15 February 2021



Chairperson and Commissioners Victorian Law Reform Commission [law.reform@lawreform.vic.gov.au](mailto:law.reform@lawreform.vic.gov.au)

Dear Chairperson and Commissioners

The Commitment to Inclusion is Welcome

I am writing to provide input to the law reform project ‘Inclusive Juries – Access for People who are Deaf, Hard of Hearing, Blind or Have Low Vision’. We commend the Commission for your commitment to increasing access to justice for disabled people and welcome the opportunity to provide advice on the reform.

Youth Disability Advocacy Service (YDAS) is an advocacy organisation that works with disabled young people who are aged 12 to 25. We work with disabled young people in Victoria to make sure they can speak up and are being treated fairly. We are a core agency of Youth Affairs Council Victoria (YACVic), the peak body for young people and the youth sector in Victoria.

An Issue of Human Rights

YDAS recognises that reforming the law to provide for inclusive juries is a human rights issue. Having ratified the Convention on the Rights of Persons with Disabilities, Australia is obliged to ensure that disabled citizens enjoy and exercise the same rights as every other citizen. This includes ensuring that disabled citizens can participate fully in all aspects of public life. By failing to provide adjustments to deaf and blind Australians to participate as jurors, Australia has violated the human rights of those excluded jurors and more broadly, its obligations under the Convention on the Rights of Persons with Disabilities (‘CRPD’). Article 12 of the CRPD recognises that people with disabilities have the right to enjoy legal capacity on an equal basis with others in all aspects of life.1 Legal capacity on an equal basis includes taking the necessary measures to provide disabled people with support to participate actively in the justice system.2 The UNHRC has recommended that in order to ensure the human rights of disabled Australians are upheld, reasonable accommodations should be duly provided to enable disabled persons full participation in jury service.3

Ensuring Inclusion for All

1 Convention of the Rights of Persons with Disabilities, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008).

2 Ibid, Art 12.

3 OHCHR | Australia violated rights of deaf people over jury service – UN experts, 2016

YDAS recognises that the current exclusion of disabled Australians as jurors further stigmatises disability within both the criminal justice system and society broadly. It is vital that disabled people living in Victoria are not only seen in the roles of claimants, victims or defendants within Australia’s justice system. This perpetuates disability stigma and inequality. Jury service is a vital aspect of civil life and the jury must reflect the society we live in.

YDAS commends the Law Reform Commission for your commitment to increasing access. In addition to the considerations already identified in the consultation paper, we recommend that this law reform project:

1. Provides specific support to disabled young people that meets their different lived experiences and access needs including, but not limited to:
   1. Accommodating Deaf/deaf young people’s choice of Auslan interpreter
   2. Using accessible language (plain English and Easy English)
   3. Providing support to young people to attend jury duty while studying at university,

TAFE, working casually or part-time

* 1. Allowing disabled young people to bring their own assistive technology
  2. Providing as much information as possible to disabled young people ahead of time
  3. Centres disabled jurors in designing their own access features
  4. Communicating respectfully and effectively with disabled young people at every stage of their engagement
  5. Providing information to young people about requesting access provisions

1. Embeds community voice in governing, monitoring and evaluating the delivery of this reform including the voices of disabled young people
2. Strives for 100% inclusion, while still allowing disabled young people the option to excuse themselves due to disability
3. Conducts a further inquiry into increasing young people’s access to jury duty including identifying common barriers and potential solutions. This inquiry must involve meaningful youth participation, potentially a collaboration between the Law Reform Commission and current disabled and non-disabled law students.

Yours sincerely

Mija Gwyn YDAS Manager