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Supporting Offenders and their Families

Voting as a human right: enfranchising people experiencing homelessness and imprisonment

**Submission to the Parliament of Victoria
Electoral Matters Committee into Voter Participation and
Informal Voting**

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1. Introduction

1.1 Executive Summary

This submission is made by the PILCH Homeless Persons' Legal Clinic (**HPLC**), the Human Rights Law Resource Centre (**HRLRC**) and the Victorian Association for the Care and Resettlement of Offenders (**VACRO**) to the Parliament of Victoria Electoral Matters Committee (**the Committee**) Inquiry into Voter Participation and Informal Voting (**the Inquiry**).

The submission examines and discusses the following issues:

- the essential right to vote as stipulated in section 18 of the *Charter of Human Rights and Responsibilities Act 2006* (**the Victorian Charter**) and the significance of international human rights and the right to vote in Article 25 of the *International Covenant on Civil and Political Rights* (**ICCPR**);
- the importance of recognising and ensuring realisation of, the right to vote for people experiencing homelessness and imprisonment;
- the various barriers, disincentives and impediments to electoral enrolment and participation among people experiencing homelessness and imprisonment;
- levels of electoral enrolment and electoral participation among people experiencing homelessness and imprisonment; and
- practical and legislative strategies and remedies to increase levels of electoral enrolment and participation for people experiencing homelessness or imprisonment, including public education and awareness campaigns and flexible enrolment and voting processes.

The human right to vote is an essential right recognised in Article 25 of the *ICCPR* and set out in section 18 of the Victorian Charter. The introduction of the Victorian Charter creates a mandate for the Victorian government, its departments and agencies to review and amend all Victorian laws, policies and procedures to ensure their compatibility with the human rights upheld in the Victorian Charter. In order to facilitate this, the Committee must consider and operate within a human rights framework in reporting to the Victorian government around electoral issues, voter participation and the development of practical measures to improve the realisation of the right to vote for people experiencing homelessness and incarceration.

This submission discusses homelessness in Victoria and acknowledges the efforts to date of the Victorian Electoral Commission (**VEC**) in developing practical measures to assist people experiencing homelessness to access and realise their human right to vote, provided for in the Victorian Charter and the *ICCPR*. These practical measures have included streamlining itinerant voting procedures, providing education material regarding voting and collaborating with homelessness service providers. This submission recommends the extension and continuation of these practical measures to ensure the franchise of people experiencing homelessness and their continued enjoyment of the human right to vote.

In addition to these practical measures, this submission highlights that a range of amendments to the *Electoral Act 2002* (Vic) (**the Electoral Act**) are required in order to encourage and better facilitate the enfranchisement of people experiencing homelessness. While we acknowledge the important reform of the Electoral Act in 2004, which better clarified that people experiencing homelessness are

eligible to enrol as itinerant voters, we contend that reform of the Electoral Act must go further. This submission details the most urgent of these reforms.

Finally, this submission also argues that in order for prisoners in Victoria to access and realise their right to vote, practical measures must be developed to ensure their enfranchisement. The VEC should be guided by its policies in relation to the franchise of people experiencing homelessness and provide increased education to prisoners, prisons and the Department of Justice and form relationships with relevant service providers. The realisation of the right to vote for prisoners is highly beneficial and can be a factor in assisting prisoner rehabilitation, social inclusion and lower rates of recidivism.

The HPLC, HRLRC and VACRO would appreciate the opportunity to supplement this submission with oral evidence at the public hearings at Parliament House to be held on 23 and 24 July 2008.

A summary of the recommendations in this submission are set out below.

1.2 Recommendations

Recommendation 1

The Victorian Government should review and amend the Electoral Act and all policies and procedures of the VEC to ensure compliance with the Victorian Charter and the effective realisation of the right to vote.

Recommendation 2

The Victorian government should lobby the Federal Government to amend section 96 of the *Commonwealth Electoral Act 1918* (Cth) in the manner put forward in this submission.

Recommendation 3

The Victorian government should amend section 22 of the Electoral Act so that homeless people who have found temporary or permanent accommodation are exempt from the 21 days address requirement found in section 22(1) and are given additional time to enrol to vote. This will ensure that people experiencing homelessness who have found accommodation can enrol to vote as 'normal electors'.

Recommendation 4

The Victorian government should amend section 22(1) of the Electoral Act so that homeless people who reside in temporary accommodation for over one month are still eligible to enrol to vote as itinerant electors.

Recommendation 5

Section 23(4) of the Electoral Act should be amended such that persons with a 'reasonable excuse' for failing to notify the VEC of a change of residence within the 21 day timeframe are not guilty of an offence. Homelessness as defined in section 3A of the Electoral Act should be deemed a 'reasonable excuse'.

Recommendation 6

Section 63 of the Electoral Act should be amended to allow people experiencing homelessness to register to vote as an itinerant voter up to the day of the election. Section 63 should also be amended to allow itinerant voters to register to vote in person at voting centres on Election Day.

Recommendation 7

Section 164(1) of the Electoral Act should be amended to allow electors to attend offices of the VEC in person to verbally respond to section 163 notices.

Recommendation 8

Section 166 of the Electoral Act should be amended such that a person experiencing homelessness be exempt from the offence or fine in section 166 if they are homeless within the definition of section 3A.

Recommendation 9

Section 163 of the Electoral Act should be expanded to ensure that 'valid and sufficient excuse' specifically includes homelessness and other issues such as drug or alcohol addiction, mental illness and literacy problems.

Recommendation 10

The VEC should conduct education and awareness activities to ensure that eligible homeless Victorians are adequately informed and able to enrol and exercise their right to vote. These activities should, at a minimum, include those set out this submission.

Recommendation 11

The Victorian government should provide additional funding to the VEC to assist them in expanding and continuing its activities to enhance the franchise of to people experiencing homelessness.

Recommendation 12

The VEC should conduct education and awareness activities to ensure that eligible incarcerated Victorians are adequately informed and able to exercise their right to vote. These activities should, at a minimum, include those set out in this submission.

Recommendation 13

The VEC should receive additional funding from the Victorian government to fund the VEC in providing information to Victorian prisoners, prisons, service providers and Department of Justice staff to enhance prisoner franchise in Victoria.

2. Organisational Background

2.1 PILCH Homeless Persons' Legal Clinic

The HPLC provides free legal services to, and advocacy on behalf of, people experiencing or at risk of homelessness. Since its establishment in 2001, the HPLC has provided free legal assistance to over 3000 homeless people across Melbourne. These legal services, which are provided by pro bono lawyers at 11 crisis shelters, soup kitchens and welfare agencies on a weekly basis to facilitate direct access, are valued at more than \$3.5 million per year.

In addition to direct casework services, the HPLC undertakes significant law reform, education and consumer participation activities in recognition of the need to address the underlying structural and systemic issues that cause, contribute and prolong homelessness and to promote and protect the right to housing and other fundamental human rights. In 2005 the HPLC was conferred with the National Human Rights Award in recognition of its work in promoting and protecting the rights of those that are marginalised and disadvantaged.

2.2 Human Rights Law Resource Centre

The HRLRC was formally created in 2006 and is the first specialist human rights law resource centre in Australia. The HRLRC aims to promote human rights in Victoria and Australia through the practice of law, paying particular attention to the human rights of people that are disadvantaged or living in poverty. The HRLRC seeks to achieve this aim by supporting, conducting, coordinating, resourcing, facilitating and enhancing the provision of legal services, litigation, education, training, research and advocacy regarding human rights.

The HRLRC undertakes these activities through partnerships and collaboration with the community legal sector and legal aid, human rights organisations, pro bono lawyers, legal professional associations and university law schools.

2.3 Victorian Association for the Care and Resettlement of Offenders

VACRO is a non-denominational, community-based agency that provides information, counselling and support for those charged with an offence in Victoria, for offenders and for their families. Since its inception as the Prisoners Aid Society in 1872, VACRO has been actively involved in education, counselling and personal development of offenders while they are in prison. VACRO provides transitional services to facilitate reintegration into the community on release. VACRO has a track record of working with other community organisations to develop innovative services to meet the needs of clients. VACRO also has a commitment to working with a range of Government departments and justice system agencies to improve policy and services for defendants, offenders and their families.

3. The Human Rights Framework and the Right to Vote

3.1 Introduction

The United Nations Office of the High Commissioner for Human Rights (**OHCHR**) has drawn a direct link between homelessness, poverty and the right to vote, stating:

Lack of political rights is both a cause and a consequence of poverty. Socially and politically excluded people are more likely to become poor, and the poor are more vulnerable to social exclusion and political marginalization...Active participation in political decision-making processes plays a role in expanding political freedoms and empowering people, which in turn contributes towards combating social exclusion and political marginalization.¹

It is vital that people experiencing homelessness, or incarceration, are able to share in the experience of participative democracy by exercising their right to vote.² Participation in the democratic process is both empowering and socially inclusive, and can contribute to facilitating pathways out of homelessness and reducing recidivism.

The right to vote, and Victoria's obligation to ensure its realisation, arises under international and domestic law. Set out below is a discussion of the nature and scope of the right to vote in international law and the way in which it should inform any understanding of the Victorian government's obligation to ensure the right to vote under the Victorian Charter, as well as the specific obligations placed on the Victorian government under the Victorian Charter.

3.2 The Right to Vote in International Law

Article 25 of the *ICCPR*³ recognises and protects the right of every citizen to vote. This right also requires that governments take all such legislative and other steps to ensure that everyone is *able* to exercise their right to vote, whatever the form of constitution or government adopted by a state.⁴ No distinctions are permitted between citizens in the enjoyment of the right to vote on the grounds of, *inter alia*, social origin, property or other status.

According to the United Nations Human Rights Committee (**HRC**), the right to vote lies at the core of democratic government based on the consent of the people.⁵ The right to vote imposes a positive obligation on States to adopt effective measures to ensure that all persons entitled and eligible to vote are able to exercise that right. Where citizens are required to enrol to vote, such enrolment must be facilitated and obstacles should not be imposed.⁶ In the event that residence requirements apply to enrolment, they must be reasonable, and should not be imposed in such a way as to exclude groups, such as people experiencing homelessness, from exercising their right to vote.⁷

¹ UN Office of the High Commissioner for Human Rights, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (2002) 48.

² Conservative estimates show that at least 64,000 people experiencing homelessness were eligible to vote at the 2007 Federal Election. Further, we note that previous research conducted by the Clinic suggested that at the time of the 2004 Federal Election, up to 76 per cent of the 64,000 homeless people who were eligible to vote did not do so. PILCH Homeless Persons' Legal Clinic, 'Homelessness and Voting: Submission to the Joint Standing Committee on Electoral Matters Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto' (2005) 38 <<http://www.aph.gov.au/house/committee/em/elect04/subs/sub131.pdf>>

³ Australia signed the International Covenant on Civil and Political Rights in 1972 and ratified it in 1980.

⁴ Human Rights Committee, *General Comment 25: Article 25*, UN Doc HRI/GEN/1/Rev.5 (2001) 157

⁵ United Nations Human Rights Committee, *General Comment 25: The right to participate in public affairs, voting rights and the right of equal access to public service (article 25)*, CCPR/C/21/Rev.1/Add.7 (1996) [2].

⁶ *Ibid.* [11]

⁷ *Ibid.*

The HRC also specifies that voter education and enrolment campaigns are necessary to ensure the effective exercise of the right to vote by an informed community.⁸

Article 2 of the *ICCPR* imposes a range of responsibilities and obligations on Australian governments at the Federal, State and local levels to ensure the realisation of civil and political rights; namely the obligations to *respect*, *protect* and *fulfil* human rights.⁹ The obligation to *respect* requires that the Victorian government refrain from interfering, directly or indirectly, with people's enjoyment of their human rights. This prohibits the Victoria government from enacting or implementing laws that, directly or indirectly, disenfranchise certain social groups, such as people experiencing homelessness or incarceration. The obligation to *protect* requires that the Victorian government prevent third parties, including organisations and individuals, from interfering in any way with the enjoyment of the right to vote. The obligation to *fulfil* requires that the Victorian government take positive steps to promote and support the realisation of human rights and, where necessary, to provide for the realisation of the right to vote for marginalised or disadvantaged groups, such as through the practical measures of enhanced voter education and enrolment campaigns (as discussed below in parts 5 and 6 of this submission).

Although Australia has not implemented the *ICCPR* as part of domestic law, the *ICCPR* is a legitimate and important influence on development, interpretation and application of domestic law.¹⁰ Most importantly, the nature and scope of the right to vote under the *ICCPR* should inform any understanding of the right to vote under the Victorian Charter. Accordingly, the Victorian government must give proper consideration to the right to vote in international law, and the methods of implementing that right, in order to best understand how to ensure effective compliance with the right to vote under the Victorian Charter.

3.3 The Victorian Charter and the Right to Vote

(a) Introduction to the Victorian Charter

As of 1 January 2008 the Victorian Charter became fully operational.¹¹ The Victorian Charter is the result of the Victorian government's 'commitment to provide better protection for human rights for *all* people in Victoria through the enactment of a charter of rights and responsibilities'.¹²

The Victorian Charter sets out the human rights that the Victorian Parliament seeks to promote and protect. Those rights are largely derived from the rights contained in the *ICCPR*, including the right to vote found in Article 25 of the *ICCPR* (set out above). Section 18 of the Charter provides for the right to take part in public life, this includes the right of 'every eligible person' to vote without discrimination.

Human rights are protected and promoted under the Victorian Charter by the placement of specific responsibilities on the three arms of government (Parliament, the Executive and the Courts). Section 32(1) of the Victorian Charter requires that statutory provisions be

⁸ *Ibid.*

⁹ See also Committee on Economic, Social and Cultural Rights (CESCR), *General Comment 15: The Right to Water*, [17]–[29], UN Doc E/C.12/2002/11 (2002). See also CESCR, *General Comment 12: The Right to Adequate Food*, 69, [15], UN Doc HRI/GEN/1/Rev.5 (2001); and CESCR, *General Comment 13: The Right to Education*, 84, [47], UN Doc HRI/GEN/1/Rev.5 (2001)

¹⁰ See generally, *Mabo v Commonwealth* (1992) 175 CLR 1, 42 (per Mason CJ, Brennan and McHugh JJ).

¹¹ Note, however, that on 18 December 2007 the *Charter of Rights and Responsibilities (Public Authorities) (Interim) Regulations 2007* were enacted ('the Regulations'). The Regulations have the effect of exempting the Adult Parole Board, the Youth Residential Board and the Youth Parole Board from being a public authority under the Charter until 1 January 2009.

¹² Second Reading Speech, *Charter of Human Rights and Responsibilities Bill 2006* (Mr Rob Hulls, Attorney-General, Legislative Assembly, 4 May 2006, p 1289).

interpreted, so far as it is possible to do so consistently with their purpose, in a way that is compatible with human rights. When interpreting a statutory provision, international law and the judgments of domestic, foreign and international courts and tribunals relevant to human rights may be considered. There is a vast body of international and comparative jurisprudence that can and should be considered in the elucidation of the content and application of the Victorian Charter.

Section 38 of the Victorian Charter requires that public authorities (defined under section 4) must act in a way that is compatible with human rights and must give proper consideration to relevant human rights when making a decision. Failure to act compatibly or give proper consideration to human rights would mean that the public authority is acting *unlawfully* under the Victorian Charter. We note that the VEC is a public authority for the purposes of the Victorian Charter and has the obligations set out above.

The Victorian Charter operates as a 'dialogue model' of human rights protection. The dialogue model seeks to ensure that human rights are taken into account when developing, interpreting and applying Victorian law and policy without displacing current constitutional arrangements. The dialogue within and between the arms of government is facilitated by the Victorian Charter in a number of ways, some of which are discussed above (such as the interpretative function under section 32 and the requirement that public authorities act compatibly under section 38). Read as a whole, the Victorian Charter imposes an obligation on the three arms of government, and public bodies, to exercise their powers and functions so as to ensure that laws, policies and procedures apply in a way that gives effect to people's human rights.

Although the human rights listed in the Victorian Charter are based on the rights set out in the *ICCPR*, unlike the *ICCPR*¹³ the rights under the Victorian Charter are not absolute and they can be limited if such limitation is reasonable in accordance with section 7(2) of the Victorian Charter. According to the Victorian Charter's explanatory memorandum, section 7 'reflects Parliament's intention that human rights are, in general, not absolute rights, but must be balanced against each other and against other competing public interests'.¹⁴

Section 7(2) establishes the test to determine whether the limit on the human right is reasonable and 'demonstrably justified in a free and democratic society'.¹⁵ The test in section 7(2) is essentially a proportionality test, which has been adapted from similar provisions in international human rights instruments, such as the *Siracusa Principles*.¹⁶

Section 7(2) of the Victorian Charter provides that a human right may be subject under Victorian law only to such reasonable limits as can be demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom. The test under section 7(2) requires consideration of the following relevant factors:

- the nature of the right;
- the importance of the purpose of the limitation;

¹³ Under international law, human rights can only be limited (in accordance with the specific criteria identified by the *Siracusa Principles*) in times of emergency and even then there are a number of rights that are absolute and cannot be limited in any circumstances, i.e. the prohibition against torture, the right to life, the prohibition against slavery etc.

¹⁴ Explanatory Memorandum, *Victorian Charter of Human Rights and Responsibilities Bill 2006* (Vic) 8.

¹⁵ *Charter of Human Rights and Responsibilities Act 2006* (Vic), section 7.

¹⁶ United Nations, Economic and Social Council, U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights*, Annex, UN Doc E/CN.4/1984/4 (1984). For a further example of a similar limitation clause, see also: *South African Constitution* (1996), Chapter 2, Bill of Rights (section 36(1) – Limitation of Rights).

- the nature and extent of the limitation;
- the relationship between the limitation and its purpose; and
- any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

To ensure compliance with the Victorian Charter the actions and decisions of public bodies should be scrutinised to ensure that any limitations on human rights are reasonable under section 7(2) of the Victorian Charter.

(b) The right to vote under the Victorian Charter

The Victorian government and its agencies (including the VEC) have obligations under the Victorian Charter to *protect, respect* and *fulfil* the human rights contained within it, including the right to vote. We therefore urge the Committee, in the conduct of its Inquiry, to approach its review of electoral matters within the human rights framework set out in the Victorian Charter (see above), which requires consideration of the vast body of international and comparative jurisprudence relevant in the elucidation of the right to vote and other associated human rights (in accordance with section 32(2) of the Victorian Charter). Such an approach will result in a human rights compliant review and recommendations that can be immediately adopted by the Victorian government, the VEC and other relevant agencies.

We submit that a human rights approach to the conduct of the Inquiry should consider the review and reform of any current and proposed Victorian laws that are not consistent with the right to vote (and other relevant human rights) under the Victorian Charter. Such an approach will improve policy development and implementation of laws, policies and procedures to ensure compatibility with the Victorian Charter.¹⁷

Recommendation 1

The Victorian government should review and amend the Electoral Act and all policies and procedures of the VEC to ensure compliance with the Victorian Charter and the effective realisation of the right to vote.

¹⁷ See, generally, Department for Constitutional Affairs (UK), *Review of the Implementation of the Human Rights Act* (July 2006); British Institute of Human Rights, *The Human Rights Act: Changing Lives* (2007); Audit Commission (UK), *Human Rights: Improving Public Service Delivery* (October 2003).

4. Voting in Victorian Elections

4.1 Entitlement to vote in Victorian Elections

Section 48 of the *Constitution Act 1975* (Vic) (**Constitution Act**) establishes the right of Victorian citizens to enrol as an elector in Victorian parliamentary elections if they are:

- an Australian citizen over the age of eighteen years; or
- a British subject within the meaning of a previous relevant citizenship law that if it had continued in force would, at any time within the three months immediately before 26 January 1984, have their name on the Commonwealth or state electoral roll.

This general right is circumscribed and is given effect by the more detailed provisions relating to enrolment contained in the Electoral Act.

The Electoral Act has effectively been reformed to assist with the franchise of many people within Victoria. Section 22 of the Electoral Act provides that the following people (relevant to the ambit of this submission) have the entitlement to vote in Victorian elections:

- a person entitled to enrol as an elector under the Constitution Act that has lived at a Victorian address, that is the person's principal place of residence for at least one month immediately before the date of the person's claim for enrolment as an elector in respect of living at that address (section 22(1));
- a person who is serving a sentence of imprisonment or detention imposed by a court upon a conviction for an address (section 22(2)); and
- a person whose names appears on a roll maintained under the *Commonwealth Electoral Act 1918* (Cth) (**CE Act**) under a Victorian address where a person has established a connection under section 96 of the CE Act and the roll is annotated to indicate the elector is an itinerant elector (section 22(4)).

4.2 Homeless Electors under the Electoral Act

Victoria is the first Australian jurisdiction to amend its Electoral Act to specifically include people experiencing homeless as persons entitled to vote. In 2004, the new Section 3A was introduced which provides that:

- a reference to the section 22(4) of the Electoral Act includes a homeless person (s 3A(1)).
- the definition of homelessness refers not only to persons living in crisis or transitional accommodation but to anyone who has 'inadequate *access to safe and secure housing* within the meaning of section 4 of the *Supported Accommodation Assistance Act 1994* (Cth)' (sections 3A(2)(a) and (b)).¹⁸

The effect of this amendment is to clarify that people experiencing homelessness (as defined in the Electoral Act) are eligible to vote as itinerant or no fixed address electors. No fixed address elector provisions are governed by both Commonwealth and State law and provide that a person will be considered to have no fixed address if they have not had a home or will not live at a place for more than one month. As such, if the elector is over the age of 17 and is an Australia citizen they can enrol by using the address of the following:

¹⁸ *Electoral Act 2002* (Vic), sections 3A(2)(a) and (b).

- the address where they were last eligible to enrol;
- the address where a next of kin lives;
- their place of birth; or
- if they were not born in Australia, a place they feel the closest connection to; or
- if they are on the Commonwealth Electoral and noted as an itinerant voter..

One of the advantages of the Victorian system is that if a person enrolls under the no fixed address option and is unable to vote at an election there is no pecuniary penalty.¹⁹ Additionally, if an itinerant elector does not vote their name will remain on the Victorian electoral roll for subsequent elections. If the criteria for no-fixed address elector status do not apply, individuals must enrol as 'ordinary electors'.

4.3 Prisoners under the Electoral Act

Prisoners serving a sentence of imprisonment or detention imposed by a court have been specifically included as person's entitled to vote in section 22(2) of the Electoral Act.

Under section 24(1)(d)(i) and (ii) of the Electoral Act an elector who is serving a sentence of imprisonment, or is otherwise in lawful custody or detention, may apply to the VEC in the prescribed form to be a 'general postal voter'. A general postal voter does not need to register as a postal voter at each election but may have their ballot material sent to them automatically.²⁰

Under section 26 of the Electoral Act the Secretary to the Victorian Department of Justice must, as soon as practicable, after the beginning of each month, forward to the VEC a list of all persons names, dates of birth, sex and last known place of residence who in the preceding month have been convicted in Victoria and are serving a sentence of more than 5 years imprisonment for an offence against any Federal or State and Territory law.

The effect of these provisions is that voting is compulsory in Victorian state elections for prisoners serving a sentence of five years or less. A Victorian elector who is incarcerated for more than five years is automatically removed from the Victorian electoral roll and must re-enrol to vote in Victorian elections upon their release.

¹⁹ See *Electoral Act 2002* (Vic) section 163(3)(e) - Certain electors, including those enrolled as itinerant electors are not to be sent a notice informing them of their failure to vote and requiring the elector to state the true reason for failing to vote (section 163(3)). Thus, these electors are effectively exempted from the compulsory voting provisions

²⁰ Victorian Electoral Commission (VEC), *Report to Parliament on the 2006 State Election* (July 2007), p 121.

5. Homelessness and voting

5.1 The Nature and Extent of Homelessness

The most widely accepted definition of homelessness in Australia has been developed by Chamberlain and McKenzie and endorsed by the Australian Bureau of Statistics (ABS).²¹ Chamberlain and McKenzie argue that homelessness should be defined in relation to community standards about the minimum standard of housing.²² The current minimum standard of housing by which the definition of homelessness can be determined is considered to be 'a small, rented flat with basic amenities such as a bedroom, bathroom and kitchen'.²³ Chamberlain and McKenzie have established that there are three categories of person whose accommodation fall below the minimum Australian housing standard and are considered to fall within the definition of homelessness. These three categories are as follows:

- Primary Homelessness: people who lack conventional housing (for example, people living on the streets, sleeping in parks or cars or squatting);
- Secondary Homelessness: people who frequently move from different forms of transitional or crisis accommodation (for example, people who are utilising emergency accommodation, refuges, hostels or transitional housing or staying with friends and relatives); and
- Tertiary Homelessness: people who stay in boarding housings on a medium to long term basis (for example, people who are staying at rooming houses, private backpacker hostels, private hotels or caravan parks).²⁴

According to statistics gathered by the ABS on Census night in 2001, there were 99 000 people experiencing homelessness across Australia.²⁵ In Victoria, the conservative estimate is that there are approximately 20 000 people experiencing homelessness.

Official homelessness data from the 2006 census has not yet been released however, based on anecdotal information from service providers across Australia the number of people experiencing homelessness on any given night is increasing. According to the Australian Institute of Health and Welfare, approximately 161,200 people accessed homelessness assistance services in 2005-06.²⁶

The causes of homelessness are complex and varied. However, they are generally acknowledged to include:

- structural causes (such as poverty, unemployment and inadequate supply of affordable housing);²⁷
- fiscal, social and public policy causes (such as taxation policy and expenditure on public and community housing, health care, education and vocational training);

²¹ Australian Bureau of Statistics, *Counting the Homeless: Implications for Policy Development*, (1999).

²² *Ibid.*, 9-11, 49.

²³ *Ibid.*

²⁴ *Ibid.*, 1, 9-11, 13, 49.

²⁵ Australian Bureau of Statistics, *Counting the Homeless 2001* (2003) 2. The Clinic notes that the Australian Bureau of Statistics has not yet released the statistics collected from the 2006 Census.

²⁶ Australian Institute of Health and Welfare, *Homeless People in SAAP: National Data Collection Annual Report 2005-06* (2007) 13.

²⁷ Following the 2001 Census, the Australian Bureau of Statistics identified unemployment and inadequate income as significant structural factors contributing to and causing homelessness across Australia: Australian Bureau of Statistics, above n 25.

- individual causes (such as ill health, mental illness, intellectual disability, substance and alcohol dependency, problem gambling, domestic violence, family fragmentation and severe social dysfunction); and
- cultural causes (such as the provision of culturally inappropriate housing or support services to indigenous communities).²⁸

In many cases of homelessness, these causes are intersectional and related.

5.2 Number of homeless Victorians of voting age

Statistics on enrolment to vote and participation in voting by homeless people are difficult to obtain due to the often transitory lives of people experiencing homelessness. Nevertheless, there is some data available indicating that rates of participation are extremely low.

According to the Australian Bureau of Statistics, 64 per cent of people experiencing homelessness on Census night in 2001 were aged 19 or older.²⁹ Census figures are not available for the percentage of homeless people aged 18 or older. On this basis, it can be conservatively estimated that there were at least 64,000 people experiencing homelessness who were eligible to vote at the 2007 Federal Election.³⁰ Further, we note that previous research conducted by the Clinic suggested that at the time of the 2004 Federal Election, up to 76 per cent of the 64,000 homeless people who were eligible to vote did not do so.³¹ Finally, research conducted by Hanover Welfare Services following the November 2006 Victorian Election demonstrated that, of the group of homeless people surveyed, 90 per cent were eligible to vote, however, 63 per cent of those were not enrolled.³²

5.3 The importance of voting for people experiencing homelessness

As noted above, the United Nations OHCHR has drawn a direct link between homelessness, poverty and the right to vote. Indeed, the OHCHR has specifically identified the proportion of poor and homeless people going to the polls as a key indicator of the extent to which a state is implementing its fundamental obligations in relation to the right to vote.

At a domestic level, the Preamble to the *Supported Accommodation Assistance Act 1994 (Cth) (SAA Act)* provides that it is essential that people experiencing homelessness have the opportunity to have a say in decision-making processes and policy development, while the SAA Act requires that the Supported Accommodation Assistance Program (**SAAP**) assist homeless people to participate fully in civil and political life.

The importance of homeless people having a say is also, unsurprisingly, recognised by homeless people themselves. According to research undertaken by HPLC in 2005, at least 54 percent of surveyed homeless people would like to enrol to vote at elections notwithstanding the multiple issues and concerns that they face on a daily basis.³³ According to another recent survey undertaken by the Department of Human Services, homeless participants ranked the issue of greater participation

²⁸ See generally, 'The Changing Face and Causes of Homelessness: Symposium' (2002) 15(9) *Parity*.

²⁹ Australian Bureau of Statistics, above n 25, 3-4.

³⁰ Statistics from the 2006 Census, relating to homelessness in Australia, are yet to be released. Given that the recent Report of the National Youth Commission Inquiry into Youth Homelessness: *Australia's Homeless Youth* (April 2008) found that youth homelessness has doubled over the past decade (at page 71), it is likely that the number of people over the age of 19 years who are homeless has increased significantly since 2004. Accordingly, it is highly likely that the estimation that there were at least 64,000 people experiencing homelessness who were eligible to vote, at the time of the 2007 Federal Election, is very conservative.

³¹ PILCH Homeless Persons' Legal Clinic, above n 2, 38.

³² Hanover Welfare Services, *To cast a vote: homelessness and disenfranchisement*, 2007

³³ PILCH HPLC, above n 2, 38.

in decision-making processes and policies regarding homeless people as 'very important' and noted that the right to participation was also 'frequently violated'.³⁴

Evidence indicates that there are a significant proportion of homeless people, who are eligible to vote, but who are not voting. People experiencing homelessness, or at risk of homelessness, have the right to vote just like any other citizen. However, they are also some of the most marginalised and excluded members in our society, who typically are unable to exercise this right. In accordance with its obligations under the Victorian Charter, it is incumbent on the Victorian government to introduce and implement legislative and practical measures that will assist people experiencing homelessness to better engage with electoral processes, to enrol and to exercise their right to vote.

5.4 Reform of the Commonwealth and State Electoral Acts – legislative change to enhance the realisation of the right to vote for people experiencing homelessness

Whilst the Victorian government should be congratulated for its 2004 amendments to the Electoral Act, this submission asserts that further legislative reform of the Commonwealth and State Electoral Acts are required to enhance the realisation of the right to vote for people experiencing homelessness.

(a) Section 96 of the Commonwealth Electoral Act

Australian citizens aged 18 or over who do not 'reside' in a Subdivision may be entitled, pursuant to section 96(1) of the *Commonwealth Electoral Act 1918* (Cth) (**CE Act**), to enrol to vote as itinerant electors at Federal Elections. People who are enrolled to vote as itinerant electors at a federal level also have an entitlement, under section 22(4) of the Electoral Act, to enrol and vote in Victorian State Elections as itinerant electors.

To ensure that federal and state provisions are consistent and to ensure the enhanced franchise of people experiencing homelessness, the Victorian government should lobby the Federal government to amend section 96 of the CE Act in the following ways:

- Section 96(1) should be reformed to include a definition of homelessness in order to clearly include people experiencing homelessness as itinerant electors and to allow them access to their human right to vote. Section 3A of the Victorian Electoral Act should be used as a guide by the Federal government in reforming section 96(1);
- Section 96(9)(a) of the CE Act should be repealed to ensure that itinerant voters are not penalised by being removed from the electoral roll if they fail to vote at a Federal Election. The CE Act should be amended to recognise the difficult personal circumstances that homeless people (using the itinerant elector provisions) experience, by virtue of their homelessness and marginalisation in the community;
- Section 96(8) of the CE Act stipulates that a person ceases to be entitled to enrol as an itinerant elector if that person resides in a Subdivision for one month or longer. As it is very common for people experiencing homelessness to live in temporary accommodation for up to six months (or more), section 96(8) prevents a large proportion of people experiencing homelessness from enrolling as itinerant voters. The Clinic submits that people experiencing homelessness should be able to reside in a 'real place of living' for at least six months, rather than only one month, before they become ineligible to enrol as an itinerant elector.

³⁴ Department of Human Services, *Charter of Rights and Enhanced Compliance Mechanism: Report on Consumer Consultations* (2004).

Recommendation 2

The Victorian government should lobby Federal Government to amend section 96 of the *Commonwealth Electoral Act 1918* (Cth) in the manner put forward in this submission.

(b) Section 22 of the Victorian Electoral Act

Under section 23(1) of the Electoral Act, it is compulsory for a person entitled to enrol on the electoral roll to register to vote. If the person is entitled to enrol on the register, they must register to vote within 21 days of becoming entitled to vote by signing a claim to vote. Failure to register to vote is an offence punishable by 1 penalty unit of \$110.12.

Section 22(1) of the Electoral Act states a person is qualified to enrol as a Victorian elector if they have lived at a Victorian address (that is their principal place of residence) for at least one month before the date of the person's claim for enrolment. If a person has a Victorian residence for one month or more they are required to enrol to vote as a 'normal elector'.

This provision prohibits many homeless people who may have found accommodation within the month before enrolment from enrolling as a 'normal elector' under section 23 of the Electoral Act. As such, section 22 of the Electoral Act should be amended so that homeless people who have found temporary or permanent accommodation are exempt from the 21 day timeframe in regards to enrolling to vote as a 'normal elector' and are given additional time to enrol to vote.

Further, it is very common for people experiencing homelessness to live in temporary accommodation (such as a on a friend's couch, or in a caravan, a crisis shelter or a domestic violence refuge) for up to six months. In 2005-2006, the mean period of accommodation from the Supported Accommodation Assistance Plan was 48 days.³⁵ Section 22(1) of the Victorian Electoral Act, states that a person is only eligible to vote as an itinerant elector if they have resided in their principal place of residence for one month or less. Similar to section 96(8) of the CE Act, section 22(1) should be amended to allow people experiencing homelessness to enrol to vote as an itinerant voter if they reside in their temporary principal place of residence for up to six months rather than one month.

Recommendation 3

The Victorian government should amend section 22 of the Electoral Act so that homeless people who have found temporary or permanent accommodation are exempt from the 21 days address requirement found in section 22(1) and are given additional time to enrol to vote. This will ensure that people experiencing homelessness who have found accommodation can enrol to vote as 'normal electors'.

Recommendation 4

That the Victorian government amend section 22(1) of the Electoral Act so that homeless people who reside in temporary accommodation for over one month are still eligible to enrol to vote as itinerant electors.

³⁵ Australian Institute of Health and Welfare, above n 26, 41.

(c) Section 23 of the Victorian Electoral Act

Under section 23(4) of the Electoral Act, a person must give notice of a change of their residential address on the electoral roll within 21 days of the change of the address. Failure to do so is an offence punishable by conviction or fine of one penalty unit.

People who are experiencing homelessness who may be registered as 'normal electors' are likely be disadvantaged under section 23(4) if they have obtained temporary or permanent accommodation in this 21 day period. People experiencing homelessness may encounter literacy problems or have problems with meeting timelines due to health issues such as drug and alcohol addiction. As such, section 23(4) should be amended such that persons with a 'reasonable excuse' for failing to notify a change of place of living within 21 days are not guilty of an offence and that 'homelessness' (as defined in section 3A of the Electoral Act) be deemed a 'reasonable excuse'.

Recommendation 5

Section 23(4) of the Electoral Act should be amended such that persons with a 'reasonable excuse' for failing to notify the VEC of a change of residence within the 21 day timeframe are not guilty of an offence. Homelessness as defined in section 3A of the Electoral Act should be deemed a 'reasonable excuse'.

(d) Section 63 of the Victorian Electoral Act

Section 63 requires the electoral roll to remain open for three days after the election writ is issued (commanding the VEC to conduct an election) for people to enrol to vote or update their details on the Register. Much like section 23(4), this provision is disadvantageous to people experiencing homelessness who may be enrolled as 'normal electors' as the homeless population are more likely to have incorrect details on the electoral roll due to frequently moving between temporary forms of accommodation and having no access to information about electoral timeframes.

As such, section 63 should be amended for people experiencing homelessness to be able to enrol as itinerant voters up to the day of the election. Section 63 should also be amended to allow itinerant voters to register to vote in person at voting centres on election day.

Recommendation 6

Section 63 of the Electoral Act should be amended to allow people experiencing homelessness to register to vote as an itinerant voter up to the day of the election. Section 63 should also be amended to allow itinerant voters to register to vote in person at voting centres on election day.

(e) Section 164 of the Victorian Electoral Act

If a 'normal elector' whose name on the electoral roll does not vote in an election, the VEC is required to send a notice under section 163 of the Electoral Act notifying the elector that they have failed to vote and requiring the elector to 'state the true reason for failing to vote'. The VEC is not required to send a notice to itinerant voters under section 163(3)(e).

Under section 164 of the Electoral Act, the elector must respond to the VEC's notice and state the true reason for failing to vote by the specified timeframe (28 days).

The administrative requirement in section 164 may have a disproportionate impact on people experiencing homelessness or other issues such as literacy problems, serious health issues or problems with meeting timeframes. As such, section 164(1) should be amended to allow electors to attend offices of the VEC in person to verbally respond to section 163 notices.

Recommendation 7

Section 164(1) of the Electoral Act should be amended to allow electors to attend offices of the VEC in person to verbally respond to section 163 notices.

(f) Section 166 of the Victorian Electoral Act

Under section 166 of the Electoral Act, an elector who fails to vote at an election without a 'valid and sufficient' excuse, fails to comply with a section 163 notice or provides a false reason for not having voted is guilty of an offence which is punishable by a fine of one penalty unit.

For a person experiencing homelessness a pecuniary fine can have the effect of further entrenching a cycle of disadvantage and vulnerability. A person experiencing homelessness is unlikely to afford the repayment of the fine which may lead to them being drawn into the justice system and brought before the court. Additionally, this penalty system may discourage people experiencing homelessness from enrolling on the electoral roll when they do find stable housing.

Therefore, a person experiencing homelessness should be exempt from the section 166 penalty if they are homeless within the definition of section 3A of the Electoral Act.

Further, it is the discretion of the VEC to determine what are 'valid and sufficient' excuses under section 166(1)(a) to section 163(3). This submission recommends that the Electoral Act be amended to ensure that and ensure that homelessness (as defined under Section 3A of the Electoral Act) and other issues, such as drug or alcohol addiction, mental illness, literacy problems, be considered 'valid and sufficient' excuses for the purpose of section 166. The VEC must also implement guidelines and policies to support this legislative change. These VEC guidelines should be publicly available to ensure accountability.

Recommendation 8

Section 166 of the Electoral Act should be amended such that a person experiencing homelessness be exempt from the offence or fine in section 166 if they are homeless within the definition of section 3A.

Recommendation 9

Section 163 of the Electoral Act should be expanded to ensure that 'valid and sufficient excuse' specifically includes homelessness and other issues such as drug or alcohol addiction, mental illness and literacy problems.

5.5 Practical measures to ensure the enfranchisement of people experiencing homelessness in Victoria

In 2006, the VEC presented a report to the Victorian Parliament on the 2006 State Election.³⁶ The VEC should be congratulated on its work in the lead up to and during that election – it was proactive and innovative in addressing the disenfranchisement of people experiencing homelessness. In the lead up to the election, the VEC engaged with homeless people and homelessness service providers, including the HPLC, in order to actively engage people experiencing homelessness and give them a political voice through their participation in state elections.

Importantly, a number of initiatives were established, including the following:

- The VEC operated enrolment days at homelessness service providers such as St Mary's House of Welcome (**SMOHW**), Front Yard, St Kilda Crisis Centre, Sacred Heart Mission and St Kilda Drop-in Centre. Lunch and transportation were provided at these sessions and advertising material was sent to a number of homelessness service providers about the session. It is submitted that in addition to these 'outreach' enrolment services, the VEC should provide resources so that people experiencing homelessness can complete their enrolment at the VEC on a 'drop in' basis.
- VEC provided staff at a SMHOW (on three occasions) and a Melbourne homelessness festival *Home is Where the Heart Is* in 2007 to assist homeless people to enrol to vote and provide information about no fixed address voting.
- The HPLC and the Council to Homeless Persons collaborated with VEC to develop two brochures and advertising posters regarding homelessness and voting in Victoria. The brochures were specifically targeted to people experiencing homelessness or to homelessness service providers informing them of homeless people's ability to vote through the streamlined itinerant voter provisions in the Electoral Act.³⁷ The fixed election date that occurred in this election enabled increasing time for advertising and education campaigns to people experiencing homelessness and service providers.
- VEC established a homelessness and voting advisory committee, including representatives of homelessness service providers as well as consumers themselves.
- VEC electoral workers who staffed polling stations on Election Day were given training regarding homelessness and effective communication.
- VEC provided mobile polling booths to homelessness service providers if the service could guarantee attendance by 20 people. A mobile polling booth was located at SMHOW on 17 September 2006 to increase participation of homeless people in the State Election. Sixty-eight people experiencing homelessness voted at the SMHOW mobile polling booth.³⁸ It is submitted that the use of mobile polling booths should be greatly expanded to other locations and services that people experiencing homelessness access regularly.
- VEC provided for a group of SMHOW clients to attend its Melbourne office on 21 November 2007 to vote in the Federal election as the AEC was unable to advise SMHOW about pre-polling before the Federal Election.³⁹

³⁶ Found at <http://www.vec.vic.gov.au/reportvicstate2006.html>

³⁷ VEC, above n 20, 35.

³⁸ *Ibid.*, 8 and 35.

³⁹ *Ibid.*, 35.

It is submitted that the VEC should continue to build on its excellent work to facilitate the inclusion of people experiencing homelessness, or at risk of homelessness, in political and voting processes. This work should be incorporated into a 'Homelessness and Voting Action Plan', against which the VEC reports on a regular basis.

The HPLC remains very happy to work closely with the VEC to engage with people experiencing homelessness. More importantly, however, the VEC must be adequately funded to undertake this crucial work.

Recommendation 10

The VEC should conduct education and awareness activities to ensure that eligible homeless Victorians are adequately informed and able to enrol and exercise their right to vote. These activities should, at a minimum, include those set out in this submission.

Recommendation 11

The Victorian government should provide additional funding to the VEC to assist them in expanding and continuing its activities to enhance the franchise of to people experiencing homelessness.

6. Prisoners and the Right to Vote

6.1 Prisoner Franchise and Human Rights

The right to vote as set out in the *ICCPR* and the Victorian Charter extends to people who are serving terms of imprisonment. Article 10 of the *ICCPR* provides that prisoners must be accorded all of their civil and political rights, including the right to vote, subject to the restrictions that are 'unavoidable in a closed environment'.⁴⁰ The nature and scope of prisoners' rights at international law are discussed in the following standards and minimum rules enunciated by Committees and Working Groups of the United Nations:

- Article 5 of the *UN Basic Principles for the Treatment of Prisoners*, which provides that 'all prisoners shall retain their human rights and fundamental freedoms' except to the extent that a limitation is 'demonstrably justified by the fact of incarceration'⁴¹;
- Article 10 of the *UN Basic Principles for the Treatment of Prisoners*, which provides that prisoners should be subject to conditions 'for the re-integration of the ex-prisoner into society'; and
- Article 60(1) of the *UN Standard Minimum Rules for the Treatment of Prisoners*, which states that correctional services should 'seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings'.⁴²

6.2 The importance of the right to vote for people experiencing incarceration

Under the Electoral Act, prisoners are eligible to vote if they are over eighteen and are imprisoned for five years or less. In Victoria, there were 4,183 prisoners in the adult Victorian prison system at 30 June 2007.⁴³ In addition, Victoria's Youth Justice Custodial Services, within the Department of Human Services, has the capacity to house up to 222 young people aged ten to eighteen years in three Victorian Youth Justice Centres. The Centres may also be used to provide a juvenile sentencing option for some young people between the ages of 18 and 20. It is unclear how many eligible prisoners within these statistics have exercised their right to vote at State elections.

This submission has pointed to research demonstrating that policies which promote social inclusion, civic engagement and participation in civil, political, social, cultural and economic life, can reduce and resolve marginalisation, disadvantage and poverty. These factors are often significant causal factors and risk indicators of criminal activity and recidivism.⁴⁴ We contend, therefore, that recognition of a prisoner's right to vote promotes social inclusion which in turn encourages rehabilitation, integration and participation in the community. Accordingly, practical measures should be implemented by the Victorian government and VEC to ensure realisation of the right to vote for

⁴⁰ See also United Nations Human Rights Committee, *General Comment 21: Replaces General Comment 9 Concerning Humane Treatment of Persons Deprived of Liberty (Art 10)*, CCPR (1992).

⁴¹ United Nations General Assembly Resolution 45/111, (1990) found at <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/565/00/IMG/NR056500.pdf?OpenElement>.

⁴² United Nations Economic and Social Committee Resolution 663C, UN ESCOR, 1st Annex, Supp 1, 11, UN Doc E/3048 (1957), as amended by United Nations Economic and Social committee Resolution 2076, UN ESCOR, Supp 1, 35, UN Doc E/5988 (1977).

⁴³ Department of Justice, *Corrections Statistics FAQs*, (2007)

<http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/Home/Prisons/Research+and+Statistics/JUSTICE++Prison+Statistics> as at 1 July 2008

⁴⁴ T Vinson, *Dropping Off the Edge: the Distribution of Disadvantage in Australia*, Jesuit Social Services and Catholic Social Services Australia, (2007).

prisoners. Such measures are required by the Victorian Charter and will be a step towards improving social inclusion for people experiencing imprisonment.

6.3 The importance of representative government and civic participation for people experiencing homelessness

In 2007, the High Court of Australia handed down a landmark decision in the decision of *Roach v Electoral Commission*⁴⁵ (**the Roach Case**) regarding voting rights in Australia. The Roach Case considered the constitutionality of 2006 Bill that placed a blanket ban on all prisoners voting in Federal Elections. Prior to the 2006 Bill, prisoners who were imprisoned for three years or less were entitled to vote in Federal Elections.

By a 4:2 majority, the High Court found that the blanket ban was unconstitutional and held that the previous Act allowing prisoners to vote if they were incarcerated for three years or less was to apply as this legislation did not operate to deny prisoner's franchise based on the seriousness of the prisoner's offence and length of sentence. The High Court majority focused their judgment on the importance of representative government in Australia which is upheld in the Australian Constitution. Further, the majority decision upheld the right of prisoner's participation in civic society and stated that prisoners should not be disenfranchised unless there were substantial reasonable, appropriate or proportionate reasons for prisoner disqualification from electoral processes.⁴⁶

As the majority of the High Court stated:

'Voting in elections for the parliament lies at the very heart of the system of government for which the Constitution provides... Prisoners who are citizens and members of the Australian community remain so. Their interest in, and duty to, their society and its governance survives incarceration. Indeed, upon one view, the Constitution envisages their ongoing obligations to the body politic to which, in due course, the overwhelming majority of them will be returned following completion of their sentence.'⁴⁷

It is clear that the Roach Case has recognised the importance of representative government in Australia and acknowledged and upheld the right to vote for Australian prisoners. The Victorian government should be guided by this High Court decision and ensure that practical measures are implemented in Victoria for the franchise of *all* eligible Victorian prisoners.

6.4 Practical measures to enhance Victorian prisoner franchise and realise the human right to vote

Practical measures should be recommended by the Committee and implemented by the VEC to assist Victorian prisoners in exercising their right to vote. As a benchmark, the VEC should be guided by the practical measures it implemented in the 2006 election to encourage people experiencing homelessness to enrol and vote.

This submission contends that the VEC should undertake activities to increase the participation of prisoners in the electoral process. These include:

- Providing prisoners who are eligible to vote with education sessions and materials and information kits to inform them of their right to vote (specifically about the general postal voter provisions), the importance of voting and the means through which to enrol and vote whilst in prison.

⁴⁵ [2007] HCA 43

⁴⁶ *Ibid.*, [84]-[102].

⁴⁷ *Ibid.*, [83]-[84].

- Providing young people who turn eighteen in custody with information about their eligibility to vote and processes for enrolment, in addition to assistance to enrol.
- Providing education materials and information kits to the Department of Justice and the Department of Human Services (Youth Justice Custodial Services), individual Victorian prisons and service providers, such as VACRO, to be distributed to prisoners and family and friends of prisoners.
- Providing people exiting prison whose names have been removed from the Victorian Electoral Roll with information about their entitlement to re-enrol and assistance to re-enrol.
- Collaborating with people who have been through the Victorian prison system in order to draft information kits and education sessions in the most appropriate form.
- Developing partnerships with prison service organisations such as VACRO to ensure that the VEC's work is appropriately targeted and reaches the widest audience.
- VEC staff who work on prisoner enfranchisement issues should be provided with training about the Victorian prison system and the multiple issues that Victorian prisoners may experience.
- Providing training and educational materials to staff at prisons and youth justice centres regarding voting options for prisoners.
- Providing and staffing mobile polling booths at Victorian prisons and, where relevant, youth justice centres for all State Elections, as an alternative to postal voting.

Finally, this submission recommends that the VEC receive additional funding from the Victorian government to undertake this important work with incarcerated Victorians.

Recommendation 12

The VEC should conduct education and awareness activities to ensure that eligible incarcerated Victorians are adequately informed and able to exercise their right to vote. These activities should, at a minimum, include those set out in this submission.

Recommendation 13

The VEC should receive additional funding from the Victorian government to fund the VEC in providing information to Victorian prisoners, prisons, service providers and Department of Justice staff to enhance prisoner franchise in Victoria.