


Meeting your human rights obligations

Training on the *Mental Health and Wellbeing Act 2022* and *Charter of Human Rights and Responsibilities Act 2006* for executive and board leaders.



Did You Know

Public mental health services - both clinical and community - have always had legal obligations to properly consider and comply with human rights. With the introduction of the *Mental Health and Wellbeing Act 2022*, this standard is re-affirmed and applied again. It applies and is enforceable upon both clinicians and board members.

The Royal Commission into Victoria's Mental Health System made clear that the mental health system 'catastrophically failed' to meet the needs of the community. Amongst the many issues in the system, the Royal Commission found that the mental health system failed to comply with both the *Mental Health Act 2014* (Vic) (**MHA**) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the **Charter**). Both the MHA and the Charter create duties on mental health clinicians, as well as boards and executives.

The introduction of the *Mental Health and Wellbeing Act 2022* (Vic) (**MHWA**), including the duties to give "proper consideration" to principles

reaffirms and strengthens existing obligations under the Charter. These obligations attract explicit duties for Board and Executive members of public mental health organisations.

These duties will be part of forthcoming commissioning standards and are overseen by new regulatory bodies arising from the Royal Commission recommendations.

Beyond being duties, embedding human rights presents an opportunity to improve your services and to better meet the needs of consumers, families, carers and supporters, as well as workers.

What does the law say?

Mental health and human rights laws require you to “properly consider” and “comply” with human rights at all relevant times.

Section 38(1) of the Charter states

‘it is unlawful for a public authority to act in a way that is incompatible with a human right or, in making a decision, to fail to give proper consideration to a relevant human right.’

This means that whenever a public mental health service is making decisions that will impact on human rights, they must be able to demonstrate that they properly considered them and that they complied with them. When holding public authorities accountable, the Supreme Court in the *Castles* case stressed that this does not mean that human rights can be ‘invoked like mantra’.

Instead, deliberations of boards, quality committees, training modules, project teams - all processes that will have an eventual impact on human rights - must be able to show specific **deliberation of specifically relevant human rights**. That is, not a general invocation of human rights, but demonstrating of how specific rights relate to the matter at hand. Evidence of deliberation must be provided to substantiate compliance. A failure to do this risks breaching the Charter and human rights.

This expectation is becoming the norm in mental health: the introduction of the “properly consider” test into the MHWAs principles complements and reaffirms this existing Charter duty.

OVERSIGHT BODIES

Certain bodies have responsibilities under law to oversee human rights compliance. These include:

- the Victorian Ombudsman
- the Mental Health and Wellbeing Commission
- the Victorian Auditor General’s Office
- the Chief Psychiatrist, and
- the Supreme Court.

These duties under the Charter and the MHWAs sit alongside the need to fully implement the UN Convention on the Rights of Persons with Disabilities.

Benefits

of taking a human rights based approach

Improve Quality

People's experience of care often corresponds with their enjoyment of rights. A rights focus can improve how you measure and meet success.

Safety For All

SafeWards has taught us by prioritising the human rights of consumers, the safety of all can be enhanced.

Enhance Equity

Ensure that your service's access points are geared towards equity, by ensuring that you consider the circumstances of different communities.

Be Responsive

Being more responsive to people's individual needs, such as for LGBTIQ+, First Nations, culturally and linguistically diverse communities, and people with a disability.

Lived Experience Leadership

Lived experience leaders are often the strongest human rights advocates. Giving effect to human rights means taking lived experience leadership seriously.

Eliminate Coercion

You can't eliminate seclusion and restraint (nor compulsory treatment) without doing a whole-of-organisation rethink around human rights.

Support Workforce

Workers have a right to a gender-equal, disability-accessible and culturally-safe workplace. Bringing human rights front of mind can assist this.

Enhance Advocacy

Enhance your advocacy to other parts of the system and to government by promoting human rights.

Manage Risk

Prevent human rights claims before they happen by reducing the 'upstream' organisational risk factors for rights breaches.

Board and executive training

I offer training for Board and Executive staff on their human rights duties. I strongly encourage lived experience representatives to be part of the training. The training covers four key areas.

⁰¹ Your human rights duties

⁰² What they mean for governance

⁰³ Embedding human rights across your organisation

⁰⁴ Change management & culture

Training package

Activity-based learning is used across all modules

Module 1

Human rights and why they matter

Human rights are often spoken about, but not understood. This module provides you with a firm foundation on why human rights matter to mental health and what specific legal obligations that public mental health services have in Victoria.

Module 2

What they mean for governance

Human rights create specific legal obligations for Executive and Board members. This applies to strategic planning, risk management, clinical governance, service planning, models of care, workplace policies, occupational health and safety. Many mental health services are legally vulnerable on these points.

Module 3

Embedding human rights

It can be overwhelming to know how to apply human rights to the work you do across so many areas of your organisation. I provide a simple framework that I have already co-developed, and assist you to think about applying it to the different facets of your organisation.

Module 4

Change management & culture

Human rights are at their heart about reshaping not just our organisations, but our community, in favour of social justice. This requires the 'heart' as much as the 'head'. It also requires recognition of, and support for, consumer leadership. Change requires the creation of indicators to measure performance against and the support for champions of change in the organisation. We conclude the package by exploring this.

Included:

A comprehensive online resource for you to utilise out-of-session

How it works

01 Pre-formed modules

I have prepared these modules over years of work, which are updated to meet requirements under both the *Charter of Human Rights and Responsibilities Act 2006* and the *Mental Health and Wellbeing Act 2022*.

02 Meet with you

After agreeing, I meet with you to find out the areas which you would like to emphasise in the training. I also meet with consumer and carer representatives of your staff and of your lived experience advisory groups. I offer to do the training with the advisory groups included with Executive and Board members, or separately.

03 Undertake training together

There are **four modules (interactive seminars)** that can be facilitated either in-person or online. They can be scaled to anywhere from 60 to 150 minute intervals, depending on your organisations' preferences. I will leave you with a general action plan and set of indicators that you can work towards.

Value

I do this work from a place of passion. Therefore I aim to deliver it at a price that secures and income for me while making it accessible to as many organisations as possible. As the window of opportunity for change is limited, I will only maintain these prices until March 2024. After this time I will increase them.

Combined sessions

\$5000 + GST

A combined session assumes that lived experience representatives will be in the same session as Board and Executive staff members.

Included

- Pre-meeting with Board and Executive Staff and with lived experience representatives and stakeholders
- Four human rights modules training packages with both lived experience and Board/Executive staff members
- A general action plan and set of indicators that you can use for your organisation.

Separate sessions

\$7500 + GST

Separate sessions cover the same content but provide separate spaces for Board and Executive staff to be separate from lived experience representatives and advisory groups.

Note

Please note that this offer is for training for your organisation. It is not a review of your service nor is it ongoing change management advice. I may be able to assist you with this but this is a separate offer.

Experience

Studies and academia

I have completed a Bachelor of Laws (honours) / Bachelor of International Relations, a Graduate Diploma in Psychology, and am completing a Masters in Regulation and Governance. I have published 11 articles on the intersection of mental health, regulation, stigma, anti-discrimination, human rights and consumer leadership. I also contribute opinions in the Guardian and 9Fairfax.

Workplace experience

I have worked in front-line and policy roles at the Victorian Mental Illness Awareness Council (staff, Board Member, Chair of the Human Rights and Ethics Sub-Committee), Independent Mental Health Advocacy, Victoria Legal Aid, the Victorian Equal Opportunity and Human Rights Commission, the Mental Health Complaints Commission, the royal Commission into Victoria's Mental Health System and as a consultant. I have also worked in consumer-designated roles at VMIAC, at the Centre for Mental Health Nursing and at the Royal Commission into Victoria's Mental Health System.

Training & supervision

I have provided training to the Mental Health and Wellbeing Division (Executive Team and the Lived Experience Branch) and participants in VMIAC's Consumers Leading in Governance training package. I have previously taught at the University of Technology Sydney, RMIT University, and Deakin University on mental health and human rights.

Consulting experience

I have consulted on a range of issues and practice areas that intersect with human rights, including:

- Leading the **State Acknowledgement of Harm Project** to advise the Minister for Mental Health on harms in the system
- Developing the **Mental Health Outcomes and Performance Framework** with the Department of Health
- Evaluating the **Hospital in the Home** pilot program
- Facilitating consumer workshops to inform the design of the **Mental Health and Wellbeing Bill**
- As a consumer adviser to the **Royal Commission into Victoria's Mental Health System**.

I understand the importance of working closely with the challenges faced by organisations without compromising on human rights.

Testimonies

I had the pleasure of working with Simon on some Mental health stigma and discrimination work and found Simon not only to have significant subject matter expertise, but also to be able to support me to understand how the theory and frameworks could be applied practically and with integrity. Simon is also just a pleasure to work with - down to earth and ready and able to meet you at your level and expand your thinking and understanding.

TESSA PIPER

Former Director, Royal Commission into Victoria's Mental Health System

Simon is an excellent consultant, researcher and educator. My team has had the pleasure of partnering with two significant evaluations of mental health and wellbeing programs. Simon has shared his significant knowledge of mental health reform, human rights and lived experience expertise and insight generously with the team and contributed significantly to high quality engagement activities and deliverables. Simon's work has enriched the findings and recommendations that will flow from these projects elevating their potential for delivering positive impact across the community.

BARBARA DIXON

Former Manager, Cube Group Consulting

It has been a pleasure to work with Simon again - this time on the development of human rights resources for public servants in the mental health and wellbeing system.

Simon is always thoughtful in considering what will help his clients to understand concepts and how to translate them into real world outcomes that uphold people's human rights.


He is generous and curious in working through different ideas and complexity. He is creative in how he communicates to meet the needs of different audiences. I had a great experience working with him.


KERIN LEONARD

Former Head of Legal, Victorian Equal Opportunity and Human Rights Commission, Co-Lead on 'Putting Human Rights at the Heart' advising the Division on human rights

Contact

Please reach out. I'm excited to talk with you!

 0424 827 265

 simon@simonkatterlconsulting.com

 simonkatterlconsulting.com