



VCOSS Submission

**Review of the Health Act 1958
A new legislative framework
for public health in Victoria**

November 2004

Every citizen has the right to the highest possible standard of physical and mental health.
– Article 12, International Covenant on Economic, Social and Cultural Rights¹

Foreword

The Victorian Council of Social Service (VCOSS) is the peak body of the social and community sector in Victoria. VCOSS works to ensure that all Victorians have access to and a fair share of the community's resources and services, through advocating for the development of a sustainable, fair and equitable society.

VCOSS members reflect a wide diversity, with members ranging from large charities, sector peak organisations, small community services, advocacy groups and individuals in social policy debates.

VCOSS Vision

The VCOSS vision is that we are a society where people are interdependent of one another and committed to living out the principles of equity and justice. We respect the land we live in and recognise the Indigenous custodians of the country. We have reconciled all injustices with Indigenous Australians.

Our vision is one where social wellbeing is a national priority, and:

- Ensures everyone has access to and a fair share of the community's resources and services;
- Involves all people as equals, without discrimination; and
- Values and encourages people's participation in decision making about their own lives and their community.

This is consistent with Article 25 (1) of the 1948 Universal Declaration on Human Rights² which states:

“Everyone has the right to a standard of living adequate for the health and wellbeing of [her or] himself and of [her or] his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood.”

Introduction

VCOSS welcomed and endorses the Victorian State Government's current Review of the *Health Act 1958*, and congratulates the Minister for initiating the Review.

The aim of the Review to achieve a simplified, coherent and modern legislative framework is to be commended. The general tenor of the *Review of the Health Act 1958: A new legislative framework for public health in Victoria – A discussion paper* (the *Discussion Paper*) is both positive and welcomed. VCOSS has some concerns around the lack of detail, for example regarding the power to collect health information, and concerns regarding the potential resource implications regarding specific proposals, but looks forward to working with the Victorian Government to address these. Of particular priority, is the need to ensure that public and community health initiatives are resourced according to the importance of the role they play within the broader health system.

VCOSS welcomes the opportunity for the community and social services sector and other key stakeholders to contribute to the achievement of the aim to achieve a simplified, coherent and modern legislative framework through active engagement with the ongoing Review process. VCOSS applauds the principles that were established to guide the Review process, and congratulates the Public Health Branch of the Department of Human Services (DHS) for structuring the Review consultation process in a way that enables considered input and ongoing engagement by key stakeholders.

The VCOSS submission to the Review focuses on the broad principles that should underpin the new legislation. The submission is structured using the *Issues for Comment* within the *Discussion Paper* as a basis for comment. VCOSS has provided comment regarding those Issues for Comment where it and our members have expertise. VCOSS directs attention to the submissions of other key stakeholders regarding other Issues for Comment.

VCOSS acknowledges that a number of VCOSS members and other key stakeholders have significant expertise to contribute to the Review process. VCOSS endorses the submissions of the Health Issues Centre of Victoria (HIC), Municipal Association of Victoria (MAV), Victorian Local Governance Association (VLGA), and the Victorian Healthcare Association (VHA). VCOSS directs attention to the submissions of these organisations as each provides particular expertise and makes a valued contribution to the consideration of the issues outlined in the *Discussion Paper*.

Overview and policy context

Health is central to both individual and broader community social and economic wellbeing,³ and is recognised as a fundamental right in the *Universal Declaration of Human Rights*,⁴ and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), to which Australia is signatory.⁵ Health is also an essential component of active citizenship as without health a person cannot participate in community life, for example participating in education or employment. Effective health programs and services are an essential aspect of Victoria's social infrastructure, and are a key for minimising disadvantage.⁶ A strong public health system is therefore vital.

VCOSS supports the aim of public health programs to create a physical, social, economic and cultural environment that enables people to avoid ill-health and achieve maximum wellbeing. Focusing on prevention through the creation of healthy environments, rather than changing the individual is key to addressing the broader social determinants of health.

At an overarching level, VCOSS advocates that the development of the new Act should be clearly informed by public health perspectives based on the social model of health and wellbeing, the importance of intersectoral cooperation, and the acknowledgement of the importance of Primary and Community Health services in the promotion of public health.

VCOSS shares the broader view of public health that “goes beyond the absence of disease to describe an ideal state of complete physical, mental and social wellbeing,”⁷ and the definitions that focus on the broader view of health. VCOSS views using a social model of health as the basis for the new Act as critical.

A social model of health highlights the importance of the social and environmental determinants of health, and is based on the premise that as people’s social and economic circumstances strongly impact on their health throughout life, health policy must be linked to the social and economic determinants of health. The UK *Acheson Report*⁸ emphasises the health-promoting characteristic of the social model of health and notes the importance of adopting such a model when responding to health inequalities. The social determinants of health, such as employment status, education attainment, housing status, environmental conditions, socio-economic status and level of social inclusion, have a significant impact on health and wellbeing.⁹ Housing is of particular importance, as a lack of access to well-located safe, appropriate and affordable housing is a profound barrier to many families attainment of good health and wellbeing. Within public health policy, it is therefore critical to understand and address the social and economic conditions that impact on people’s health and wellbeing,¹⁰ through a strong health promotion focus, and the provision of universally accessible services and targeted initiatives at the local level.¹¹

Health promotion is a key element of the social model of health¹². The World Health Organisation (WHO) *Ottawa Charter*¹³ provides a noteworthy definition of health promotion:¹⁴

Health promotion is “... the process of enabling people to increase control over, and to improve, their health ... Health is ... a resource for everyday life, not the objective of living. Health is a positive concept emphasizing [sic] social and personal resources, as well as physical capacities. Therefore, health promotion is not just the responsibility of the health sector, but goes beyond healthy lifestyles to wellbeing.”

VCOSS advocates that this broader view of public health based on a social model of health should be clearly articulated within the objects of the new Act.

Overarching Framework

VCOSS views the outlined elements of the overarching framework for the new Act as sound.

VCOSS supports naming the new act the *Public Health Act* to better reflect the role and purpose of the Act. In naming the new act the *Public Health Act*, VCOSS advocates that it is important that what is meant by public health and wellbeing is clearly defined within the Act.

Promoting the public’s health

VCOSS advocates that the new Act should recognise and empower the promotion of public health and wellbeing. In order to so, VCOSS particularly supports the proposal that the new Act could empower the promotion of public health and wellbeing:

- through the statement of the intended purpose of the Act, or its objects clause; and
- by ensuring that information on factors affecting social, physical and cultural environments for health is made available.

In addition to the Act clearly defining what is meant by public health and wellbeing, VCOSS believes that it is important that the new Act encompass a broader understanding of public health that reflects issues such as health inequalities, social conditions and access to services.

It is important to note that research indicates that health promotion activities that seek to change behaviour alone often fail to reach those who experience disadvantage.¹⁵ This suggests that access to services – particularly non-stigmatised universal primary and

community health services – may play a more long lasting role in achieving better health outcomes than education alone. A careful balance needs to be struck, therefore, between these twin issues of *access* and *education*. Indeed, it has been argued that “failures in ensuring access to the primary care system have crucial rebound effects on the whole health care system”.¹⁶ Therefore VCOSS advocates that in recognising and empowering the promotion of public health and wellbeing, the new Act should include acknowledgement of the importance and complimentary nature of access to services and broader health promotion activities.

Addressing health inequalities

VCOSS endorses the statement that a core objective of public health is to address the inequalities in the health and wellbeing of those who experience disadvantage, and strongly advocates that the new Act should recognise the need to address these inequalities. VCOSS has long advocated that the Victorian Government must proactively address health inequalities and the underlying social determinants of health in order to support the wellbeing of all Victorians, particularly those who experience disadvantage.

It is of particular concern to VCOSS that health inequalities continue to persist in Victoria, despite improvements in the overall health and wellbeing of Victorians over the last decade. As noted in the *Discussion Paper*, particular population groups, including Indigenous Victorians, people from culturally and linguistically diverse (CALD) communities and people of a low socioeconomic status,¹⁷ experience significantly lower health outcomes than do other members of the Victorian community. The *Victorian Population Health Survey 2003*¹⁸ and the *Victorian Burden of Disease Study*¹⁹ has documented persistent levels of health inequalities associated with low socioeconomic status and spatial disadvantage,²⁰ as poor health status has been found to be compounded for people of low socioeconomic status when they live in areas of high disadvantage.²¹

Health inequalities are known to have a cumulative effect across the lifespan. This strongly suggests that the only sustainable way of addressing inequalities in health and wellbeing is through early intervention and prevention programs. VCOSS supports including a statutory mechanism in the new Act to facilitate the collection and dissemination of information relevant to general health determinants. In the collection of any information, appropriate privacy requirements should be met. VCOSS also supports the new Act including a focus on preventative strategies to better support the health and wellbeing of Victorians, particularly those who experience disadvantage.

As noted, VCOSS strongly advocates that the new Act should recognise the need to address inequalities in the health and wellbeing of those who experience disadvantage. VCOSS endorses the proposal in the *Discussion Paper* to recognise in the new Act’s statement of intended purpose, or objects clause, that promoting public health and wellbeing through the built, social, economic and natural environments is an important strategy for addressing health inequalities. Alongside this, as noted earlier, VCOSS advocates that the Act include an acknowledgement of the importance and complimentary nature of access to services and broader health promotion activities, given that research indicates that health promotion activities that seek to change behaviour alone often fail to reach those who experience disadvantage.

Objects and Guiding Principles of new Act

VCOSS endorses the outlined objects (statement of intended purpose) within the *Discussion Paper*, and the inclusion of guiding principles in the new Act. Further detail is required to clearly understand how these objects and guiding principles would apply in practice. VCOSS again notes its support for the broader view of public health based on a social model of health being clearly articulated within the objects of the new Act.

VCOSS advocates that the *International Covenant on Economic, Social and Cultural Rights* should be attached to the new Act to reinforce that the right to health must be equitably realised by all Victorians.

Intersectoral Relationships

VCOSS endorses the proposal that the new Act facilitate intersectoral cooperation in public health as much as possible, and supports the recognition of the value of intersectoral partnerships through inclusion as a guiding principle.

VCOSS, like the Victorian State Government, values partnerships across sectors – Commonwealth, state and local governments and non-government organisations – around the planning and delivery of public health services. Partnerships better enable collaboration around the planning and delivery of high quality services. VCOSS directs the Review Steering Committee to the recent *Collaboration and Consultation Protocol for the Department of Human Services and the health, housing and community sector*, particularly the key principles which provide a context in which collaborative and consultative activities are more likely to succeed.²²

VCOSS supports the view in the *Discussion Paper* that it is not desirable to prescribe the parameters of any partnerships in legislation. VCOSS views that using other tools such as Memorandums of Understanding (MoUs) and Funding and Service Agreements (FASAs) as a more effective approach in supporting the sustainable development of intersectoral cooperation.

VCOSS shares the concern of the Municipal Association of Victoria (MAV) regarding the lack of detail around the requirements and expectations of the Victorian State Government that are proposed to be included in the new Act. As the Victorian State Government, through the Department for Human Services, is the primary public health authority, VCOSS supports the view of the MAV that the role and responsibilities of the DHS / Secretary detailed in the new Act should extend beyond the current proposal of data management.

Municipal Public Health Plans

The *Health (General Amendment) Act 1988*, S29A, made provision for local governments to document their major public health activities in a public health plan. Municipal Public Health Plans (MPHPs) have generally provided a sound basis for a strategic and integrated approach to public health planning at a municipal level.

VCOSS strongly supports the current practice around the development of MPHPs, where planning is undertaken in partnership with the community and key local and regional health and other community and social service organisations. Such an approach recognises that public health and wellbeing goes beyond the scope of local governments. VCOSS believes that local community health services should be involved in the development of MPHPs – MPHPs must be community owned plans, and not viewed as being owned by local governments.

VCOSS supports the view of the Victorian Local Governance Association (VLGA) that MPHPs, and other key local government strategic plans, need better alignment and integration with the consultation and reporting requirements for community and local government planning processes. VCOSS also shares the view that the proposals for the future development of MPHPs are positive and in accordance with good governance principles for Victorian local governments.

Public Health Strategy

In addition to the legislative requirement for Municipal Public Health Plans, VCOSS advocates legislating the requirement for the Department of Human Services to develop a *Public Health Strategy* every three years. The Public Health Strategy should be consistent with the overarching framework, objects and guiding principles of the new Act, and the local planning that occurs through MPHs.

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) sets out minimum standard obligations on governments that should take immediate effect in relation to the right to health. These minimum standard obligations include the development and implementation of a public health strategy.²³

A three-year Public Health Strategy could provide a framework and include guiding principles for public health effort in Victoria. Using the overarching framework and guiding principles in the new Act as the starting point, the Strategy should be based on the social model of health and have a strong focus on promoting public health and wellbeing and addressing health inequalities. The New Zealand Ministry of Health's *Health Strategy*²⁴ would be a useful model for a Victorian Public Health Strategy. The NZ Health Strategy has focused significantly on the reduction of inequalities, particularly between the health status of Maori and Pacific peoples, and other New Zealanders.

The following elements could be addressed within a Victoria Public Health Strategy:

- Identification of public health priorities and activities for the three year period,
- Establishment of standards for public health, and
- Public reporting mechanisms on the aims and outcomes of the strategy.

Health Information and Reporting

In light of the proposed new powers to be given the Secretary, VCOSS advocates that there is a clear need to ensure that those who experience disadvantage are protected against ad hoc, discriminatory and inconsistent application of these powers through a robust process of review and redress. Further clarification is also required regarding the power to collect health information. VCOSS directs the Review Steering Committee to the submission of the Health Issues Centre for further discussion regarding these concerns.

Further discussion with key stakeholders is required regarding the issue of reporting and the use, or current lack thereof, of information provided to DHS. The new Act should ensure that there is a strategic use of available information and data to inform and strengthen public health initiatives. As noted in the submission of the Municipal Association of Victoria, reporting within the public health context should be for the development of knowledge, and that this knowledge should be shared with all stakeholders to support the ongoing development and refinement of local health strategies.

Health Impact Assessment

In principle, VCOSS supports the proposal to incorporate the Health Impact Assessment (HIA) guidelines into existing Environment Impact Assessments (EIA) within the Environmental Effects Act, providing that:

- The EIA requirements around HIAs within the Environmental Effects Act are strengthened,
- A guiding principle is included in an amendment to the Environmental Effects Act to enhance the understanding of the inclusion of the strengthened HIA guidelines, and
- A clear reference noting the HIA requirements in the Environmental Effects Act is included in the new Public Health Act.

Currently the application of Health Impact Assessments (HIA) is too narrow, and there are benefits to there being a broader application. VCOSS advocates that there is a clear need to institutionalise HIA requirements within policy-making and planning processes. Rather than developing a separate approach to determine the health impacts of projects, programs or policies that fall outside the existing EIA framework, VCOSS advocates that this framework should be strengthened to address these gaps. As noted in the submission by Women's Health Victoria, strengthened processes could also consider perceptions of safety, which can impact on the use of services and participation in the community – these considerations should be viewed as equally important as issues of structural safety. Strengthening HIA requirements in the Environmental Effects Act will allow for improved integration across government regulatory authorities, rather than increased fragmentation.

Clear criteria should be included in the new Act detailing what triggers a HIA. Such criteria should outline the specific circumstances for when a HIA would be undertaken, who is responsible for undertaking it, and who has responsibility for assessing the adequacy of the HIA. A category should also be included under which users of services would be a nominated agency to be involved in the consultation process.

Endnotes

- ¹ United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 12, General Comment No.14, http://www.unhcr.ch/html/menu3/b/a_ceschr.htm.
- ² See <http://www.un.org/Overview/rights.html>
- ³ Australian Institute of Health and Welfare, 2002, *Australia's Health 2002*: <http://www.aihw.gov.au/publications/index.cfm?type=detail&id=7637>
- ⁴ Universal Declaration of Human Rights, Article 25 (1) states: "Everyone has the right to a standard of living adequate for the health and wellbeing of [her or] himself and of [her or] his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood."
- ⁵ United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 12, General Comment No.14, http://www.unhcr.ch/html/menu3/b/a_ceschr.htm.
- ⁶ Australian Institute of Health and Welfare, 2000, *Australia's Health 2000*, Canberra: Australian Institute of Health and Welfare
- ⁷ Public Health Division, Department of Human Services (DHS), *Review of the Health Act 1958: A new legislative framework for public health in Victoria – A discussion paper*, Melbourne, 2004, p.5.
- ⁸ Acheson Report, *Independent Inquiry into Inequalities in Health – Acheson Report*. Stationary Office, London UK, 1998, <<http://www.archive.official-documents.co.uk/document/doh/ih/contents.htm>>. The *Independent Inquiry into Inequalities in Health* was commissioned by the British Secretary of State for Health to review the links between income, inequality and poor health. Sir Donald Acheson conducted the Inquiry; the report of the Inquiry is commonly referred to as the *Acheson Report*.
- ⁹ Marmot, M. & Wilkinson, R.G., Eds, 1999, *Social determinants of health*, Oxford: Oxford University Press; Klein, H., 2003, *Changing places, tackling inequalities: Can a place-based strategy improved health outcomes in disadvantaged communities?*, Paper presented at the Primary and Community Health Network Annual Conference, Not just health: Primary health care addressing health inequalities, Melbourne, 16 October 2003.
- ¹⁰ Wilkinson, R. & Marmot, M, 2003, *The social determinants of health: The solid facts*, World Health Organisation (WHO), <http://www.who.dk/document/e81384.pdf>
- ¹¹ Klein, H., 2003, *ibid*, provides a clear outline of the importance of addressing issues of spatial disadvantage alongside initiatives to address growing social inequality, noting that the Victorian Government's *Neighbourhood Renewal* initiative "provides a coherent model to help turn the tide on health inequality" (p.16).
- ¹² Inner South East Partnership in Community and Health (ISEPICH), *Identification but no intervention: A discussion paper on the unmet demand for counselling services for people with anxiety and depression disorders*. Depression / Mental Health Planning Group. St Kilda: Port Phillip City Council, 2002.
- ¹³ World Health Organisation [WHO], *Ottawa Charter*, 1996 <<http://www.who.dk>>.
- ¹⁴ health promotion: "... the process of enabling people to increase control over, and to improve, their health. To reach a state of complete physical, mental and social wellbeing, an individual or group must be able to identify and to realise aspirations, to satisfy needs, and to change or cope with the environment. Health is, therefore, seen as a resource for everyday life, not the objective of living. Health is a positive concept emphasizing [sic] social and personal resources, as well as physical capacities. Therefore, health promotion is not just the responsibility of the health sector, but goes beyond healthy lifestyles to wellbeing."
- ¹⁵ T Schrader, 'Poverty and Health in Australia', *New Doctor* 80, Autumn, 2004, p.17.
- ¹⁶ S Duckett, *Threats To Universal Health Care*, The Whitlam Institute, 2004, www.whitlam.org.au/html/2004/new_duckett_0804.html accessed 21/09/04.
- ¹⁷ for a discussion of the impacts of poverty on health status and the Victorian context, see Klein, H., 2003, *Changing places, tackling inequalities: Can a place-based strategy improved health outcomes in disadvantaged communities?*, Paper presented at the Primary and Community Health Network Annual Conference, Not just health: Primary health care addressing health inequalities, Melbourne, 16 October 2003
- ¹⁸ DHS, *Victorian Population Health Survey 2003*, Public Health and Development Division, DHS, 2004, <http://www.health.vic.gov.au/healthstatus/downloads/vphs/vphs2003.pdf>
- ¹⁹ Department of Human Services (DHS), 1999, *Victorian Burden of Disease Study: Mortality*, Public Health and Development Division, DHS, [http://www.betterhealth.vic.gov.au/bhcv2/bhcvpdf.nsf/bypdf/mortality/\\$file/mortality.pdf?Open](http://www.betterhealth.vic.gov.au/bhcv2/bhcvpdf.nsf/bypdf/mortality/$file/mortality.pdf?Open)
- ²⁰ The health inequalities identified in the *Burden of Disease Study* were reconfirmed in the *Victorian Population Health Survey 2001 – Rural and Regional Health and Aged Care Services Division*, 2002, *Victorian Population Health Survey 2001: Selected findings*, Department of Human Services – which found a close correlation between household income and self-reported Health (noted in Klein, H., 2003, *Changing places, tackling inequalities: Can a place-based strategy improved health outcomes in disadvantaged communities?*, Paper presented at the Primary and Community Health Network Annual Conference, Not just health: Primary health care addressing health inequalities, Melbourne, 16 October 2003)
- ²¹ McClelland, A. & Scotton, R., 1998, Poverty and health. In R.Fincher & J.Nieuwenhuysen, Eds, *Australian poverty: Then and now*, pp.185-202. Carlton: Melbourne University Press.
- ²² DHS, *Collaboration and consultation protocol for the Department of Human Services and the health, housing and community sector*, DHS, Melbourne, November 2004.
- ²³ A Pettitt, *Protecting human rights in Australia – Health rights, Fact Sheet No.7*, Public Interest Advocacy Centre (PIAC), Sydney, May 2004.
- ²⁴ Ministry of Health, *The New Zealand Health Strategy*, Ministry of Health, Manatū Hauora, Wellington, New Zealand, 2000, <<http://www.moh.govt.nz>>.