heterosexual persons)
- Expunged homosexual conviction
- Personal association with someone who is identified by reference to any of the above attributes
- Employment activity
- Irrelevant criminal conviction

Harassment
Harassment is any unwelcome, uninvited practice or behaviour that can reasonably make a person feel offended, humiliated, intimidated or uncomfortable. A situation is deemed to constitute harassment on the basis of:
- the nature of the behaviour or conduct
- the behaviour being unwelcome and unsolicited
- the response to the behaviour, that is, if the ‘recipient’ was offended, humiliated or intimidated by the behaviour in question and that it was reasonable to feel that way.

Sexual Harassment
A person sexually harasses another person if he or she:
- Makes an unwelcome sexual advance, or unwelcome request for sexual favours, or
- Engages in any other unwelcome conduct of a sexual nature in relation to the other person – in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.
Sexual harassment under that Act defines ‘conduct’ of a sexual nature to include:
• Subjecting a person to any act of physical intimacy,
• Making any remark or statement with sexual connotations to a person or about a person in his/her presence whether orally or written,
• Making any gesture, action or comment of a sexual nature in a person’s presence.

Sexual harassment can be physical, verbal or visual and may include statements or transmissions by phone, fax, video conference, internet and e-mail.

**Workplace Bullying**

Workplace bullying is repeated, unreasonable behaviour directed to an employee, or group of employees that creates a risk to health and safety.

*Unreasonable behaviour* means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the other person.

*Behaviour* includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining, punishing or threatening.

*Risk to health and safety* includes risk to the mental or physical health of the employee. Because bullying at work is an occupational health and safety hazard, intent is not relevant to the definition.

A broad range of behaviours can be bullying, and this behaviour can be direct or indirect.

Examples of direct forms of bullying include:
• verbal abuse
• putting someone down
• spreading rumours or innuendo about someone
• interfering with someone’s personal property or work equipment.

Examples of indirect bullying include:
• unjustified criticism or complaints
• deliberately excluding someone from workplace activities
• deliberately denying access to information or other resources
• withholding information that is vital for effective work performance
• setting tasks that are unreasonably above or below an employee’s ability
• deliberately changing work arrangements, such as rosters and leave to inconvenience a particular employee or employees
• setting timelines that are very difficult to achieve
• excessive scrutiny at work.
Victimisation
Victimisation occurs if someone is treated badly or suffers a disadvantage, because they have (or propose, intend or are believed to have):

- made a complaint,
- appeared as a witness,
- raised a concern or issue,
- asserted their rights, or
- helped someone else to raise a concern, complaint or assert their rights, under this Policy, equal opportunity legislation or occupational health and safety legislation.

POLICY STATEMENT

Council always act in a manner that is compatible with human rights and equal opportunity principles and objectives. We will also consider human rights and equal employment issues when developing and implementing local laws, policies, procedures, making decisions and delivering services.

Discrimination, harassment and bullying is unacceptable and unlawful in accordance with state and federal legislation and various Occupational Health & Safety and Human Rights legislation. Council’s approach to human rights and equal opportunity is to encourage participation, access, development and opportunity for the community and for the organisation.

This Policy has been developed to ensure all parties have a clear understanding of Council’s culture and standards in dealing with others in an equal, open and transparent manner, with freedom from discrimination, harassment and bullying. It also provides direction on the appropriate processes that are to be followed when an issue arises so that it can be handled sensitively and managed in the best possible manner.

Equal Opportunity (EO)
As an Equal Opportunity employer the Council is committed to providing a work environment free of discrimination for all Council representatives including Councillors, employees, volunteers, contract workers, visitors and members of the public.

In all policies and practices of the Council there shall be no discrimination relating to sex, gender identity, age, marital status, parental status, carer status or family responsibilities, lawful sexual activity or orientation, race, irrelevant criminal conviction, disability, religious or political belief or activity, employment activity, physical features, industrial activity, pregnancy, breastfeeding and personal association.

In addition the Council will take into account all circumstances and give serious consideration to accommodating requests for flexible working arrangements from employees with family responsibilities and make reasonable adjustments for an employee with a disability or impairment.
**Discrimination, Harassment and Bullying**
Everyone has the right to work in an environment free from harassment, bullying and discrimination and, in turn, has a responsibility not to discriminate, harass or bully another in the workplace or while representing the Council (this may include functions, conferences, social gatherings and other workplace related activities). Furthermore, anyone representing Council is required to provide services in a non-discriminatory manner.

Discrimination, harassment or bullying in the workplace will not be tolerated and Council will provide a confidential process for anyone to be heard who feels they have been discriminated against, harassed or bullied. This does not remove the right of any individual to consult or complain to the VHREOC, or other appropriate external body.

**Human Rights**
The Council is required to act in a way that is compatible with the *Victorian Charter of Human Rights and Responsibilities Act 2006* and to give consideration to the charter when formulating a local law or policy, or in planning service delivery. The Charter sets out 20 basic human rights that are protected under the Act which relate to Freedom, Respect, Equality and Dignity:

1. Right to recognition and equality before the law
2. Right to life
3. Right to protection from torture and cruel, inhuman or degrading treatment
4. Right to freedom from forced work
5. Right to freedom of movement
6. Right to privacy and reputation
7. Right to freedom of thought, conscience, religion and belief
8. Right to freedom of expression
9. Right to peaceful assembly and freedom of association
10. Right to protection of families and children
11. Right to take part in public life
12. Cultural rights: including recognition that human rights have a special importance for Aboriginal people in Victoria
13. Property rights
14. Right to liberty and security of person
15. Right to humane treatment when deprived of liberty
16. Rights of children in the criminal process
17. Right to a fair hearing
18. Rights of persons charged with a criminal offence
19. Right not to be tried or punished more than once
20. Protection from retrospective criminal laws and criminal penalties

The Charter requires Council to ensure that all local laws and Council Policies protect the political, civil and cultural rights of people in Victoria. The Charter does not over-ride existing Local Laws or Policies, however Council and all Council employees must still make decisions and undertake actions in compliance with the Charter.
RESPONSIBILITIES

It is the responsibility of management to provide a working environment free from discrimination, harassment and bullying and exhibit a positive duty by taking reasonable and proportionate measures to eliminate discrimination, sexual harassment or victimisation. All complaints are to be treated confidentially, seriously and sympathetically.

All employees of Council, together with Council contractors, volunteers and Councillors, have a legal and moral responsibility to treat each other and members of the public fairly, and are expected to fulfill these responsibilities as a condition of employment.

Relevant disciplinary action will be taken against anyone found to have breached this policy. No employee will be penalised or disadvantaged as a result of raising concerns or complaints relating to discrimination, harassment or bullying.

Should an employee, Council contractor or volunteer feel they are being bullied, harassed, victimised or discriminated against, they should refer to Council’s Bullying and Harassment Policy for details on the procedures for lodging a complaint. Councillors should refer to the Mansfield Shire Council Councillor Code of Conduct and Councillor Charter 2017 for the appropriate procedures.

Should a member of the public feel their human rights have been breached by a public authority, their concerns can be raised with the Victorian Ombudsman, the Health Services Commissioner, or the Disability Services Commissioner.

All Mansfield Shire Council employees, Councillors, volunteers and Council contractors are responsible for adhering to and implementing this policy.

Adherence to the Equal Opportunity and Human Rights Policy will be overseen by Executive Services Department, with any associated procedures implemented by the Governance Unit in consultation with the Human Resources Department.

Management and employees are to be familiar with, and competent in the application of this Policy, and are accountable for the delivery of this policy.

The Executive Services Department is the owner of this policy. Any reviews of this Policy must be made in consultation with the Chief Executive Officer and Governance Unit staff.

REFERENCES

- Victorian Charter of Human Rights and Responsibilities 2006
- Local Government Act 1989
- Equal Opportunity Act 2010
- Racial and Religious Tolerance Act 2001
- Sex Discrimination Act 1984
- Racial Discrimination Act 1975
- Disability Discrimination Act 1992
- Age Discrimination Act 2004
- Fair Work Act 2009
- Mansfield Shire Council Bullying and Harassment Policy
- Mansfield Shire Council Disciplinary Policy
- Mansfield Shire Recruitment and Selection Policy

IMPLEMENTATION

This policy is effective immediately.

REVIEW DATE

This Policy is to be reviewed by 31 March 2019.

Council reserves the right to review, vary or revoke this Policy at any time.

AUTHORISATION TO IMPLEMENT POLICY

Signed: _____  _____  Witnessed:  
Councillor  
Chief Executive Officer

Approval dated: 21 March 2017
The Charter of Human Rights and Responsibilities

> Local government and the operation of the Charter in 2013 and 2014
Published by the Victorian Equal Opportunity and Human Rights Commission,
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The Charter of Human Rights and Responsibilities:
Local government and the operation of the Charter in 2013 and 2014

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Introduction

All people in Victoria are protected by the basic rights and freedoms contained in the Charter of Human Rights and Responsibilities Act 2006 (the Charter). Under the Charter, Victorian public authorities are required to properly consider relevant human rights when making decisions, and must not act incompatibly with human rights, for example in the provision of services or the development and implementation of policies.

Councils, within the meaning of the Local Government Act 1989, Councillors and members of Council staff are specifically included in the definition of ‘public authority’ in the Charter. This means the Charter applies to the acts and decisions of people working in local government, and local councils have an obligation to ensure:

- all council decisions give proper consideration to human rights
- all actions, policies and services are compatible with human rights
- local laws are interpreted and applied consistently with human rights
- people working on behalf of council do so in a way which complies with human rights.

The community strongly benefits from local government compliance with the Charter. Local government is the tier of government most closely connected to the community, interacting with community members far more commonly than other levels of government. This report showcases best practice examples demonstrating how councils can make the obligation of upholding human rights real for communities.

There are 79 municipalities in Victoria, comprising 31 metropolitan councils (including 10 interface councils in outer metropolitan areas) and 48 rural and regional councils (including 10 regional city councils) with varying sizes and budgets. For example, the Municipal Association of Victoria (MAV) reports:

- populations of councils range from 3000 to more than 283,000
- land areas vary from 10.8 sq km to 22,000 sq km
- rural council budgets average $55 million, with the smallest being approximately $11.6 million
- metropolitan council budgets average $170 million, with the largest being approximately $383 million.

This makes local government an important area of focus for the Commission to understand how human rights are implemented by public authorities, and an area to focus our attentions on determining how best to bring human rights to life for our Victorian community. As the MAV noted in its submission to the Eight-Year Review of the Charter:

As the level of government closest to the people, councils have a significant role in developing resilient communities that respect human rights. The Charter is a catalyst to ensure that human rights are better protected, better understood and, importantly, better reflected in government operations and decisions. Victorian councils have been enhanced by the Charter, and accept their responsibility to lead by example.

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Rights protected by the Charter

There are 20 fundamental human rights given legal protection in the Charter. In certain circumstances, those rights can be limited. However, any limitation must be necessary and reasonable and there must be clear reasons for the decision. The rights protected by the Charter are:

• recognition and equality before the law (section 8)
• right to life (section 9)
• protection from torture and cruel, inhuman or degrading treatment (section 10)
• freedom from forced work (section 11)
• freedom of movement (section 12)
• privacy and reputation (section 13)
• freedom of thought, conscience, religion and belief (section 14)
• freedom of expression (section 15)
• peaceful assembly and freedom of association (section 16)
• protection of families and children (section 17)
• taking part in public life (section 18)
• cultural rights (including recognition that human rights have special importance for the Aboriginal people of Victoria) (section 19)
• property rights (section 20)
• right to liberty and security of person (section 21)
• humane treatment when deprived of liberty (section 22)
• rights of children in the criminal process (section 23)
• right to a fair hearing (section 24)
• rights in criminal proceedings (section 25)
• the right not to be tried or punished more than once (section 26)
• retrospective criminal laws (section 27).

More information about the Charter is available on the Commission’s website humanrightscommission.vic.gov.au.

Survey methodology

As part of its annual reporting on the operation of the Charter, the Commission undertakes a survey with the cooperation of local government. The results from the most recent survey, dealing with the period 2013/14, are analysed in this report. This is the third standalone report prepared on local government and the Charter. Local government is under no legal obligation to report on their compliance with the Charter and councils undertake our survey voluntarily. For 2013/14, the Commission received 77 survey responses out of 79 councils, which represents 97 per cent of local government in Victoria.

The Commission’s local government survey is structured to deal with local government’s key areas of operation. It considers the activities of the elected council, the administrative arm of council, engagement with the community, and engagement with third parties contracted by the council. The survey was designed in this way to reflect the format of the Victorian Local Governance Association’s human rights toolkit, From Compliance to Culture (C2C Toolkit), and reduce the reporting burden on councils.

The C2C Toolkit consists of three manuals, comprising step-by-step guidelines to fully implement the Charter and build a human rights culture. The toolkit identifies a number of compliance and culture milestones for each area of council:

Elected Council

1. Review strategic planning documents such as policies, plans and procedures, for Charter compliance.
2. Review local laws for Charter compliance.
3. Provide training and education for elected councillors.
4. Demonstrate human rights leadership.

4 Charter of Human Rights and Responsibilities Act 2006 (Vic), s 41(a).
5 The Commission produced standalone reports dealing with results from surveys for the years 2011 and 2012. In 2009 and 2010, the Commission incorporated the survey data from local government in its annual Charter report.
Administrative Arm

5. Review policies and procedures for Charter compliance.

6. Review staff Code of Conduct for Charter compliance and ensure that staff Code of Conduct and position descriptions contain references to an employee’s obligations under the Charter.

7. Provide training and education for council staff.

Community engagement


9. Review community engagement practices and use a human rights-based approach to engage the community with council decision-making.

10. Review complaints mechanisms.

11. Provide information and facilitate human rights education for the community.

Third Parties

12. Ensure contracts and procurements are consistent with the Charter.

13. Review grants and funding policies for Charter compliance.

For each of these milestones, manual three of the C2C Toolkit identifies actions which can be taken which simply meet basic compliance criteria through acknowledging human rights, as well as actions or ideas for taking the next step to building a human rights culture. We have incorporated suggestions from the C2C Toolkit for building a human rights culture into this report, as examples of what might comprise ‘best practice’ for a council.

In addition, the Commission asked councils in the survey about four further milestones it considers relevant for best practice compliance and building human rights culture:

1. introduce procedures or guidelines to ensure that new policies are Charter compliant
2. introduce a specific human rights policy
3. once complaints mechanisms have been reviewed, develop a policy or procedure for responding to human rights complaints or issues
4. provide assistance to contracted or funded agencies to assist them to comply with their Charter obligations.

By reviewing these areas, we can understand how the Charter is being used, understood and applied in each area of local government. The Commission can track the path of the Charter’s integration into the work of local government. This is a useful exercise for three reasons. First, it provides a benchmark for councils in relation to human rights compliance and gives them the ability to compare their progress against other councils. Second, it highlights and showcases good implementation stories, which helps councils learn from each other. Third, it creates a central resource for information about human rights and local government which can be used as an advocacy and learning tool by both local government but also the broader community.

The Commission also has a dedicated local government section of our website, where we address obligations according to the different parts of local government as outlined in this report. We have compiled examples of documents provided to us in previous years, such as local governments’ human rights policies or key strategic documents which incorporate human rights issues. By following each of the links to the elected council, administration, community engagement, and third parties, you can access detailed information about Charter obligations and how to implement these in local government: humanrightscommission.vic.gov.au/index.php/the-charter-and-local-government/charter-obligations.

This report includes a number of examples taken from the survey responses. We have not attempted to incorporate every example provided, but instead seek to highlight good examples of where the council has utilised or incorporated the Charter into their business in a tangible way.

Where an example appears to the Commission to go beyond simple acknowledgement of Charter rights and obligations – and moving towards embedding human rights into the business of the council and creating a human rights culture – we have highlighted this example by placing it in a coloured box.
Milestone scorecard

77 out of 79 councils responded to the survey, although not all councils responded to every question. This scorecard records the number of councils who reported meeting each milestone in the relevant reporting period. Note that in some instances, councils may have completed the milestone in a previous year.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Number of councils</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Elected Council</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Completed comprehensive review of key strategic planning documents such as policies, plans and procedures, for Charter compliance</td>
<td>24/76</td>
<td>32%</td>
</tr>
<tr>
<td>Completed a review of local laws for Charter compliance</td>
<td>38/77</td>
<td>49%</td>
</tr>
<tr>
<td>Provided training and information for elected councillors in 2013/14</td>
<td>31/77</td>
<td>40%</td>
</tr>
<tr>
<td>Demonstrated human rights leadership through projects, initiatives or local government sector networks in 2013/14</td>
<td>50/75</td>
<td>67%</td>
</tr>
<tr>
<td><strong>Administrative Arm</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Completed a review of policies and procedures for Charter compliance</td>
<td>20/76</td>
<td>26%</td>
</tr>
<tr>
<td>Introduced procedures or guidelines to ensure that new policies are Charter compliant in 2014</td>
<td>18/74</td>
<td>24%</td>
</tr>
<tr>
<td>Introduced a specific human rights policy in 2013/14</td>
<td>11/74</td>
<td>15%</td>
</tr>
<tr>
<td>Code of Conduct and/or position descriptions include reference to Charter obligations</td>
<td>55/77</td>
<td>71%</td>
</tr>
<tr>
<td>Developed a policy or procedure for responding to human rights complaints or issues in 2013/14</td>
<td>12/76</td>
<td>16%</td>
</tr>
<tr>
<td>Provided training and education for council staff in 2013/14</td>
<td>56/76</td>
<td>74%</td>
</tr>
<tr>
<td><strong>Community engagement</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reviewed service delivery for Charter compliance in 2013/14</td>
<td>32/72</td>
<td>44%</td>
</tr>
<tr>
<td>Engaged the community in council decision-making in 2013/14</td>
<td>76/76</td>
<td>100%</td>
</tr>
<tr>
<td>Provided information about the Charter to the community in 2013/14</td>
<td>38/76</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Third Parties</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Changed procurements policy to be consistent with the Charter in 2013/14</td>
<td>18/77</td>
<td>23%</td>
</tr>
<tr>
<td>Changed grants and funding policies to refer to the Charter in 2013/14</td>
<td>14/76</td>
<td>18%</td>
</tr>
<tr>
<td>Provided assistance to contracted or funded agencies to assist them to comply with their Charter obligations in 2013/14</td>
<td>19/73</td>
<td>26%</td>
</tr>
</tbody>
</table>

Commission’s reflections on survey results

The Commission would like to thank local governments for participating in the survey, and congratulate them for the great effort which has clearly been put into understanding and embedding human rights into the culture of councils. The surveys have provided some excellent examples of how human rights can be taken into consideration in all aspects of local government, and some show that councils are working hard on complying with their obligations in the Charter.

Real efforts have been made to celebrate diversity within the community and promoting respect and equality for all people, including anti-racism measures, support for the lesbian, gay, bisexual, transgender and intersex (LGBTI) communities, and promotion of the cultural rights of Aboriginal and Torres Strait Islanders. Councils have also taken seriously the issue of family violence within their communities, taking steps to support both community members and staff who are experiencing family violence.

In addition, councils are promoting awareness of human rights within their organisations and the community through human rights Charters and embedding human rights in council policy, projects and key strategic documents. Finally, we are seeing that local governments are also taking a human rights approach to planning matters, particularly in relation to permit applications for places of religious
worship. These achievements are outlined in the section ‘The Charter’s positive impact’ beginning on page 10.

However, a key issue arising out of this report is that a number of councils lack resources and capability to ensure consistent training is given to councillors and staff to understand and comply with their Charter obligations, and give them skills to build a human rights culture in their day-to-day activities. This was reflected in both the survey statistics and in the written feedback given by local councils.

For example:
- 60 per cent of councils did not provide any human rights education or information to councillors in 2013/14 and relied upon previous induction training or prompts for councillors to consider human rights in council reports
- while the rate of training for staff in 2013/14 was reasonably high at 74 per cent, it was generally induction training, rather than ongoing professional development for staff on human rights
- 54 per cent of councils surveyed further reported that overall, less than three quarters of their staff have received human rights training
- a handful of councils acknowledged that their staff had never received Charter training, or only receive it on a very ad-hoc basis.

In 2012, councils reported that a current challenge was to ‘graduate from responsive, ad hoc approaches and begin to integrate human rights concerns and practice in a more coordinated way across all aspects of council operations’. Targeted human rights education and training for staff and councillors is an important way that councils can meet this challenge.

When the Charter was first introduced, local government did not receive dedicated funding from the Victorian Government for Charter implementation, hampering initial preparation and Charter readiness. As a result, local government relied on the Commission and supporting bodies for assistance. In the following four years, resources continued to be limited, with funding for the Commission and other government-led human rights education being reduced. Local government is likely to have felt the effects of the reduction in external support.

The Commission recommended to the Eight-Year Review of the Charter in 2015 that there should be greater support for councils to continue to incorporate human rights into their service-delivery and organisational culture.

In many respects, councils have ‘led the way’ in embedding the Charter. This needs to continue to occur and with consistency across the sector.

We are pleased to note that, in this respect, the report From Commitment to Culture: The 2015 Review of the Charter of Human Rights and Responsibilities Act 2006 by Michael Brett Young has addressed Charter training for local government, and recommended that the Commission be given specific responsibility for training for both councillors and staff. Mr Brett Young also noted that the government will need to commit to support human rights education. This will have resourcing implications and as such, education and training initiatives should be targeted, and designed for maximum impact.

It is important to note that the size and resources of each council varies. This is a key factor in appreciating the extent that each council can apply its resources to implementing the Charter in its business. Survey responses indicated that smaller and regional councils are still experiencing difficulty in embedding basic Charter implementation such as training of councillors, whereas larger and metropolitan councils are showing a real depth of understanding about how the Charter interacts with council business and have embedded human rights culture into their daily work. The Commission acknowledges that more work can be done in helping those smaller councils with fewer resources.

On a more positive note, the Commission considers that the 2013/14 survey shows that many councils have started to embed human rights into their day-to-day business, and have a deeper understanding than before of how their work affects the human rights of their communities. This is shown by the incorporation of human rights principles and issues into key strategic documents, policies, and projects. These are discussed in more detail in the section ‘The Charter’s positive impact’ below.

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11 Ibid, 10.
Councillors’ reflections on challenges and strategies

Councillors identified a number of challenges hampering promotion of the Charter in local government, with councils making the following comments in their survey results:

• The most significant gap is the lack of resources available to actively implement, oversee and monitor the Charter’s integration and impact on the many services and activities local government undertakes.

• Despite efforts to assist them, staff members continue to find it difficult to make a connection between their work and the Charter. It is a challenge to weave the Charter into day-to-day operations of councils so it becomes second nature to organisations.

• The policies of some rural or regional councils are in urgent need of a review for Charter compliance. The limited financial and human resources of some councils have precluded such reviews.

• Activities and initiatives supporting human rights across Council are not necessarily explicitly tagged as Charter based. A challenge is ensuring a clear line of sight between the Charter and the work being done by Council.

• There is a gap in staff awareness of Charter responsibilities. Managers and staff are cognisant in a general sense of a responsibility to ensure that human rights are not breached when people access or encounter council services and facilities. More needs to be done to increase staff members’ knowledge of their legal responsibilities under the Charter.

• One council noted there was a perception that applying the Charter appears to require a high level of expertise, resulting in work being outsourced to specialists. The need for greater in-house expertise should be recognised and supported.

• Consideration of Charter rights relies on the commitment and knowledge of officers involved.

Potential strategies

Councillors also made the following suggestions as strategies to address these challenges:

• A number of strategies could enhance human rights, for example, making capital works integrate human rights into decision making, providing flexible customer service complaint handling rather than requiring complaints to be in writing and capacity building for staff completing human rights compatibility assessments when writing Council policy. There is a need for champions in service areas and further training at management level.

• Councils should prioritise completion of reviews of strategic documents, internal policies and procedures, contracts and grants policies. Training of staff is critical to promote awareness of Charter obligations. Training the elected council responsible for governance and planning can also equip the elected council to guide all areas of council to incorporate Charter principles into their work.

Recommendations

The Commission acknowledges the challenges and strategies raised by councils, and makes the following recommendations for consideration by both local and state government:

1. Councils that have not yet completed reviews of key strategic documents, policies and procedures and service delivery protocols should do so within the next 12 months in order to embed their legal Charter obligations into guiding and administrative documents.

2. Regular periodic reviews of key strategic documents, policies and procedures should be scheduled to ensure that these documents remain up to date, reflecting current human rights issues affecting the community.

3. Elected councillors have a critical role in driving the decision-making and actions of local government. In order to fulfil this role in light of their obligations under the Charter, they require a comprehensive understanding of the Charter and a clear vision for its application in the day-to-day operations of council. Therefore:

   a. Councils that have not already provided training to existing councillors should prioritise training of councillors.

   b. Councils should provide comprehensive human rights training to new councillors after the October 2016 local government elections.
4. Councils that have not provided training to their staff within the past two years should do so within the next 12 months, in order to enable them to meet their Charter obligations and equip them to identify how human rights apply to their work. Priority should be given to staff with leadership and supervisory roles in order to equip them to influence and shape Charter compliance within the organisation’s operations, and their teams.

5. Councils should review and enhance their ongoing professional development and training strategies to incorporate ongoing Charter education and training, in order to continue to build the compliance capacity of staff. Councils should aim to provide staff with regular access (every two to three years) to a range of education and training modalities with priority given to on-site, face-to-face delivery of training, tailored to meet local council needs.

6. Councils should provide information to the community on human rights. At the very least, this should include a dedicated page on their council website that refers to the Charter, how human rights are incorporated into council work, and how a complaint about human rights matters can be raised with council. Additional steps for best practice would include utilising community ambassadors and community education, or other targeted strategies to enhance community understanding of the Charter in council operations.

7. The Victorian Government should provide investment and support for councils to continue to incorporate human rights into their service-delivery and organisational culture.

8. The Victorian Government should provide investment and support for the Commission to extend its education and training initiatives for local government.

The Commission looks forward to working with local and state government and its supporting organisations to consider these strategies and recommendations.
The Charter in action

The Charter’s positive impact
There were many good news stories for local government in the period 2013/14. Many councils have embraced the Charter and integrated it in their daily work and this section of the report showcases some of the great examples that councils told us about in their survey responses. There were several themes that arose out of these stories:

1. Celebrating diversity and promoting respect
2. Human rights awareness-raising
3. Taking a human rights approach to planning matters
4. Embedding human rights in council policy, projects and key strategic documents.

1. Celebrating diversity & promoting respect
Victoria’s 79 councils are home to community members from diverse cultural, linguistic and social backgrounds. Councils must give consideration to human rights issues affecting a wide range of people in the community. More than two-thirds of councils reported initiatives demonstrating human rights ‘leadership’ in the 2013/14 reporting period.

The work undertaken by councils reflects an awareness of the importance of the right to recognition and equality before the law, and protection against discrimination contained in section 8 of the Charter. Councils have undertaken a range of activities in 2013/14 to promote equality and tackle discrimination. Strategies have addressed gender inequality and family violence, racism, Aboriginal cultural rights, and supported people in the lesbian, gay, bisexual, transgender, intersex (LGBTI) community.

Strategies addressing gender inequality and family violence
Councils have a duty to promote and protect the human rights of the broader community and can also address human rights issues affecting their own workforce. Family violence is a human rights issue, affecting a significant proportion of the community and predominantly affecting women. One in six Australian women over the age of 15 has experienced physical or sexual violence from a current or former partner, while one in four has experienced emotional abuse by a current partner.12 Family violence is a leading contributor to death, disability and illness in Victorian women aged 15 to 44 years, substantially impacting a person’s ability to maintain their employment and a stable family environment.13

Councillors are aware that women predominantly experience family violence.14 A significant number of councils have engaged in strategies to address gender inequality and family violence within the community and undertaken measures to support internal staff. Supportive measures can protect the right of women to equal and effective protection against discrimination and the right of children to protection of their best interests. This shows how consideration of human rights can be built into everyday council business.

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12 Our Watch - End Violence Against Women and Children “Key terms, definitions and statistics” Policy Brief 1, September 2014.
Initiatives to support community members experiencing family violence

Developing family violence strategies

Moreland City Council’s Family Violence Prevention Strategy 2011-2015 observes that family violence is a human rights issue and that violence against women is a manifestation of historic gender inequality. The strategy takes note of people with a number of characteristics that may present as barriers to escaping family violence or accessing support services, for example, women with disabilities, pregnant women, Aboriginal women, or women from other culturally and linguistically diverse communities. The strategy was developed in consultation with the community and key stakeholders, and outlines Council’s policy position on family violence, guiding principles and priority settings for action including the workplace, sports clubs, community services, media/the arts, and education/young people. The strategy will be implemented through annual action plans. The strategy also contains a comprehensive explanation of the legal and policy framework in which family violence occurs.

The City of Whittlesea developed the Safe in Our Homes, Safe in Our Communities Family Violence Strategy 2014–2018 and a Gender Equity Strategy, in order to formalise its efforts to improve gender equity and end family violence across its services, programs and policies. The Safe in Our Homes strategy was developed in consultation with the community and stakeholders, and council sees a strong role for itself in advocating, facilitating and providing services that support gender equality. The Mayor’s message emphasised the human rights approach to be taken by council in implementing this strategy:

Cultural change is required in gender roles and relationships and in attitudes to violence. By role-modelling gender respect and equity, supportive work environments and a zero tolerance approach to violence against women, Council can take a lead role and send a strong message to community partners. In addition, Council provides a range of community services, safe public spaces and community facilities which can be used as platforms to influence change.

In launching these documents, the council noted that the City of Whittlesea has one of the highest rates of family violence in the Northern Metropolitan Region of Victoria.

Whitehorse City Council conducted a Stop Working in Silence Forum in 2014, seeking to raise awareness of the impacts of violence against women with a disability, women from diverse communities and older women. This forum was attended by 36 people representing 22 community service organisations. Presentations at this forum highlighted current research and policy as well as providing an opportunity for local family violence services to present on services and programs.

Kingston City Council has developed a Preventing Violence Against Women Working Group, which aims to eliminate violence against women by facilitating cultural change within the organisation and municipality. It invites men and women to plan strategies aiming to prevent violence against women and to share ideas about awareness raising within the community. Council also developed three videos in 2014 to address issues of family violence in the community.

Ararat Rural City Council became an Act@Work program member, implementing a program to raise staff awareness of violence against women and provide strategies for bystander intervention. Community services staff at Murrindindi Shire Council have also undertaken family violence Bystander training.

Some councils have entered into partnerships aimed at addressing gender-based violence:

- The Great South Coast Strategy to Prevent Violence against Women and Children 2013–2017 has been pursued by a range of organisations and councils including Gienelg, Corangamite, Moyne, Southern Grampians and Warrnambool Shire Councils. The strategy aims to prevent violence against women and children and promote peaceful, equitable and inclusive communities, organisations and relationships. It will tailor measures to maximise its effectiveness in reaching a range of groups including women with disabilities or culturally and linguistically diverse people. The strategy seeks to promote human rights by capacity building and ensuring representation of target groups on steering committees, planning forums and in leadership roles.

16 City of Whittlesea, Council takes the lead on family violence.
City of Monash: Generating Equality and Respect Program

In 2014, the City of Monash launched the Generating Equality and Respect Program, a three-year program in partnership with VicHealth and MonashLink Community Health Service. The program aims to build gender equitable communities and organisations and promote equal and respectful relationships between women and men. The program also aims to prevent violence against women before it occurs by addressing gender inequality and adherence to rigid gender roles. The program educates that violence against women extends beyond physical and sexual violence to social, emotional and economic abuse. The City of Monash recognises that the program can support a number of human rights, for example:

- the right to equality
- protection from cruel, inhuman or degrading treatment
- freedom of movement
- freedom of thought, conscience, religion and belief
- freedom of expression
- protection of families and children
- the right to take part in public life.

The program aims to achieve breadth (primary prevention activities and programs) and depth (sustaining activities to become ‘part of the way things are done’) continuing after the period of funding creating them. The program is implementing a number of strategies to achieve this:

- Building understanding of gender equality and respectful relationships. Training, awareness raising activities, social marketing and social media will support staff mainstreaming and integrating these ideas into the work they do: policy, planning and service delivery.

- A three-week ‘Baby Makes 3’ group program, (originally run in the City of Whitehorse) is also being delivered by Clayton’s Maternal and Child Health Service. This works with first-time parents to assist them to promote equitable relationships, negotiate parenting roles and challenge traditional attitudes during the transition to parenthood. Baby Makes 3 has been adopted or adapted in other councils including Warrnambool, Knox, Manningham, Maroondah Boroondara, Whitehorse, Yarra Ranges Shire, Corangamite Shire, Glenelg Shire, Southern Grampians Shire and Moyne Shire Councils.

- Partners in prevention is collaborating with youth-focused practitioners, teachers, mental health practitioners, multicultural workers, police officers and lawyers) to promote equal and respectful relationships and gender equality with young people.

- The Preventing Violence Against Women in Our Community (PVAWC) partnership between Yarra Ranges Shire, Maroondah City, and Knox City Councils involved activism raising public awareness that family violence is unacceptable and publications on council websites, Facebook and Twitter. Videos were created to challenge discriminatory attitudes towards women that contribute to a culture excusing and perpetuating violence against women. Yarra Ranges Shire Council also set up a gender equity working group as an initiative of the project.

- Baw Baw Shire and Wellington Shire Council have introduced Paving the Way, a project focusing on increasing organisational capacity and community awareness around the prevention of men’s violence against women. The Councils are working in partnership with the Gippsland Women’s Health Service in this initiative. Baw Baw Shire Council is using the project to respond to and support employees experiencing family violence and create a workplace environment that does not tolerate attitudescondoning men’s violence against women.

- Wellington Shire Council is also one of 60 local government agencies that have adopted the Victorian Local Government Women’s Charter, promoting women’s equal rights and opportunities as fundamental to good governance. This charter espouses the need for increased women’s active citizenship, participation in the key decision making forums and in democratic governance. Women must enjoy an equal right to be representatives in local governments, committees and decision-making positions.
Initiatives to support council employees experiencing family violence

Some councils have also embraced measures to support employees experiencing family violence. Councils have negotiated clauses within their enterprise agreements to support staff members experiencing family violence. As of September 2014, 60 of Victoria’s 79 Councils had implemented family violence clauses in enterprise agreements. In 2010, Surf Coast Shire Council was the first Australian organisation to have introduced such a clause.\(^2\) A number of Councils have reported that they have also followed suit, for example, Mitchell Shire, Maroondah City, Moine Shire and Yarrambiack Shire Council. Clauses provide paid leave for staff experiencing family violence and indicate that no adverse action will be taken against an employee if their attendance or performance at work suffers as a result of experiencing family violence.

Many councils have also introduced family violence policies. Dandenong City Council and Knox City Council have introduced family violence policies, Yarrambiak Shire Council has introduced a family violence policy to support its family violence leave enterprise agreement clause.

Wellington Shire Council has a family violence leave policy whereby council will approve all reasonable requests from employees experiencing family violence to ensure their ongoing safety in the workplace. Measures could include making changes to hours or patterns of work, job redesign, temporary relocation to other suitable employment within Council (where possible), or changes to work contact number or email address. The Family Violence Leave provisions available to affected employees include up to 20 days per year of paid leave to attend medical appointments, legal proceedings, moving into alternative accommodation and other activities related to maintaining personal safety.

Maroondah City Council’s Personal Emergency Assistance Policy (2014) commits Council to providing a supportive workplace in which employees can gain support and assistance when experiencing family violence. The policy outlines processes and assistance available to support employees suffering from family violence and emphasises that employees experiencing family violence will not be subjected to discrimination in employment.

Another example of anti-violence against women strategies in the workplace is participation in the White Ribbon Day and related campaigns:

- **Wellington Shire Council** is committed to primary prevention initiatives through participation in White Ribbon Day. Council provides an informative session with a guest speaker with expertise in the area of men’s violence against women across all work locations, involving all employees. Council seeks to provide an environment whereby they can change attitudes that lead to and perpetuate men’s violence against women. They do this by engaging males in the workplace to be leaders of social change through taking the White Ribbon Oath. Led by the mayor and councillors, the male workforce is encouraged to agree never to commit, excuse or remain silent about violence against women. Council acknowledges that the impact of family violence is widespread and enduring, generating overwhelming social, economic and emotional costs for individuals and their communities.

- **Councillors and officers at Mount Alexander Shire Council, City of Port Phillip, Surf Coast Shire and Golden Plains Shire Council** have also acted as White Ribbon Day ambassadors.

Mount Alexander Shire Council also adopted a Gender Equity Statement in March 2014, and hosted a gender equity forum with Sex Discrimination Commissioner Elizabeth Broderick.

The MAV continues its work with Victorian councils in the prevention of violence against women and promotion of gender equality. Through funding by the Department of Justice and Regulation 2014–16, the MAV prevention of violence against women initiative focuses on civic leadership of councils to access local communities and promote the role each of us can play in the prevention of violence against women. The MAV program convenes a statewide Gender Equity Leadership Group to support the principles that underpin the MAV Leadership Statement, as well as a preventing violence against women network. A regular e-news update is also circulated to a list of more than 500 subscribers, including representatives from all Victorian councils.

The MAV developed a submission to the Royal Commission into Family Violence on behalf of the Victorian local government sector, which canvassed a wide range of issues to highlight the role of councils in the primary prevention of violence against women, as well as a range of early intervention strategies and soft entry points to specialist response services. The MAV provided evidence at the Royal Commission, speaking about the important leadership role councils have in demonstrating their commitment to gender equality across policy and program areas.

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Anti-racism activities
Opposition to changes to section 18C of the Racial Discrimination Act

In 2014, the Federal Government proposed to make amendments to the Commonwealth Racial Discrimination Act 1975 (RDA). The amendments would have changed federal protections against racist speech and behaviour. Although this was an issue relating to federal law, it is also an issue for Victorians. Effective state and federal laws prohibiting racial vilification are essential to uphold the community's right to equal and effective protection against discrimination. The Commission was concerned that it would not provide the protections that the Australian community had a right to expect.

When the Freedom of Speech (Repeal of section 18C) Bill 2014 – Exposure Draft was released for consultation, councils acted together to promote respect for human rights. In a campaign entitled ‘Project 18C’, Australian local governments passed a motion calling for the Federal Attorney General George Brandis QC to drop the proposed changes to the RDA. Many Victorian councils participated, including City of Melbourne, Darebin City Council, Monash City Council, City of Greater Dandenong, Glen Eira City Council, Moreland City Council, City of Port Phillip, City of Yarra, City of Ballarat, Surf Coast Shire, City of Whittlesea, Frankston City Council, City of Hume, Knox City Council, Yarra Ranges Shire, Hobsons Bay City Council, Kingston City Council, Maroondah City Council, and Wyndham City Council.

Glen Eira City Council also produced a submission expressing opposition to the flagged changes to the RDA.

Darebin City Council advocates for universality of human rights

Darebin City Council made a submission to the Federal Attorney-General regarding the proposed amendments to the Commonwealth Racial Discrimination Act 1975 (RDA) during public consultation on the exposure draft Bill and specifically referenced freedom of speech as protected by the Charter.

Council expressed support for retention of existing sections of the RDA. It considered that the flagged changes would have constituted a backward step for Australia, risking damaging social cohesion and Australia’s international reputation as a successful multicultural country. Council noted that, while many laws restrict freedom of speech, such as laws applying to defamation, advertising and national security, section 18C fills an important gap in legal protections for those affected by racial hatred and vilification. Darebin City Council stated in its submission:

‘Council recognises the universality of human rights. Council affirms the inherent rights of all people to be treated with respect and dignity, and recognises their equal worth and value and their right to live free from discrimination.

The exposure draft [Bill] ignores [the fact] that while an individual’s freedom of speech is essential in a democratic society, it is never absolute but rather subject to a set of responsibilities.’

Racism. It Stops With Me campaign

‘Racism. It Stops with Me’ is a national campaign run by the Australian Human Rights Commission and supported by the Victorian Equal Opportunity and Human Rights Commission to raise awareness of strategies to combat racism. The campaign website states that it aims to:

- ensure more Australians recognise that racism is unacceptable in our community
- give more Australians the tools & resources to take practical action against racism
- empower individuals & organisations to prevent & respond effectively to racism.

In Hobsons Bay City Council, more than 100 council staff, managers, team leaders, directors and councillors attended a series of training workshops with the Commission supporting the ‘Racism. It Stops With Me’ campaign. Moonee Valley City Council launched its support for the campaign at a Human Rights Day event attended by more than 100 people, with a keynote speech from Race Discrimination Commissioner Dr Tim Soutphommasane.

Glen Eira, Moira Shire and Banyule City Council endorsed the campaign and have committed to undertake activities in support of it. Wyndham City Council has publicly supported the campaign in conjunction with the Werribee Tigers Football Club. Glen Eira has also promoted the Commission’s ‘Anti-Hate’ campaign, which aims to provide a way to report vilification and discrimination.

The MAV continued to support the campaign, and was instrumental in helping to develop the online resource for local government 'Building Social Cohesion in Our Communities'.

Aboriginal cultural rights

Linked to the need to combat racism in the community is the need to recognise Aboriginal cultural rights as per section 19 of the Charter. Aboriginal people hold distinct cultural rights and must not be denied the right with other members of their community to: enjoy their identity and culture, maintain and use their language, maintain their kinship ties and their distinctive spiritual, material and economic relationship with the land and waters with which they have a connection under traditional laws and customs.

Councils as public authorities have a duty to give proper consideration to Aboriginal cultural rights. This respects Aboriginal cultures and the importance of Aboriginal people’s historic and ongoing connection to their land. If awareness of cultural rights is built into decision-making by councils and education of the broader community, this may also counter racist attitudes held about Aboriginal people.

Mornington Peninsula Shire Council has performed a range of work to promote Aboriginal cultural rights and human rights in general:

- Council holds annual human rights orations aimed to raise community awareness of human rights issues within the local community. In 2014, Council convened a forum on International Human Rights Day in partnership with the Mornington Peninsula Human Rights Group on the importance of cultural rights in shaping identity and building resilience in Aboriginal youth. Andrew Jackomos, Commissioner for Aboriginal Children and Young People, delivered the oration.
- The Council’s Aboriginal Cultural Heritage Officer aims to support Aboriginal cultural rights. Council has developed policies, procedures and guidelines to protect sensitive Aboriginal cultural sites in partnership with traditional owners.
- In 2014, Council delivered an ‘Us Mob’ program in partnership with the Brotherhood of St Laurence. This sought to use culture as a protective factor in a preventative/early intervention space with young people to develop sustainable cultural ties in the community and cultural exchange between children from diverse backgrounds. 70 per cent of young participants came from an Aboriginal background and about 30 per cent from non-Aboriginal backgrounds at an Aboriginal Gathering Place. Feedback indicated that the program was universally beneficial. It was the first time some young people were able to make friends with other young people from diverse cultural backgrounds. The program recognises that Aboriginal people hold distinctive cultural rights to enjoy and celebrate their identities, culture, languages and kinship systems.

Darebin City Council undertook an inaugural Wurundjeri Week, promoting the right to equality and Aboriginal cultural rights. Community members heard from Elders of local Wurundjeri groups about their insights into the lasting legacy of the Batman Treaty. The treaty has local significance, signed near Merri Creek, bordering the municipality. The conversation focused on how the recognition of human rights of Aboriginal people will strengthen human rights recognition for the entire community.

In 2013, Mansfield Shire Council reviewed and approved its ‘Acknowledgement of Traditional Custodians of Land’ Policy. Council commenced flying the Aboriginal Flag on a permanent basis outside the municipal office as part of its commitment to recognising the contributions of indigenous Australians. Council officers participated in a number of in-house Aboriginal Cultural Competency Workshops with the aim of better understanding Aboriginal culture and heritage.

Baw Baw Shire Council has taken a number of steps to engage its Aboriginal and Torres Strait Islander communities:

- Aboriginal Cultural Awareness Training was held for staff in 2013/2014 to assist Kurnai Nations to build their capacity to provide the training in the future.
- Kurnai Nations Company were engaged to provide a needs analysis of the local Aboriginal Community in Baw Baw.
- Kurnai Nations Elders were encouraged and supported to establish a company and contract for Home and Community Care funds to research local needs and identify issues and make recommendations for improvement in the day-to-day experiences that challenge Aboriginal people locally.
- Kurnai Nations delivered Welcome to Country and Smoking Ceremonies at many local, high-profile events.
- Council hosted a ‘Six Generations Yarning Together’ forum for the Aboriginal and Torres Strait Islander community, which resulted in an action plan to begin to address key recommendations.
- Council also provided a sponsorship grant to a local childcare centre for Kurnai Nations Company to provide Aboriginal Cultural Awareness Raising education with staff, children and parents, and create resources that can be shared through early childhood networks.
In the reporting period, the MAV’s Aboriginal Project Adviser consulted with key Aboriginal community stakeholders, councils and the Victorian Government’s Aboriginal Broker network in the development of the Local Government Aboriginal Employment Framework. The advisory role has also been extended to the Department of Health and Human Services which has supported the funding and promotion of Aboriginal health trainee positions within local councils. Four positions have been created in councils working with mainstream services.

The MAV hosted an Aboriginal Employment workshop on 18 November 2014 for local government directors of human services and human resources which was addressed by a representative of the Commission. The local government magazine, CiVic features Aboriginal reconciliation. CiVic profiles engagement between local government and the Victorian Aboriginal community, promoting employment opportunities. It has received widespread recognition within the Aboriginal community, particularly in social media. This has been a great way to convey to both councils and the Aboriginal community the great work happening in local government and how reconciliation can lead to real employment opportunities.

Supporting the LGBTI community
Discrimination experienced by people in the LGBTI community is also a human rights issue, impacting the right to equal and effective protection against discrimination. Councils have engaged in a range of work to promote the rights of people in the LGBTI community.

Councils including Mornington Peninsula Shire Council, Maroondah City Council, Banyule City Council and Wyndham City Council have celebrated International Day against Homophobia and Transphobia (IDAHOT) Day by flying the rainbow flag on council flagpoles to raise awareness about the violence and discrimination experienced by LGBTI people. This recognises that, while many LGBTI people live healthy, connected and positive lives, the community is known to have significantly poorer health and wellbeing outcomes in comparison with people from the broader community.

Banyule City Council also has a Queer Sphere, a safe place for young people aged 14–25 to be themselves regardless of sexuality.

Maroondah City Council has signed the No to Homophobia campaign, and raised the rainbow flag. It intends to participate in the Victorian Pride March in 2016.

Hobsons Bay City Council is promoting itself as an LGBTI friendly community through its annual ‘GOWEST’ initiative, held as part of Midsumma Festival, Melbourne’s premier LGBTI arts and cultural festival. In the reporting period, Hobsons Bay conducted an LGBTI community forum in partnership with all western region councils ‘Out is In – Where to Next?’ and created Melbourne’s first rainbow street crossing. The crossing symbolised a metaphor for ‘crossing over’ to acceptance in the community. Council has resourced a dedicated LGBTI portfolio and a Local Government LGBTI Advisory Committee. Council initiated the LGBTI Western Region Councils’ Working Group to identify and address barriers across the seven western region municipalities (see page 29).

Mornington Peninsula Shire Council in partnership with Headspace has created ‘Peninsula Pride’, a Queer/Straight Alliance (QSA) community development project, promoting the right of LGBTI youth to equal and effective protection against discrimination. It runs a QSA drop-in space at Rosebud Youth Centre (YLounge) for the LGBTI community and their friends. This offers many social and educational opportunities.
2. Human rights awareness-raising
Councils have undertaken activities to raise community awareness about human rights.

The City of Kingston supports a local group made up of passionate volunteers, Kingston for Human Rights, to develop and host a forum about certain topics on the anniversary of the declaration of human rights. In 2013 there were speakers about bullying and 2014 focused on loneliness and isolation. Council supports this initiative through the provision of grants and officer support from the Community Engagement Team.

Darebin City Council organised a Community Kite Festival event, which included a sea of hands activity where people were invited to record their experience of advocating for their human rights on a corflute hand (“put up your hand to say enough is enough”). People were encouraged to read and connect with the stories recorded.

City of Greater Dandenong and City of Port Phillip reported that a number of rural, regional and urban councils have collaborated on a joint Asylum Seeker Refugee Statement. The statement reflects the commitment of councils to welcome refugees into the community, uphold their human rights, demonstrate compassion and enhance cultural and religious diversity in the community. The statement acknowledges partnerships and collaboration with community organisations and community service agencies in providing support services and direct assistance in the settlement of refugees and asylum seekers.

In 2013/14 the MAV continued to be funded by VicHealth to support the Localities Embracing and Accepting Diversity (LEAD) projects in the Cities of Whittlesea and Greater Shepparton, and ensured that other Victorian councils were engaged. LEAD was completed in March 2015, and achieved great recognition and a successful, community led, place-based project that aimed to reduce race-based discrimination.

In 2013/14 the MAV continued to support councils’ implementation of the Charter by sharing information developed by the Commission and advising staff where necessary. Some of this support is provided through regular e-news and at sessions on research, resource sharing and good practice. The MAV hosts these sessions every six weeks for council officers working with multicultural and diverse communities.

The MAV also supported councils’ participation in Cultural Diversity Week, Refugee Week and UN Human Rights Day (when some councils flew the UN flag at their town halls). The MAV continues to provide advice and support to councils through the Creating a more inclusive community for people with a disability strategic framework. The strategic framework articulates 12 clear ways councils can continually work across all areas of business to create a more inclusive community for people with a disability. Built on the work of councils, examples from the framework formed MAV’s submission to the Parliamentary Inquiry into Social Inclusion for Victorians with a Disability.

3. Taking a human rights approach to planning matters
In 2013/14, certain councils have contemplated planning applications for places of worship in circumstances where objections have been raised about the presence of a mosque in the local community. A number of human rights issues have arisen in the context of such applications, for instance:

- the ability to enjoy freedom of thought, conscience, religion and belief – section 14(1) (b) of the Charter: individuals and religious communities need space to participate in public worship
- equality rights – section 8 of the Charter: planning processes may breach equality rights if they discriminate based on the religious belief or activity of applicants, or take into account an irrelevant consideration due to the religious beliefs or practices of applicants
- peaceful assembly – section 16 of the Charter: appropriate provision for a meeting place for religious observances can support the right to peaceful assembly
- privacy – section 13 of the Charter: local community members in neighbouring residences have a right to protection from adverse impacts on their home life, which may include excessive traffic and noise
- the right to take part in public life – section 18 of the Charter: planning processes allowing submissions to be made about applications support the right to take part in public life, and
- cultural rights – section 19 of the Charter: a decision to refuse planning permission for a place of worship can result in denial of the right of people, in community with other persons of the same background, to enjoy their culture, to declare and practise their religion.

In 2013, Hume City Council granted an application for a planning permit to develop a place of assembly (a Shia mosque) adjacent to an existing church. This happened in the face of vocal opposition – more than 1000 objections were raised from the community through the planning process. Council’s report on its decision acknowledged its obligation under section 38 of the Charter as a public authority to consider the right of both individuals and the Islamic community...
to freedom of thought, conscience, religion and belief under section 14(1)(b). This report underpinned Council’s decision to grant a permit. Refusal to grant a permit based on a perception that a mosque would be intimidating would amount to an unreasonable limitation on the right. Council’s decision to grant the application was affirmed by VCAT, which considered that people have a reasonable expectation that they can practice their religion at a place of their choosing. At the time there were no Shi’ite mosques in the area and VCAT agreed there was a need for such a facility. VCAT noted that refusing the mosque permit would result in denying a religious group the opportunity to worship and practice their faith and VCAT should be ‘slow to adopt a construction which could have the effect of preventing the use of premises by persons who wish to practice their religion at the place where they wish to do so’.

The City of Greater Bendigo granted an application for a mosque in 2014. This was met with mixed community responses, including strong community opposition and the expression of discriminatory views via a social media campaign. Councillors were briefed by planning staff about the need to consider human rights when determining the application. This decision was appealed to the Victorian Civil and Administrative Tribunal in 2014. The council submitted that as a public authority, it must have regard to the right to freedom of religion. Refusing the permit on the basis of unsubstantiated social impacts would amount to an unreasonable limit on the right of individuals and the Muslim community to freedom of thought, religion and belief and cultural rights. VCAT affirmed the decision of Council, and an appeal to the Supreme Court in 2015 was also unsuccessful.

The City of Casey granted an application for a mosque to be built next to an existing church, after it received submissions from the community about the application. The Commission provided a submission to Council containing guidance regarding the sorts of human rights considerations raised by planning applications.

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26 Rutherford & Ors v Hume City Council [2014] VCAT 786 [83].
27 Rutherford & Ors v Hume City Council [2014] VCAT 786 [1], [83].
28 Rutherford & Ors v Hume City Council [2014] VCAT 786 [30]-[31], [89]-[90].
29 Hoskin v Greater Bendigo CC and Anor [2015] VCAT 1124.

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Online video tool – How council planning decisions can consider human rights

Councils often make decisions on planning applications and these can raise human rights issues. In 2014, City of Hume and the City of Greater Bendigo collaborated with the Commission to commence work on an online video tool that councils can draw on for ideas about how the Charter can assist with making decisions about planning applications. The Commission had been made aware of a need for a resource to assist councils with integrating human rights into their planning processes.

The video tool covers the following issues:

- how human rights are relevant to planning decisions
- what support council officers need to get it right
- how the Charter supports participation and consultation.
- An example of how the Charter was used to support a decision in a contentious planning application (the application to build a mosque in the City of Hume.)

4. Embedding the Charter into policy, strategy and projects

City of Greater Bendigo Human Rights Charter

City of Greater Bendigo launched a new Human Rights Charter in November 2014, which promotes diversity and social inclusion.32 It highlights four key principles of freedom, respect, equality and dignity, explains how human rights are relevant to the business of the Council, and outlines what the Council’s role is in promoting human rights, by focusing on the rights in the Charter which are applicable. For example, the Human Rights Charter states in relation to freedom that it will support these rights by:33

- being a welcoming city to all
- promoting free and open speech
- working towards a safer community
- promoting freedom in choice of religion and belief.

The City of Greater Bendigo Human Rights Charter acknowledges the duty of councils to comply with the human rights set out in the Victorian Charter. The document notes that these rights must be considered when Council is making decisions, creating laws, setting priorities and providing services at the earliest possible stage of any decision making process within Council. The document commits the City of Greater Bendigo to creating a human rights checklist for staff for reference when planning services and creating policy, developing clear human rights reporting requirements and criteria for council reports and promoting staff awareness and skills training in relation to human rights. The next step for the City of Greater Bendigo Council is to ensure Council policies comply with the Charter.


Housing was one area in 2013/2014 where councils have started incorporating human rights into their project and policy framework. For example:

- In 2013/14, Mornington Peninsula Shire Council introduced a project targeting rooming house tenants experiencing mental illness and/or other forms of disability, social disadvantage and isolation. The shire has worked in partnership with SalvoCare Eastern to develop an outreach program for vulnerable tenants, linking them to health and other support services. Council considers that access to secure affordable housing is a basic right flowing from the right to the protection of families and children (section 17). Sole parents, older people over the age of 65 and single people are experiencing increasing housing stress.

- Banyule City Council’s Liveable Housing Guidelines are integrated into the Banyule Statutory Planning Scheme. Developers will have to comply with a requirement for a ratio of the total housing development to be made accessible to people with impaired mobility and other special needs. The guidelines were adopted by Council in early 2013.

Councils have taken note of ensuring that the voices of all their residents are being heard, including children. For example, Maribyrnong City Council created a guide, Engaging Children in Decision Making: A guide for consulting children,34 Developed in partnership with Ballarat, Brimbank, Melton and Wyndham City Councils, the Western Metro Department of Education and Training and Kuranjang Primary School, the guide outlines best practice principles for engaging with children and consulting with Aboriginal children, culturally and linguistically diverse children and children with a disability. The guide emphasises the right to freedom of expression and outlines the role of a public authority in supporting human rights.

The Commission was also told about broader community health, access, equity or inclusion policies or frameworks which incorporate human rights considerations or are based on human rights principles:

- Banyule City Council’s Inclusion, Access and Equity Framework sets a clear policy direction for Council based on a human rights approach. Under this framework are five advisory committees and associated plans encompassing the LGBTI community, multicultural groups, disability and inclusion, Aboriginal and Torres Strait Islander people and older people. Banyule City Council also

introduced a **Youth and Family Services Citizenship Framework**, which includes a Youth Charter.

- **Mansfield Shire Council**'s **Access & Inclusion Charter** is based on key documents that recognise the rights of all people. These documents include: the *Universal Declaration of Human Rights 1948*; the *United Nations Convention on the Rights of Persons with a Disability 2006*; the Commonwealth *Disability Discrimination Act 1992*; the Victorian *Equal Opportunity Act 2010*; the Charter; and the Victorian *Disability Act 2006*. The council's charter is supported by Access and Inclusion forums, to assist with identifying issues for council to deal with across the community.

- **Murrindindi Shire Council**'s **Health and Wellbeing Plan** is considered by council to be a key leadership document to advance human rights for people in its community, to build capacity, and tailor services and programs to address disadvantage and build or extend capacity to live positive healthy lives. Wide consultation was undertaken to develop the plan, it is written in plain English and is treated as a living document. The plan is used by a range of stakeholders, service providers and community representatives to drive and monitor agreed outcomes. It is also the foundation document for a number of key strategies such as the Positive Aging strategy, Access Murrindindi Program, and for the establishment of the Murrundindi Access & Inclusion Committee.

### Positive Ageing Strategies and Elder Abuse

The **Mornington Peninsula Shire**'s **Positive Ageing Strategy 2013–2018** was launched in 2014. The strategy utilises the World Health Organisation's **Priority Framework for Age-Friendly Communities and Cities**. This framework is the basis for specific actions relating to social, physical, cultural and economic environments shared by older people. The strategy embraces human rights by:

- promoting respect and inclusion by removing barriers including attitudes, ageist labels and lack of access to information. This enhances recognition and equality before the law (section 8) so all people can age well.
- engaging the community in decision-making. During the consultation process, Council actively sought to promote the right to take part in public life (section 18).

Many community consultations were attended by the shire’s official community advisory committee for elders and senior citizens’ clubs, facilitating development of the strategy. The shire undertakes an annual community summit for both the community and the shire to reflect and report on the progress of the strategy.

The MAV also has a commitment to prevention of elder abuse, working with councils to raise awareness both within councils and across their communities. The MAV has encouraged councils to take an active role in World Elder Abuse Awareness Day activities and has worked closely with the Council on the Ageing Victoria to promote this initiative. The MAV sits on the state’s Elder Abuse Prevention Advisory Group. The MAV has forwarded information to all councils about online elder abuse training, in order for their Home and Community Care and positive ageing staff to attend.

The MAV has actively promoted the international age-friendly communities model to local government. This rights-based initiative provides opportunities for older people to work with councils on determining priorities for creating better places in which to age.

**Buloke Shire Council** also developed a **Positive Ageing Strategy 2013–2019**, seeking to enable older people in the Shire to live independent, healthy, and active lives. The strategy will assist older people to remain socially connected within their communities and provide them with opportunities to be engaged in community decision making processes. **Kingston City Council’s Positive Ageing Plan** has similar objectives.

### The elected council

The elected council is responsible for governance and setting the strategic direction of the council. Where the elected council has incorporated human rights into its foundational documents, and where councillors have a good understanding of how they can incorporate human rights into the day-to-day work of local government, outcomes for the community will be enhanced. Elected councillors also need to consider human rights when they undertake strategic planning and create local laws.

### Key strategic documents

It is important that the elected council takes steps to review their key strategic documents for Charter compliance. This helps embed human rights into the values and philosophy of a council. The key strategic documents for a council include all organisation-wide documents that provide a framework for delivery of council services. For example, the Council Plan, the Strategic Resource Plan, the Code of Conduct for Councillors, as well as more targeted business or work plans, or Community Plans. Best practice would involve ensuring strategic documents include reference to the Charter and council’s obligations, and explicitly commits to implement human rights as a strategic priority of the council.

32 per cent or 24 councils reported they had

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35 *Local Government Act 1989 (Vic)*, s 125.
36 *Local Government Act 1989 (Vic)*, s 126.
completed a review of all key strategic documents for Charter compliance. Out of the 23 councils advising when that review occurred:

- 11 completed their review in 2013–14
- seven said their review was an ongoing process
- two reviewed their documents annually, as they are adopted annually
- one council completed their review in 2008
- one council completed their review in 2012
- one council completed a review in 2012 and advised the process was now ongoing.

For councils which had not fully completed their review 44 per cent (22 councils) reported they were more than half complete, with 56 per cent (28 councils) reporting they were 50 per cent or less complete.

Moreland City Council’s Council Plan 2013–2017 makes a commitment to uphold the human rights of its diverse community. Moreland’s vision is of a city where the human rights of all are upheld. Pursuant to this objective, Council is adopting a range of plans and projects promoting social inclusion, for example, supporting migrant and refugee communities and the LGBTI community.37

Banyule City Council’s City Plan 2013–201738 includes two key goals of engaging meaningfully with the community, and encouraging diverse and inclusive community participation. The City Plan references the Charter as one of the sources of these goals and states that the Council will ‘act in a manner that is respectful and mindful of the requirements of the Victorian Human Rights Charter in the development of all Council policy, local laws and major decisions’.39 Part of this process will involve developing a human rights, diversity and inclusion framework, as well as focusing on human rights training and capacity building.40

Mount Alexander Shire Council developed a new Council Plan in 2013, with the goal of council being strongly supportive of human rights. The council also reviewed its Councillor Code of Conduct. The Code of Conduct reinforces Governance Principles, which comply with the Charter.

Local laws
Section 91(1) of the Local Government Act 1989 requires Council to make a local law governing the conduct of meetings of the Council and Special Committee Meetings. Section 111 of the Local Government Act also empowers councils to make local laws in relation to any matter which the Council has a function or power under the Act, such as infrastructure or assets. Local laws are valid for 10 years, and then must be re-enacted if they are to continue.41

Local government must comply with section 38 of the Charter by ensuring that conduct engaged in pursuant to local laws is compatible with human rights.42 It is therefore important that local laws are reviewed for Charter compliance. Existing laws that have not yet been reviewed should be, and all new local laws should have a Charter review built into the process. Many councils follow a legislative review cycle where their local laws are periodically reviewed as a matter of course, or incorporate a review into their re-enactment process.

Almost half (49 per cent or 38 councils) reported that they had completed a review of all of their local laws for Charter compliance. Thirteen of those councils had reviewed their local laws in the period 2013/14, 17 had reviewed them prior to 2013/14, and seven had conducted a review in both periods. One did not provide a date.

Of the councils that had not yet completed a review:

- nine councils reported they were 76–100 per cent complete
- five councils reported they were 51–75 per cent complete
- seven councils reported they were 25–50 per cent complete
- 14 councils reported they were less than 25 per cent complete.

38 Banyule City Council’s four year City Plan, incorporating the Strategic Resource Plan 2013/2014-2016/2017.
40 Banyule City Council, City Plan 2013-2017, 56.
41 Local Government Act 1989 (Vic) s 122.
42 See Kerrison v Melbourne City Council [2014] FCAFC 130.
Councillors

Elected councillors have an important role to play in ensuring council business reflects a human rights perspective. It is therefore essential that councillors receive training to enhance their awareness of the relevance of the Charter to the work of council, and improve their understanding of how they are expected to make decisions and act in a way which is compatible with the Charter. Best practice would mean ensuring that Charter training was a core component of councillor training on induction, and that councillors were not left to simply read material on the Charter in their own time as this does not ensure they fully understand their obligations.

In 2013/14, 40 per cent, or 31 councils provided Charter training and information to councillors. In contrast, in the last reporting period, 43 councils reported that councillors had received training. This is a significant drop, the implications of which we address below.

To date, 55 per cent, or 37 councils have provided training and information to 76–100 per cent of councillors; three councils had provided training to 51–75 per cent of councillors (5 per cent); nine councils have provided training to 25–50 per cent of councillors (13 per cent), and significantly, 18 councils had provided training to less than 25 per cent of councillors (amounting to 27 per cent of those surveyed).

Approximately what percentage of Councillors have received training to date?

Of the councils that provided training, most, (59 per cent, or 17 councils) provided written information about the Charter to their councillors. The next most common mode of training was integrating Charter information in councillors’ induction (48 per cent, or 14 councils). Other commonly used forms of Charter training included ongoing professional development for incumbent councillors (35 per cent, or 10 councils) and electronic information about the Charter to their councillors, such as a website (31 per cent or nine councils).

14 per cent (four councils) reported using other forms of training. For example, Nillumbik Shire Council reported requiring councillors to read their Charter of
Human Rights Guidelines; Port Phillip City Council reported that councillors have access to e-resources on the Commission’s website and the Social Justice Charter via the council’s website.

These survey results show that where training is provided, councils tend to rely on one-off induction training or expect councillors to read and understand written information in their own time. The Commission considers that more needs to be done to ensure that councillors receive training to equip them to be aware of their obligation to give proper consideration to the Charter when making decisions and identify any human rights implications in their analysis. Although mechanisms to raise awareness discussed below can alert Councillors to human rights issues, training is vital. The Commission therefore urges councils to prioritise Charter training for councillors in the next 12 months.

The need for dedicated Charter training is articulated in the report From Commitment to Culture: the 2015 Review of the Charter of Human Rights and Responsibilities Act 2006. In considering ways to improve the Charter and its implementation after eight years of operation, independent reviewer Michael Brett Young specifically recommended that the Commission be given responsibility to provide human rights education to local government councillors and staff of local government, tailored to the needs of the particular work areas, and delivered in consultation with frontline staff. As a matter of priority, Mr Brett Young recommended that materials should be available to support the induction of new councillors after the October 2016 local government elections.

Mechanisms to raise Charter awareness

The Commission asked councils what mechanisms were used to ensure that councillors were aware of their human rights obligations when making decisions. This is particularly crucial given the low numbers of councillors receiving Charter training.

36 councils (approximately 46 per cent) reported that the Charter was a consideration in preparation of reports, briefings, or policies, such as through a standard prompt or statement of compliance.

For example:

- Banyule City Council’s council report template contains a mandatory field entitled ‘Human Rights Charter’ to determine if the subject matter raises any human rights issues and whether the scope of any human right established by the Charter is limited or restricted by recommendations contained in the report.

- Yarra City Council’s council report template has been amended to include two additional sections entitled ‘Human Rights Implications’ and ‘Communications with CALD Communities Implications’. Council officers are required to make comments relevant to these sections.

- Mount Alexander Shire Council has three sections of its council report which requires the inclusion of human rights considerations. First, the ‘issues’ section includes the opportunity to consider the impacts upon individuals and communities. Second, the ‘consultation’ section requires extensive detail on how the process leading up to the recommendation has been inclusive of individuals and stakeholder groups. Finally, the officer’s recommendations are reviewed to ensure they are not inconsistent with human rights.

Other councils rely on training or briefing sessions. For example, Moonee Valley Council organised a Councillor Briefing Session in late 2013 run by a representative of the Commission. The briefing included information about the Charter and how it impacts decision-making at the local government level.

The training also assisted in understanding breaches as well as responsibilities of leaders in the community to model behaviour. Central Goldfields Shire Council provides information in the councillor induction package and relevant articles are published in the council bulletin. Resources for their councillors are available on the Human Rights information section on Council’s Website.

Other councils rely on requirements to comply with the Charter within council strategic documents or the Councillor’s Code of Conduct. For example, Maribyrnong City Council’s Human Rights and Social Justice Framework 2013–2016 provides a foundation for Council’s commitment and actions to protect human rights and promote social justice in the City of Maribyrnong. Knox City Council’s Councillor Code of Conduct includes a reference to councillors’ duties under the Charter.

Human rights leadership

Local government continues to demonstrate a strong commitment to human rights leadership in communities across Victoria. In 2013/14, 67 per cent or 50 councils reported to the Commission that they had demonstrated ‘human rights leadership’ in projects, initiatives or local government networks. There has been a steady increase in the responses to this question over the past four years, with 40 councils reporting involvement in human rights leadership in 2012 and 2011, and 35 councils in 2010.

The Commission considers that to demonstrate leadership, a council might have human rights ‘champions’ or ‘ambassadors’ who promote the Charter within the work of the council and to the community. Alternatively, a council might demonstrate leadership in its actions, through incorporating human rights into core business and ensuring that there is a commitment to promoting and upholding the human rights of the community that it represents. Examples of human rights leadership have been outlined in this report in the section ‘The positive impact of the Charter’ above.

**The administrative arm**

**Review of human rights policies and procedures**

The administrative arm of local government can guide integration of Charter principles into the policies and procedures of councils. Although many councils have reported that they have incorporated the Charter into core policies, a significant number have yet to fully embrace this process. The Commission recommends that for best practice, comprehensive and ongoing reviews of council policies and procedures (both inward and outward policies) are conducted to ensure that they reflect human rights obligations and show how human rights ‘intersect’ with the topic of the policy/procedure. Councils need to clearly articulate these matters to staff and the broader community.

By 2014, just over 26 per cent, or 20 councils have reported completing a review of all their policies and procedures for Charter compliance. This leaves 73 per cent of councils reporting that they had not completed a review of policy compliance. Only four councils reported that their compliance review was completed in 2013/14, with eight noting that reviews were ongoing, and two noting the review took place annually.

This type of review strategy is desirable to ensure that policies are up to date and reflect current human rights issues affecting the community.

Of those that had not completed a review, most councils (58 per cent, or 29 councils) had completed a review of at least 50 per cent of their policies. 20 per cent or 10 councils had progressed their compliance review 25–50 per cent, and 22 per cent or 11 councils reported that less than a quarter of policies and procedures had been reviewed. This is concerning, given it has been seven years since enactment of the Charter (at the time of reporting). Councils that have not yet completed reviews of policies and procedures should do so as a matter of urgency to embed their legal obligations under the Charter in administrative documents.

In 2014, 24 per cent or 18 councils introduced procedures or guidelines to ensure that new policies are Charter compliant. This leaves 76 per cent or 56 councils which did not (noting only 74 councils responded to this question). We can conclude that this report’s low reporting rate is not a reflection of failure to implement guidance, but rather that councils may have existing procedure or guidelines that are still current. For example, in 2012, just under half of all councils (36 councils) had reported introducing procedures or guidelines to assist with developing Charter compliant policies.

Eleven councils reported introducing specific human rights policies in 2013/14. However, as above, it is likely that councils introduced a policy in previous years which is still current. For example, in 2012, just fewer than 30 per cent (23 councils) reported having a human rights policy, and in 2011, just over 25 per cent (22 councils) reported having one. These councils would not need to introduce a new human rights policy.

In 2014, **Hume City Council** developed a ‘how to’ guide to applying human rights entitled **Social Justice at Work: A Guide for Action**. The Guide provides a framework for the organisation to ensure the rights of the Hume community are upheld. It contains information to assist councillors and council officers to identify how they can implement social justice and human rights at work. It takes note of the elements required for an organisation to sustainably protect social justice and human rights and the behaviours displayed by such an organisation. It sets out a human rights assessment tool designed to assist councillors and staff to act compatibly with the Charter in the way they go about their work and deliver services.

The Commission is encouraged by the uptake of human rights policies and guidance over the past four years, as it demonstrates awareness among Councils of their duty as public authorities to ensure that their actions and decision making give proper consideration to human rights. The policies guide activities and decision making within Council to ensure relevant human rights are respected and protected.
Maribyrnong City Council has implemented a new Human Rights & Social Justice Framework 2013–2016. The framework provides a foundation for council’s commitment and actions to protect human rights and promote social justice in the City of Maribyrnong. Council have committed to:

- ensuring decisions, laws, policies and services uphold the Charter
- activity promoting equality of access to the municipality’s services and public places
- fostering a culture where all people are respected and the principles of human rights and social justice are highly valued
- valuing and embracing diversity
- advocating for a fairer, more inclusive community in which people are not discriminated against, regardless of age, gender, sexuality, ability, faith, social and economic status, cultural background or belief.

A key action of the Framework established the Human Rights and Social Justice Steering Group, chaired by the Chief Executive and comprising 15 representatives from across Council Divisions, from Departments including City Strategy, Corporate Planning, Organisational Development, Transport, Asset Services, Early Years and Youth Services.

Staff

Staff employed by councils often perform direct work with community members and must do so in a way that respects their human rights. Council staff need to consider human rights when they deliver services to the community and review or develop policies, plans and procedures. Human resources documents (codes of conduct and position descriptions) can alert employees to their duties and training can provide vital awareness about how human rights apply to their work, and can ensure that compliance with human rights is a part of performance expectations and management. Councils should prioritise providing staff with education and training to enable them to meet their legal Charter obligations. The Commission found that a number of councils completing the survey did not provide data for this section.

Darebin City Council reported that their Road and Place Naming Policy was reviewed in 2014 against the council’s Equity and Inclusion Planning and Audit Tool, which included Charter considerations. Discussions generated from this process considered how the policy would recognise the human rights of all residents, including Aboriginal residents. The policy now provides:

Bearing in mind that language is a powerful tool that shapes the reality people live in. How things are named and the recognition awarded to people based on their gender, class, culture, ethnicity and so on, makes a difference. Practical implementation of this policy will look to address and overcome any underlying assumptions behind language that can lead to unwitting exclusion of people.

Human resources documents

71 per cent, or 55 councils reported that they had a staff code of conduct and/or position description referring to employee obligations under the Charter. Within this figure, some councils reported that their codes of conduct made reference to the Charter but position descriptions did not.

This number is an increase since our 2012 report, where 51 councils reported staff codes of conduct making reference to the Charter.

This suggests that although most councils are aware that human rights considerations need to form part of human resources management, more can be done to integrate the Charter into human resources documents.

In 2013/14, only 16 per cent (or 12 councils) reported developing new policies or procedures for responding to human rights complaints or issues, whereas 84 per cent, or 64 councils did not. Having a human rights complaints policy is a useful tool in ensuring that those complaints – whether internal or external – are tracked by the organisation and dealt with appropriately, including ensuring that additional training or guidance is provided to areas of the organisation with repeat issues or complaints. An example is Darebin City Council’s Service Excellence Framework – Service Standards, see page 28. Council staff must comply with these standards when interacting with the community.

44 These included Boroondara City, Cardinia Shire, City of Melbourne, Frankston City, Hume City, Loddon Shire, Macedon Ranges Shire, Whitehorse City, Rural City of Wangaratta, Swan Hill Rural City, South Gippsland Shire, Wyndham City, Moreland City, Hindmarsh Shire Councils.
Human rights training for Council staff

Human rights training can maximise organisational awareness of the importance of human rights and its relevance to the work undertaken by council staff. It is vital for such training to be given to council employees.

In 2013/2014, 74 per cent, or 56 councils provided Charter training and information to their staff. This is an increase from 2012, when 48 councils provided training that year, and in 2011 when 45 councils provided training that year. Of the councils providing training in this reporting period, 54 provided information about who that training was for:

- 76 per cent, or 41 councils, gave human rights training to new staff in their induction.
- 26 per cent, or 14 councils, provided training specifically to management.
- 20 per cent, or 11 councils, provided training to staff in particular areas of work.
- 48 per cent, or 27 councils, noted ‘other’ forms of training provided.

For example, Stonnington City Council provides training to their staff in home care, family and children’s department. Moyne Shire Council provides training to Human Resources, local laws, and Early Years Services staff.

The Commission also asked councils to report on what percentage of council staff have received human rights training overall. 46 per cent, or 32 councils reported that at least three-quarters of their staff had received Charter training, a large number (30 per cent, or 21 councils) reported that less than 25 per cent of staff had received training overall. 9 per cent, or six councils, have provided training to 25–50 per cent of their staff, and 16 per cent, or 11 councils, have provided training to between 51 and 75 per cent of staff. A small number of councils have acknowledged that staff members never receive Charter training, or only receive ad-hoc or irregular training. Seventy councils contemplated this issue in survey responses.

Approximately what percentage of council staff have received human rights training overall?

This reveals that, although many Councils provide staff with human rights training, almost a third have reported that few or no staff members learn about human rights. This is concerning, as a lack of training is likely to translate into a lack of awareness among staff members about how human rights apply to their work and the need to comply with their duty as public authorities to give proper consideration to human rights. However, it is positive to note that the number of councils providing training to 75–100 per cent of staff has increased from 2012, when only 35 per cent of councils (25 councils) had done so.

Nature of training provided

Survey responses indicate that much of the training delivered is online. Although online training packages may be an economical means of raising awareness, face-to-face training increases the ability of staff members to be better grounded in their duty as public authorities and how the Charter applies to their work in practice. It allows for a package to be tailored to the specific needs of a particular work area and for staff to receive immediate feedback on questions regarding the application of the Charter to their work. The Commission would therefore recommend where possible, that councils incorporate face-to-face training packages into the professional development of their workforce.
Seventy-three per cent, or 47 councils reported offering human rights training as part of induction. 3 per cent or two councils reported offering the training annually, and 23 per cent, or 15 councils reported training being biannual. 39 per cent or 25 councils provided training on a different basis. For example a number provided both induction training and refresher training, with many reporting training for existing staff every two to three years.

Human rights training was reported to also be included in the following types of training:

- equal opportunity, employment and bullying training (Murrindindi and Buloke Shire Councils)
- equal opportunity and respect in the workplace training (Yarra Ranges Shire Council)
- compliance training, conducted online (Kingston City Council)
- access training, mental first aid, suicide assist, and prevention of violence against women training (Moyne Shire Council)
- ‘theme-based social justice training’, in the areas of Understanding Homelessness, Indigenous Cultural Experience, Jewish Cultural Diversity and Mental Health Awareness (City of Port Phillip).

The Commission commends councils for incorporating human rights training into these other training sessions, as this indicates a holistic approach to human rights. However, it is also important to ensure that staff and councillors are trained in the full extent of their human rights obligations including in relation to making decisions and actions that affect the public (not just colleagues in the workplace).

Darebin City Council has training every three months in its corporate training calendar. Individual teams and work groups are also offered the opportunity to have a tailored session delivered. Moonee Valley Council offers a Charter working group, online staff training at induction and every two years, Charter training of executive staff, online training for councillors and an internal communications campaign promoting the Charter. In 2013, Horsham Rural City Council staff, executive and councillors participated in Commission Charter Training. In 2014, Maribyrnong City Council staff undertook Commission training, focusing on the obligations of local government in meeting the requirements of the Charter.

Some councils offer dedicated training to support the right to equality for community members, for example, a ‘Creating inclusive environments’ program aimed at staff working with members of the LGBTI community at Casey City Council or Aboriginal Cultural competency training for health workers (Mansfield Shire Council).

Moonee Valley City Council – Charter awareness raising strategies

Moonee Valley City Council engaged in a variety of Charter awareness raising strategies within its workforce. For example, it initiated a Think Rights! communications campaign promoting the Charter to staff in 2013 and 2014. This involved a series of internal communications activities including fact sheets, posters, a page on Council’s intranet, features in the staff newsletter to raise awareness about the Charter and staff members’ legal obligations. The council’s Charter Working Group meets bi-monthly and is made up of representatives from across the organisation to assist in further embedding the Charter in council activities and communicate about human rights. The Charter Working Group develops and delivers the annual action plan based on the C2C Toolkit.

Moonee Valley City Council also has a comprehensive training program. Staff training on the Charter occurs during induction and every two years for existing staff. Executive staff, councillors and the Charter Working Group undertook Charter training in 2013/14 delivered by the Commission. This training covered Council’s responsibilities under the Charter and differences between the Charter and the Equal Opportunity Act.
Community Engagement

Council staff need to consider human rights when they engage with the community and handle complaints from members of the community about alleged breaches of human rights. The Commission's survey asks local government to report about the incorporation of human rights into their service delivery framework, their consultation strategies, whether they are providing human rights information to their communities, and if so, how that information is delivered.

Service delivery frameworks

In 2013/14, 44 per cent or 32 councils reported reviewing the way that the council delivers its community services in light of the Charter. 56 per cent or 40 councils reported they did not (only 72 council survey responses considered this issue). This low number might be attributed to the fact that in 2012 we reported that a 'significant majority' of councils – almost 80 per cent – had reviewed and amended where necessary the way in which they deliver community services. In 2011, more than two-thirds had conducted the same review.

Some councils developed or amended their community engagement frameworks to more explicitly deal with Charter considerations. The Commission considers that as a minimum, community engagement protocols or frameworks should be referring to Charter obligations and how a human rights-based approach can be taken to engaging with the community. For example, the C2C Toolkit suggests using 'PANEL' – participation, accountability, non-discrimination, empowerment and linkages.45 However, building a human rights culture will mean that in service delivery frameworks, councils will commit to taking a human rights based approach to ‘design and delivery’ of services, the creation of action plans for disadvantaged groups in the community, and ensuring the community understands their own rights. For example:

- The Glenelg Shire Council Youth Charter, developed in 2014, emphasises Council's duty to involve young people in participation in Council planning, service delivery and decision making. It makes reference to the United Nation's Convention on the Rights of the Child 1989, promoting the capacity of young people to have a say in decisions affecting their lives and that their citizenship must be recognised across all levels of government, organisations and the broader community.46

- Maribyrnong City Council's Revitalising Braybrook Action Plan 2013–2015 seeks to enhance the health and wellbeing of the Braybrook community by providing the residents with improved and integrated services, facilities and opportunities. The aim of the plan is to address intergenerational disadvantage in Braybrook. A key driver for the plan is Council’s Human Rights and Social Justice Framework which references the 20 rights contained in the Charter.

- Darebin City Council created a Service Excellence Framework – Service Standards. The standards reference the Charter, committing to ensure that action taken regarding complaints complies with the Charter and review by a Human Rights Officer.

- An Accessible Communication project provided an opportunity for Whitehorse City Council to bring the Eastern Metropolitan Region Councils (EMR) together to explore issues and opportunities to provide accessible communication that meets to the needs of the community. EMR Council Officers attended a forum and subsequent workshops in late 2013. The Local Government Accessible Communication Guide then captured the research, knowledge, information and resources resulting from the forum and workshops. The guide promotes access to information and communication as a human right.

Community consultation

The Commission asked councils whether they engaged the community in their decision-making and actions in 2013/2014. Every single council that responded to this question (76 councils) confirmed that they had engaged the community in such ways. The C2C Toolkit suggests that community consultation utilise the ‘PANEL’ approach, but building human rights culture would also mean that council targets disadvantaged groups for consultation, and considering the best ways of communicating with the community in accordance with their needs.

The most common method of engaging the community in decision-making was through use of community consultation processes, with 93 per cent (71 councils) reporting that they utilised this process. A close second was advisory groups, with 86 per cent or 65 councils using this method. A further 72 per cent, or 55 councils, used targeted strategies. 59 per cent or 45 councils used other methods. For example, council committees (such as steering committees or special committees under section 86 of the Local Government Act), community ‘fire shed’ meetings, working groups, social media and marketing such as Facebook or electronic newsletters, listening posts, online surveys

or websites, submission processes, development forums, public questions during council meetings, and ward meetings. Some councils used more than one of these methods of consultation and some even used all of the strategies discussed above.

An example of comprehensive community consultation comes from Moreland City Council. Moreland 2025 is the first community plan for the council. More than 1300 community members, 30 partner organisations, as well as councillors and council staff were consulted and provided their views on what Moreland should look like in the future. Those consulted provided views on how the community and council can work together to face challenges and capitalise upon opportunities. Consultation took place through community forums with guest speakers, visits to community groups and services, listening posts in public places and at community events, online and social media surveys, as well as utilising hard copy surveys distributed through the local newspaper and community outlets.

A number of councils had targeted advisory committees.

- **Southern Grampians Shire Council** reported it had the following advisory groups and consultation committees: Positive Ageing Alliance; Community Inclusion Advisory Committee; Community Engagement Strategy; Township Community Engagement Program; Tarrington Structure Plan Consultation; Public Conveniences Consultation; Coleraine Community Services Feasibility Study; Balmoral Community Centre Feasibility Study; and consultation regarding the all-abilities playground.

- **Kingston City Council** has committees based on topics such as Interfaith, Access and Equity (disability, Aboriginal, multicultural), Positive Ageing, Fair Trade, Sport and Recreation, and more.

- **Maribyrnong City Council** also has a number of targeted advisory groups: Disability Advisory Committee, which provides advice to council about issues affecting people with disabilities in the community and reviews and promotes accessible features of local playgrounds to promote inclusion. It is also supporting the implementation of the council’s Disability Action Plan for 2012–2015; Braybrook Maribyrnong Interfaith Network, which builds trust between communities of different faiths and beliefs, and is open to all religious groups in both municipalities. In 2013/2014 it organised a Places of Worship bus tour, a Restoring Hope Young Adults and Interfaith breakfast, and contributed to the development of the Multicultural Policy and Action Plan 2012–2017.

A number of councils also participate in the GLBTIQ Western Region Councils’ Working Group, which aims to identify barriers affecting people in GLBTIQ communities in the west, and foster joint activities for social inclusion, community pride, a sense of belonging, and to improve health and wellbeing. The councils participating in this community working group include Maribyrnong, Brimbank, Hobson’s Bay, City of Melbourne, Melton, Moonee Valley, and Wyndham.

It therefore appears that there are a number of councils who have taken a human rights based approach to their community consultation and are well on their way to ensuring representation of vulnerable or disadvantaged groups on council. The above examples show effort has been taken to identify those groups, ensure appropriate consultation has occurred, and where possible, to build projects that support human rights of those groups into council’s work.

**Provision of human rights information to the community**

Councils can play a role in imparting information about human rights to the community. In 2013/14, 50 per cent or 38 councils provided information to the local community about the Charter and human rights. This is an increase from 2012, when 40 per cent or 31 councils provided such information, and from 2011, when only a third or 27 councils did this.

**How did you provide this information?**

<table>
<thead>
<tr>
<th>How did you provide this information?</th>
<th>Number of councils</th>
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<tbody>
<tr>
<td>Community event</td>
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<tr>
<td>Training</td>
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<tr>
<td>Information session</td>
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<tr>
<td>Fostering human rights ambassadors or community leaders</td>
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<td>Council newsletter</td>
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<td>Council website</td>
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<td>Brochures/materials</td>
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<td>Online or other network coordinated by your council</td>
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<tr>
<td>Other - Write In (Required)</td>
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Councils reported that information was provided by them predominantly online through their website (70 per cent or 28 councils), at community events.
Local government and the operation of the Charter in 2013 and 2014 show that many councils have already taken steps to introduce human rights considerations into these policies; in 2012, 43 councils reported they already had human rights considerations in their procurement policy in 2012, and 33 councils in their grants and funding policy.

Twenty-six per cent, or 19 councils out of 73 responding to this question provided support to contracted or funded agencies to assist them to meet their Charter obligations. This is an increase from the 15 councils in 2012, and 12 in 2011. Of the councils providing support in this reporting period:

- 11 councils included Charter compliance in terms of contracts or funding agreements (58 per cent)
- 10 councils included Charter compliance considerations in tender requirements (53 per cent)
- nine councils utilised ‘other’ methods to provide information to third parties about the Charter, such as including Charter compliance in minor service agreements, requiring contractors to comply with council policies and codes of conduct (which reference the Charter), holding contractor information nights to discuss a range of issues including human rights, and integrating Charter requirements in terms and conditions for purchase orders (47 per cent)
- six councils offered Charter brochures/information materials (32 per cent)
- five councils offered information sessions (26 per cent)
- three councils provided information online or other network coordinated by the council (16 per cent)
- two councils offered Charter training to the public (11 per cent).

These measures are positive ways of conveying that Charter obligations apply to bodies performing work on behalf of councils.

Some councils have dedicated funding criteria designed to enhance human rights. For example, in 2014, Darebin City Council’s funding criteria for its community grants scheme was amended to include priority funding for projects which promote human rights. Council reported that explaining to community members how human rights may apply to a project can be challenging as a majority of applicants have already formulated a detailed project plan when they come to community information sessions. This can result in human rights considerations being ‘retrofitted’. Future funding rounds will aim to build human rights concepts via promotion of a scheme, information and application guides and information sessions, in order to demonstrate and reinforce what a project

Third parties

Contracted service providers engaged by local councils to perform public functions on their behalf have an obligation to act compatibly with the Charter. Contractors and third parties perform public functions on behalf of government and must be informed about how the Charter may apply to their work. Best practice would ensure that local government is only accepting contracts and procurements from third parties that comply with human rights standards internally. Councils should also consider prioritising grants and funding to groups which are disadvantaged or vulnerable in the community (such as people with a disability, older people, migrants and refugees, and Aboriginal people), and provide support to contracted or funded agencies to assist them to meet their Charter obligations.

In 2013/14, 23 per cent, or 18 councils introduced human rights considerations into procurement policies. In addition, 18 per cent or 14 councils incorporated human rights considerations into grants and funding policies. Our past survey results show that many councils have already taken steps

It is good to see the use of community ambassadors and public human rights training. This is going above and beyond simple provision of information, to providing ways that community members can engage with the Charter and human rights issues. However, it is only a handful of councils taking these additional steps, and many are not providing any information.

At the very least, councils should be facilitating human rights education by including information on their website about human rights, reference to their relevant policies and procedures, the incorporation of human rights into their strategic or council plan, or refer the community to the Commission’s website. Councils should also clearly state how a person can complain about a human rights issue, and what the process for dealing with that will be. We encourage more councils to consider taking additional steps in future, subject to their resourcing of course, to provide more targeted and interactive human rights information to the community.

In 2013 or 15 councils, or via brochures or materials (25 per cent or 10 councils), 18 per cent or seven councils reported that they provided information online or over another network organised by the council; council newsletters; or via information sessions. Six councils fostered human rights through an ambassador or community leader (15 per cent), and five councils utilised public human rights training (13 per cent). 17 councils reported they used other methods including annual reports, advisory committees, media exposure, and targeted emails (43 per cent).

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promoting human rights could look like in practice. This will require a community development approach, with implications for time and resources.

City of Stonnington, Banyule City and Surf Coast Shire Council reported that their procurement or grants policies note that third parties undertaking work with Council must comply with the Charter. Wyndham City Council requires recipients of community grants of their obligation to comply with human rights legislation. Nillumbik Shire Council emphasises in all its contracts and minor service agreements that the contractor or service provider must comply with the Charter.

In 2014, Horsham Rural City Council decided to provide funding to a disability support group, Wimmera Mobility Group, as the assistance would support the right of group members to participate in public life and in community activities.

Kingston City Council’s Access and Equity Grants Program and Maribyrnong City Council’s Community Grants Program promotes access to funding for people from financially and socially disadvantaged communities, including multicultural and Aboriginal communities as well as people with disabilities. Council provides information and support to applicants. Maribyrnong’s program also aims to increase participation in sport for underrepresented groups, for example, women and people with disabilities.

The City of Monash makes human rights obligations a part of the assessment process for Council’s community grants program. Council holds semi-regular ‘Contractor Nights’ for its contractors, where a range of issues are discussed, including the collection of personal information, interaction with the community and human rights obligations.

Mooney Valley City Council has incorporated the Charter into its Procurement Policy (2013). Council’s finance team worked with the Charter Working Group to embed human rights considerations into key financial documents. This included Council’s Procurement Guidelines as well as council service agreements. This means that any third party undertaking work on behalf of council understands their obligations under the Charter and by signing the agreement, they agree to comply with the Charter.
The role of the Commission

The Commission has a number of statutory functions under the Charter, including to provide education and training about human rights and the Charter (section 40(d)) on request, to review a public authority’s programs and practices to determine their compatibility with human rights (section 41(c)), and to intervene in and be joined as a party to proceedings before any court or tribunal in which a question of law arises that relates to the application of the Charter (section 40). The Commission also has a statutory function to prepare and table a report in parliament annually on the operation of the Charter (section 41(a)). This section outlines some of the work of the Commission supporting local government, which has not already been covered in this report.

Training

The Commission is empowered under the Charter to provide training and education to the public about human rights. As this report has discussed, training and education for public authorities is crucial to ensuring that, when interacting with the community, they are aware of their obligations and have a real understanding of what this means in practice. In 2013/14, the range of programs delivered to local government that focused on the Charter included:

- executive briefings
- staff inductions
- specialised sessions for example – proper consideration, consulting with young people
- manager/leadership sessions
- diversity and inclusion
- whole of organisation training.

The Commission delivers targeted, tailored training to organisations on request, and can also provide consultancy services or reviews of policies and procedures to determine whether they comply with the Charter. We also develop ‘calendar’ sessions, which are more general in nature and which are open to the public to attend. The Commission’s training calendar is published on our website and includes Charter-specific training sessions such as ‘Charter Essentials’, aimed at employees in state and local government, and other public authorities. The session covers how the Charter applies to everyday work, and how considering people’s rights in policy development and decision-making improves service delivery, minimising the likelihood of complaints.

In 2013, the Commission provided 25 dedicated human rights training sessions to local government and 58 combined sessions that dealt with both human rights and equal opportunity issues. Of those 83 sessions, six councils received multiple training sessions, and seven councils received a single session.

In 2014, the Commission delivered three dedicated human rights training sessions to local government, and 23 combined equal opportunity and human rights sessions. Of these 26 sessions, three councils received multiple sessions, and seven received a single session.

In 2013 we had three representatives of local councils attend Charter calendar programs, and none in 2014. These figures for 2013 and 2014 indicate a preference by councils to have staff attend their own tailored training sessions, rather than a general session on the Charter.

While there was a decrease in the delivery of human rights training to local governments from 2013–2014, the Commission notes that from 2011–2014 we have conducted 159 education and training sessions for local government. The nature and frequency of these sessions indicate that local government has demonstrated an interest in understanding their obligations under the Charter and implementing a human rights approach to service delivery. It is the Commission’s view that this interest is driven by the close relationships local government agencies have with their residents, and a genuine commitment to adopt human rights principles in the provision of services to diverse communities.
Our records show that generally speaking, the demand for combined equal opportunity and human rights training is greater than human rights education and training sessions. This is also reflected in the survey data the Commission received, noting that many councils are incorporating their human rights/Charter training into workplace conduct training.

The Commission is keen to continue to expand support to local governments and strengthen their capacity to comply with their obligations under the Charter and enact human rights best practice. The Commission requires further resourcing and investment to extend its education and training initiatives for local government by the:

- development of a human rights assessment tool and template for councils
- revitalising of local government stakeholder networks
- provision of consultancy services to assist and facilitate organisational behavioural change
- provision of ‘train-the-trainer’ programs to equip councils to undertake their own human rights education and training
- provision of tools and resources including online education and training packages.

These education and training initiatives would go a long way to address the concerns and suggested strategies that local government raised as impediments to fully implementing the Charter in their day-to-day operations.

Report Racism project

Beginning in 2014, the City of Darebin signed on as a trial site for a project supporting reporting of racism. The Commission has partnered with the Victorian Aboriginal Legal Service (VALS) and Victoria Police to pilot a safe third-party reporting mechanism for the reporting of racism affecting the Aboriginal community. Victims, witnesses and third parties can report racism online, by phone, or at local community organisations instead of directly to police or the Commission. Reports may be anonymous.

Reports can relate to any kind of racism, including violence, graffiti, harassment, racially motivated crime, racial abuse at sporting events, refusal of or bad service, discrimination at work or school. Reports can also be made about police treatment. A person reporting racism can discuss options with the Commission, including referring the matter to Victoria Police for investigation.

Councils have observed that racism and its effect on mental and physical health, self esteem and access to resources is well documented. We all deserve to live in a community that protects us from discrimination, however the overwhelming majority of Aboriginal community members experience multiple incidents of racism, leading to high levels of psychological distress. This impacts the right of Aboriginal people to equal and effective protection against discrimination. As public authorities, councils have a duty to address this human rights issue.

Publications

In the last local government report in 2012, the Commission advised that following the success of the City of Yarra and City of Hume ‘Everyday People, Everyday Rights’ projects, a draft toolkit was developed and trialled in 2012, aiming to provide local government with a framework and series of activities to support them as they engage communities in human rights issues. Building on feedback received at the Commission’s local government forums and focus groups, the toolkit Everyday People, Everyday Rights was launched in mid-2014, and is available online at epertoolkit.com.au. The kit provides tools and information on:

- identifying human rights issues and concerns
- conducting human rights education and engagement sessions
- conducting human rights communication campaigns.

The Commission has also produced a range of resources for public authorities containing practical information, case studies and tools to help public servants consider relevant human rights in their work. In addition to the website referred to above at page 5, two of our major guidance materials published in 2014 are:

- The Charter of Human Rights and Responsibilities – a guide for Victorian public sector workers, and
- Rights and Risks: how human rights can influence and support risk management for public authorities in Victoria.


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Strategic Litigation

In 2013, the Commission used its statutory powers to intervene in a case involving local government, *Slattery v Manningham City Council.* In this case, the Victorian Civil and Administrative Tribunal (VCAT) found that the Council had breached Mr Slattery’s human rights by banning him from attending all council buildings on the basis that he posed a health and safety risk to Council staff. The ban was considered disproportionately excessive and incompatible with Mr Slattery’s right to take part in public life, freedom of expression, and the right to enjoy his human rights without discrimination.

VCAT made a declaration that Mr Slattery’s human rights had been breached, ordering Manningham City Council to provide Charter training for its Councillors, Chief Executive Officer and Directors. The training was not intended to be punitive, but to support the Council to understand and take account of human rights. It would also redress the effects of the ban on Mr Slattery.

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49 The Commission intervened in this proceeding under both section 40 of the Charter of Human Rights and Responsibilities Act 2006 (Vic) and section 159 of the Equal Opportunity Act 2010 (Vic).
50 *Slattery v Manningham City Council* [2013] VCAT 1869;
   *Slattery v Manningham City Council* [2014] VCAT 1442
51 *Slattery v Manningham City Council* [2013] VCAT 186 [149]-
   [165]
52 *Slattery v Manningham City Council* [2014] VCAT 1442 [49]-
   [50], [77], Orders 2 and 4
53 *Slattery v Manningham City Council* [2014] VCAT 1442 [49]
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