

## Submission

### Australian Human Rights Commission

**In response to: Access to justice in the criminal justice system for people with a disability, Issues Paper released April 2013**

August 1, 2013

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The Information Access Group is pleased to participate in the consultation process regarding access to justice within the criminal justice system for people with a disability.

#### About the Information Access Group

The Information Access Group specialises in creating accessible materials. We work with a range of organisations in the government, community and disability sectors to create publications and websites that are easy to read and easy to use.

Our particular speciality is Easy English – the presentation of information in a way that is very easy to understand.

#### About our submission

At the Information Access Group we are communication specialists. Our submission therefore focuses on the need for adequate and appropriate information for people with a disability and/or low literacy, in order that they can exercise their legal rights and access justice in the criminal justice system. We have addressed the questions in the Issues Paper below.

Please also note that:

- We give the Commission permission to use our response in its work, with all identifying information removed.
- We give the Commission permission to publish our response on its website and to use the following name: **The Information Access Group.**
- The Commission is welcome to contact us for further information using the contact details provided below.

#### Submission questions

##### 1. What are the biggest barriers for you or other people with disability in the criminal justice system?

The real stories in the Issues Paper illustrate clearly that communication and information issues are a major barrier for people with disability within the criminal justice system. More than half of the real stories presented in the Issues Paper highlight difficulties relating to communication and information.

People with disability and/or low literacy are not provided with information that they can understand to assist them in their dealings within the criminal justice system. And, as many of the real stories testify, they are also frequently denied appropriate support to allow them a voice and to be heard.

People with disability and/or low literacy need to understand the system, their rights and what is expected of them. They also need to be able to put forward their case, their viewpoint and to be heard. Otherwise they are at a significant disadvantage and the system is open to miscarriages of justice and breaches of human rights.

This point is illustrated in *Shut Out: The Experience of People with Disabilities and their Families in Australia – the Australian Government National Disability Strategy Consultation Report, 2009*.

“For people with a sensory impairment or an intellectual disability ... access to information remains problematic. Information is rarely provided in alternative accessible formats, including plain English. And yet as many submissions argued, information is essential to meaningful participation in a range of activities, as well as essential to understanding and exercising basic rights.”

Access to meaningful information is essential for any of us to understand and exercise our rights and responsibilities in relation to the criminal justice system. Not being able to access information we can understand affects ability to participate effectively and compromises our legal rights.

Any contact with the criminal justice system entails a lot of written language: filling in forms, reading letters, reading instructions, directions, procedures and so forth. All this paperwork is typically presented in complex language that is hard for most of us to understand. In 2006, the Australian Bureau of Statistics conducted the Adult Literacy and Life Skills Survey (ALLS) as part of an international study on literacy levels. Statistics from this survey tell us that 46% of adults in Australia don't have a high enough literacy level to get by in everyday life. The clear implication is that the majority of citizens may struggle to comprehend documentation in complex language. And for those people with disability and/or low literacy this information is completely inaccessible.

By presenting information in complex language we effectively exclude large numbers of people.

## **2. What could be done to remove these barriers and help people with disability in the criminal justice system?**

In order to participate meaningfully in the criminal justice system, people with disability and/or low literacy need to be presented with information in an accessible format. We believe that all the information needed in order to participate in the legal justice system should be available in accessible formats, including Easy English.

Accessible information empowers people and allows them to be more independent and less reliant on others to act for them.

The provision of information in Easy English is more than an ideal – the right to information is a fundamental human right and is enshrined in the law.

### **Accessible information is a right**

Access to information is a fundamental human right. Under the *United Nations Convention on the Rights of Persons with Disabilities*, people with disabilities have rights to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice. Information must be made available in formats that suit their communication needs. The information should also be available in a timely manner and at no additional cost to the person with disabilities.

In Australia, the *Disability Discrimination Act* makes it unlawful to discriminate against a person because of their disability. This means that adequate support provisions and adjustments must be made to allow people with disability to access legal services and exercise their rights. Accessible information is a fundamental requirement allowing people to do this.

## **What is Easy English?**

Easy English uses simple language with images that support text, a large font size, plenty of white space and a range of other layout and design features. Easy English is currently used extensively for audiences with a disability. However, it is also becoming more widely used for audiences with low literacy levels or where English is an additional language.

## **Why is Easy English needed?**

Easy English information is used by many people with an intellectual disability. However, as we discussed earlier, it is increasingly used by many other people who may not have a disability but have low literacy for other reasons. Across the community people want and need information that is clear and easy to understand. Nowhere is this more relevant than in reference to the criminal justice system.

Information in Easy English is also important because of the permanency of the written word. Many people with an intellectual disability experience difficulty in concentrating, processing information and retaining it. Many have much stronger visual processing skills than aural processing skills. This means that people with an intellectual disability benefit significantly from having an Easy English text to assist them both in understanding and retaining information. It provides a permanent record which they can read and refer to as and when they need to.

The provision of information in Easy English does not mean that a communication support person is not needed. If a person requires communication support this should be a statutory provision within the criminal justice system, as is having a lawyer present. Without this, a person with a disability that affects their ability to understand and communicate is at a significant disadvantage and is vulnerable to exploitation and abuse.

## **Other benefits of Easy English**

As an additional benefit, Easy English information makes other translation and conversion processes easier. For example, translating Easy English text into languages other than English ensures that complex concepts do not get lost in translation and that the entire process is more cost-effective.

Easy English information can also be used directly by advocates, communication support intermediaries and others to clarify and help navigate the system for people with disability and/or low literacy. It offers a relatively straightforward and cost-effective way to support these people and contributes to real understanding of rights and responsibilities and how to participate in the criminal justice system.

## **3. Can you provide information about support that has helped you or other people with disability to participate in the criminal justice system?**

In September 2011, the Information Access Group was engaged to write an Easy English conversion of the Terms of Reference relating to the Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and Their Families and Carers. The Easy English document, *Your ideas about using the justice system*, is provided here for reference.

Some other countries, and notably the UK, are more advanced in their support of people with disability and/or low literacy. In these places, easy to read information is routinely provided alongside standard language information.

Some examples can be found below:

[Staying positive: the criminal justice system and learning disabilities](#)

[Going to a magistrates' court – information for people with learning disabilities](#)

**4. Please tell us about any time that you or another person with disability experienced barriers to justice.**

Ironically, the Issues Paper itself may not be accessible to many of the people who the Australian Human Rights Commission wants to hear from. The Issues Paper calls for people with disability to share their experiences and knowledge about the criminal justice system.

We are therefore surprised that an Easy English conversion was not made available at the same time as the publication of the standard document, in April of this year. The Easy English conversion of the Issues Paper was not made available until mid-July, which means that people who needed this conversion, including those with intellectual disability and/or low literacy had a much reduced time period – only a few weeks – in which to consider and respond to it. It seems manifestly unfair to make it harder for these people to have their say in how to dismantle the barriers they face in the criminal justice system, when that is the purpose of this Issues Paper.

**5. Do you have any thoughts, ideas or comments you would like to make about people with disability and the criminal justice system?**

The criminal justice system is only an appropriate avenue if people are able to understand and deal effectively in it. The system is intended to serve as a deterrent and prevent people from re-offending in the future. It is difficult to see how this can happen in the case of people who are not given the opportunity to understand the system, how it works and their rights and responsibilities within it. For this reason, we believe that the provision of Easy English information is a fundamental requirement if people with disability and/or low literacy are to participate on an equal footing with everyone else in this system. If accessible information is not provided, we may be depriving significant numbers of vulnerable citizens of their fundamental legal rights and access to justice within this system.

For many people access to information that they can understand may mean the difference between being able to exercise their rights and responsibilities in relation to the criminal justice system and not being able to do so.

As we have discussed above, presenting information in Easy English is not a favour that may be granted to people with disability and/or low literacy. Access to information that people can understand is their right and the law.

And, as the figures in the 2006 ALLS survey testify, the need for information that is easy to read is by no means limited to people with intellectual disabilities. Information presented in an Easy English format benefits a whole range of people and contributes to the development of a more inclusive and just society.

The steps to creating accessible materials are not onerous. They just involve a different approach. And in the long run, an approach that allows more people to understand and participate is likely to lead to a more effective and less costly criminal justice system.

Thank you for considering this submission. We look forward to the report of the outcomes from this consultation process.

Yours sincerely,

Lyndall Thomas,  
Editorial Director, The Information Access Group.



(03) 9585 2299



[info@informationaccessgroup.com](mailto:info@informationaccessgroup.com)



2/128 Balcombe Rd  
Mentone Vic 3194



[www.informationaccessgroup.com](http://www.informationaccessgroup.com)

# Your ideas about using the justice system

September 2011



This information is written in an 'easy to read' way.

We use pictures to explain some ideas.

Some words are written in **blue**. We explain what these words mean.

## What's in this document?

	<b>Page number</b>
What is the justice system?	3
We would like to tell the Victorian Parliament what you think	5
Using the justice system	6
What are rights?	7
The police	10
The courts	12
Prisons	15
Other questions	17
Thanks for your thoughts	18
Word list	19

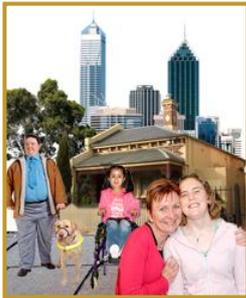
## What is the justice system?



This document is about the **justice system** in Victoria.



The justice system gives us a set of rules that we all must live by. This set of rules is called the **law**.



The rules are about being treated fairly and feeling safe in our community.

The justice system includes the following:



- the police



- lawyers – people who discuss the law and stand up for people’s rights



- **advocates** – people who can support you and offer advice



- the courts, including the people who work in the courts, such as judges



- people who work in **security**, such as ticket inspectors, security guards or officers at train stations



- prisons.

## We would like to tell the Victorian Parliament what you think



The Victorian **Parliament** is currently looking at the way the justice system works for people with an intellectual or cognitive disability, their families and carers.



This work will help the Parliament understand how to make the justice system better.



When it has heard from people, the Parliament will write a report to tell the Victorian Government how to make the justice system better.



The Disability Advocacy Resource Unit (**DARU**) wants to hear from people with an intellectual or cognitive disability to tell the Parliament about your experiences.

They also want to hear from their families, friends, advocates and carers.

DARU wants to know:



- If you have had any experience with the justice system and what it was like.
- What you think about the justice system.



This document includes some questions for you to answer. Your answers will help DARU tell the Parliament how to make the justice system better.

## Using the justice system

DARU wants to know if you have ever been involved in the justice system. This might be if you:



- have been interviewed by the police



- have been interviewed by security people, perhaps in a shop or at a train station



- have been a **witness**. A witness is a person who saw what happened when someone broke the law.



- have been the **victim** of a crime. A victim is someone who has been hurt or had something bad happen to them.

## What are rights?



We all have **rights**.

Our rights explain the way we can expect to be treated.

Everyone has the right to be treated fairly and to be safe.

Rights are an important part of the justice system.



We can use the justice system to stand up for our rights and make sure that we are being treated fairly.



Sometimes, people become involved with the justice system because they have done something wrong. Maybe they broke one of the rules.

It's important to know that even if you've done something wrong you still have rights.



### **Questions to answer**

**Have you ever been involved with the justice system?**

**If so, did you know that you had rights?**

**Did you understand what your rights were?**

**If so, please tell us about your rights.**

**Did anyone explain your rights to you?**

## The police



The police are an important part of the justice system.



Their job is to help people and to make sure that everyone follows the rules. For example, the police make sure people don't drive too fast on the roads.



### Questions to answer

**Have you ever been involved with the police?**

**If so, can you tell us what happened?**

**What information did the police give you?**

**Who was with you?**

**Who do you think should have been there?**

**Did you think that you were treated fairly?**

**How could things have been better?**

## The courts



The courts are another important part of the justice system.

This is where a lot of the decisions are made about the law.



There are different people who work in the courts including:

- judges – people who make decisions
- lawyers
- juries – groups of people who listen to the discussion and make decisions together
- staff – other people working in the courts, including those who help people with a disability.



Sometimes other people come to court too.

For example, the judge might ask a witness to speak.

Victims of crime also go to court to explain what happened to them.



If something bad has happened to you, or if you have been arrested, then you have a right to use a lawyer.

It is their job to listen to you and help you as you deal with the police and the courts.



You can also ask an advocate to help you.

They understand how the courts work.

They can help you work out what to do.



### **Questions to answer**

**Have you ever been to court?**

**If so, did you understand what was happening?**

**What kind of help did the court give you?**

**Did you get the help you needed?**

**How did the people in the court treat you?**

**Did a lawyer help you? If so, what kind of help did they give you?**

**Did you have an advocate? If so, what kind of help did they give you?**



**Do you have any ideas about making the courts better for people with disability?**

## Prisons



Prisons are a place for people who have done something wrong.

Prisons are also called 'jail'.

The courts decide who goes to prison.



### Questions to answer

**Have you ever been to prison? This might include spending time in a cell at a police station.**

**If so, did you understand what was happening?**

**What kind of help did you get?**

**Did you get the help you needed?**

**How did the people at the prison treat you?**

**Did a lawyer help you? If so, what kind of help did they give you?**

**Did you have an advocate? If so, what kind of help did they give you?**



**Do you have any ideas about making prisons better for people with disability?**

## Other questions



**Is there anything else you want to tell the Parliament about how to make the justice system better?**

**How can the Government make sure that people with a disability are treated fairly when they use the justice system?**



**Are there any things happening in other parts of Australia, or other countries around the world that you think should happen in Victoria?**

## Thanks for your thoughts



By telling the Parliament what you think, you can help make the justice system better.



## Word list



### Advocate

Advocates are people who support you. They help you to have a say. They can also give you information and advice.

### DARU

DARU is the disability advocacy unit.

### Justice system

The justice system is made up of:

- the police
- lawyers
- advocates
- the courts, including the people who work in the courts, such as judges
- security guards and officers
- prisons.



The justice system makes sure that we all follow the law.



## Law

The set of rules that we all must follow.



## Parliament

Parliament is the name of the place where politicians make laws. Some politicians from Parliament are chosen to become part of the Government.



## Rights

We all have rights. Our rights explain the way we can expect to be treated. Everyone has the right to be treated fairly and to be safe.



## Security

Feeling safe and protected. For example, a security guard has the job of protecting a shopping centre.



## Victim

Someone who has been hurt or had something bad happen to them.



## Witness

A witness is a person who saw what happened when someone broke the law. They may be asked to speak in court.