**Liberty Victoria Media Release – Liberty Victoria very concerned about proposed new powers introduced in the COVID-19 (Emergency Measures) Bill**

Liberty Victoria is very concerned about the new powers sought to be introduced by the COVID‑19 (Emergency Measures) Bill.

In particular, we are concerned about how the new powers of what seems to be preventative detention will affect vulnerable people. We have previously publicly discussed these concerns in the [media](https://www.theage.com.au/national/i-was-so-frightened-new-program-helps-high-risk-communities-isolate-20200915-p55vu2.html).

There are already powers to detain in the *Public Health and Well-being Act* (**PHW Act**)and the Government has not explained why these additional powers are needed. We are deeply concerned about how the existing detention powers have already been exercised, in particular at the housing commission towers, as noted in our submission to the [COVID-19 inquiry](https://libertyvictoria.org.au/sites/default/files/Liberty%20Victoria%27s%20subm_0.pdf).

Liberty Victoria is opposed to police officers automatically becoming authorised officers under the PHW Act. The approach to COVID‑19 should be a health approach and not a policing approach. We are of the view that only health workers or those with an expertise in health should be appointed authorised officers.

We are particularly concerned by cl 16 of the Bill, which seeks to expand police powers and introduce a preventative detention regime under the Public Health and Wellbeing Act. Little (if any) evidence has been put forward which justifies these power.

Proposed sections 250 and 253 have the effect of permitting police to exercise public health powers and emergency powers without the direction of an authorised officer. Police are not public health officials and do not have the expertise to determine whether action is necessary to eliminate or reduce a serious risk to public health. Further, we have seen that a lot of fines for breaching the directions have been issued erroneously and at times, it seems, capriciously. With the increased arsenal of powers, Liberty Victoria is concerned that we may see an increase in the severity of consequences (beyond substantial fines) flowing from similarly erroneous or capricious decisions – including arrests and restricting a person’s movement.

Even more worryingly, proposed s 252 introduces a preventative detention regime which appears to have little protections or oversight, and provides far too much discretion to people who may lack the necessary expertise to determine risk, including police officers. The Bill does not specify what conduct may give rise to a “reasonable belief” that a person “is *likely* to refuse or fail to comply with” a direction. Again, police officers are not trained public health officials and will not have the expertise to determine the likelihood of a person’s conduct presenting a public health risk.

Further, the period of detention is not specified in the Bill and there is no oversight regulation built into this power. It is to be determined based on what the designated authorised person, including a police officer, considers and if they reasonably believe the person remains a ‘high risk person’.

The indefinite nature of these powers is exceptional and unlike other preventative detention regimes which contain fixed detention timeframes and strict oversight requirements. While these people have not committed any offence, they do not appear to have the right to challenge a decision to detain them – unlike people accused of criminal offences. Although they could seek judicial review of a decision, that is a costs jurisdiction which would make it difficult for people to challenge their detention.

The number of new COVID-19 infections have been coming down, with only 28 today. Those numbers have decreased without the recourse to any of those powers, so it is unclear why the increased powers are now considered necessary.

Julian Burnside

President

**For enquiries contact Liberty Victoria at  
info@libertyvictoria.org.au or phone 03 9670 6422**