



# Access Easy English

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Access to Justice Review  
Department of Justice and Regulation  
Level 24, 121 Exhibition Street  
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To the Victorian Government Access to Justice Review,

Re: Access to Justice Review to improve access to justice for Victorians with an everyday legal problem or dispute, and ensuring the most disadvantaged and vulnerable in our community receive the support they need when engaging with the law and the justice system

To provide a context for my submission, the following information is provided.

- I am a Speech Pathologist with 28 years experience supporting clients with Complex Communication Needs and their families, in the development of supports for them, individually, in school, day placement and in the community;
- I am an internationally recognised expert in the development and writing of Easy English which is the process of writing information for people with low and/or non functional literacy;
- I have provided training to organisations in the development and use of Easy English. These have included community neighbourhood houses, court appointed officers,

government (DHHS) and non government staff(eg VEC), teachers, lawyers, doctors, other health practitioners, advocates, retailers to name a few.

- I have previously been involved in court cases for people with complex communication needs as a medico-legal expert;
- I own and operate my own business, developing, training and building awareness of Easy English. I also provide specialist supports for people with Complex Communication Needs. My website is [www.accesseasyenglish.com.au](http://www.accesseasyenglish.com.au)

My submission addresses, in particular,

1. the availability of easily accessible information on legal assistance services and the Victorian justice system, including advice on resolving common legal problems;
2. -
3. -
4. potential reform to the jurisdiction, practices and procedures of the Victorian Civil and Administrative Tribunal (VCAT) to make the resolution of small civil claims as simple, affordable and efficient as possible;
5. -
6. -
7. -
8. -
9. options for providing better support to self-represented litigants throughout the Victorian justice system.

## 1. Access to meaningful written information for people with low literacy

### Reading and literacy

In 2013 the latest adult literacy data was released, The Program for the International Assessment of Adult Literacy Competencies. [www.abs.gov.au](http://www.abs.gov.au) #4228. The data identified 44% or 7.3 million adult Australians has **non functional literacy**, which means these Australians have difficult accessing most day to day written information in the public domain. This is the broad literacy data statistics. The research also demonstrates people with non functional literacy have a higher incidence of interaction and recidivism in the justice system, higher prevalence of health issues and poorer health outcomes, have poorer financial management, poorer awareness regarding emergency services issues, higher workplace safety issues, and many other aspects of their day to day living. In addition there is a high correlation between low literacy/non functional literacy and poor wages and low socio economic status.

People with low literacy/non functional literacy can and are the 'man or woman in the street' one's neighbour, work colleague or friend, or it may be the person with a diagnosed disability from lifelong disabilities such as Down Syndrome to Acquired Disabilities such as car accident, or stroke. People from the Deaf community and people with a hearing impairment are overrepresented in this cohort, as are people with poor educational attainment. In addition people who are time poor or highly stressed show higher levels of non functional literacy, often people needing to access the justice system.

People with low literacy are also overrepresented among those living with a mental health issues, the unemployed, and underemployed, the homeless and the disabled. People with English as a second language, as well as people from an Aboriginal or Torres Strait Islander background are also significantly overrepresented in this data.

In addition, the 2013 ABS data investigated both **numerical literacy** and **problem solving literacy in technology** based environments (on-line). Both these significant areas of reading in the 21<sup>st</sup> century, demonstrated even greater levels of non-functional skills and abilities.

Non functional numerical literacy in the Australian environment was interpreted at 52%. Numerical literacy involves the interpretation of numbers, time, and quantities to name a few needs in this area. This is critical literacy for the correct administration in areas such as meeting attendance, planning and time management, adherence to conditions in reports, to name a few.

Non functional problem solving literacy in technology based information (use of online information) in the Australian environment was interpreted at

- 14% opted out of the tasks altogether;
- an additional total of over 62% being non functional in use of technology for problem solving and information gathering.

This is significant with regard to accessing services, locating resources, completing online forms, phone apps or other technology. Additional research from Canada has also shown even those with higher computer literacy skills, are predominantly more capable in the social media sphere, compared with researching information, completing forms, and accessing services online, which is what is required in the current Digital/Computer Economy.

My work with people with low literacy/ non functional literacy has demonstrated again and again the value of information being written in Easy English. These adults are able to read and understand particular issues of import to themselves, and gain insight into how the information relates to themselves when it is written in Easy English. Significant barriers to information and life choice outcomes are removed. Consequently more meaningful decisions are made and acted upon.

It must be noted, people with low literacy are a significant cohort of people who are vulnerable and will not “reach out” for the support and assistance they need.

Family members and support staff are additionally vulnerable when faced with large amounts of written information, and then other factors such as being time poor, and stressed. These influential members of an individual’s support network also benefit highly from having written information provided in a more accessible manner. In addition people who live with other variable issues, such as, mental health issues, are known to often have variable functional literacy, due to the variable nature of their coping and management strategies.

The Program for International Student Assessment (PISA) 2012, is also critical data to consider. If 20 % of all 14-15 year old students in mainstream schools have non functional literacy, how do they access the information around them in a meaningful way? Using Easy English processes allow more students to have a greater grasp of the requirements of a task or information required of them. Research from Claire (2013) on youth justice and recidivism has shown high numbers of students arrive in the justice system with undiagnosed language, literacy and communication issues. Additionally, significant poor language and literacy skills for youths from Aboriginal or Torres Strait Islander backgrounds have been reported by Snow et al(2016) in the Youth Justice system.

To gain responses from all members of our community, documents such as this Victorian Government enquiry should be available in Easy English also.

- Under the UNCRP, 2006 it states written information should be provided in a way so that the person can access it meaningfully, in the same time frame as the original document.
- People with limited or non functional literacy take longer to read information, understand what it means for them and take more time to develop a response, and then put it together.
- In addition, as noted earlier with the higher incidence of non functional computer based literacy, how do people with non functional literacy locate and find this information?

Below are a number of recent examples of work I have completed in Easy English, which will give you a greater understating of how information should be written. I have been doing this work for over 10 years, and these current documents have been well tested in the community. There are many other examples of information written in Easy English for all spheres of relevance. There are also numerous examples, particularly from the UK and some from the USA, of documents written for social inclusion, participation and advocacy and information on justice and the law. Examples from the UK and USA can be provided upon request.

Recent examples developed by Access Easy English include:

1. **Your Guide to Survival** Country Fire Authority <http://www.cfa.vic.gov.au/about/easy-english-versions/>
2. Training support package NSW Boarding Houses New Laws and Rules 2013. Book 1- 4. See attached 1 book (Book 4) Rights.

3. **Think Safe Act Safe.** A document for men leaving court with an IO; See attached.
4. **Voices against Violence, Book 7.** Report on research completed in Victoria about Women with Disabilities, the prevalence and issues with regard to Violence.  
<http://wdv.org.au/documents/Voices%20Agaisnt%20Violence%20Paper%20Seven%20Easy%20English%20Summary%20%28PDF%203MB%29.pdf>
5. **Quality of Support Review (DHHS VIC)**  
<http://www.dhs.vic.gov.au/funded-agency-channel/about-service-agreements/incident-reporting/human-services> Scroll down the page to the Quality of Support heading.

There has been some increased interest in Legal Literacy information over the last few years. That is, legal information written in Plain Language. Even when this is available in hard copy form (Printed materials) it still means at least 44% of the adult Australian population are **unable** to read, understand and use the information. Further development and access to legal information, content and steps individuals can take and/or use in the legal system is required in Easy English. Any written information can be developed into Easy English from letters, to statements and requests for information, forms, websites, support plans, Powerpoint, facts and fact sheets to training packages and government enquiries.

In my work with government departments and government funded organisations, I am also constantly confronted with the lack of awareness of the UN Convention on the Rights of Person with a Disability, 2006, by staff, and its implications for people who need to access written information from the government, and government funded organisations. In addition, I will often talk with clients who require information written in Easy English about this UN Convention, and what it should mean for them regarding their right to access written information in a way they can read and understand. Unfortunately, most complaints processes and forms are not presented in a way these particular clients can use, to raise their concerns about access to written information.

Australia was one of the first signatures to the UN Convention on the Rights of Person with a Disability(2006). I developed the original and consequent Australian guidelines for writing in Easy English. These are regularly refereed and cited, by organisations that use Easy English in their communications with clients, families and the public. I also regularly present papers

at National and International conferences on this topic. Attached is my latest publication, Basterfield and Starford (2014) Plain Language for Access to Democracy and Citizenship. Clarity. 72 (2).

The Victorian Government has the **Victorian Government Accessible Communication Guidelines, 2014**. It states Government and Government funded agencies are responsible for ensuring communication is provided in a format suitable for people who encounter barriers when accessing government information. I would like to suggest very few government agencies or government funded agencies are aware of this or implement this aspect of the Communications policy. On the Victorian Government intranet is my publication **Easy English - How to comply with the Victorian Government Accessible Communication Guidelines 2014**.

## **2. Communication for people with Complex Communication Needs**

The Australian Bureau of Statistics in 2012 stated “The number of Australians with disability remained steady at 18.5 per cent of the population or 4.2 million people. Of these, 1.4 million Australians had a profound or severe limitation affecting their mobility, self-care or communication.” [www.abs.gov.au](http://www.abs.gov.au) #4430 Speech Pathology Australia states 13,000 Australians use electronic communication aids to communicate. [www.speechpathologyaustralia.org.au](http://www.speechpathologyaustralia.org.au)

With these damning statistics the needs of people with disability, but most particularly those with communication difficulties, and complex communication difficulties needs to be addressed. These people are often the most vulnerable in our community, many requiring particular advocacy to assist them to speak up, or be supported in speaking up for themselves. Some people have Complex Communication Needs due to lifelong disabilities such as Cerebral Palsy or Autism, others from acquired disabilities such as car accident, or mental health issues. Others again have specific language difficulties, developmental delay, pragmatic or social issues. Their Rights need to be addressed.

Some people with Complex Communication Needs can eventually use literacy, to communicate, eg: a voice output device, where they can use word predict, and other features to create individualised messages for any situation. However, significant numbers of people use predominantly images to communicate, others use signing or Key Word Sign. [www.keywordsignvicotria.org](http://www.keywordsignvicotria.org) Others again use less formal means of communication such as their gestures and behaviour and people knowing them, well to communicate. Irrespective of the person's means of communication, their messages need to be heard. These people must be included in all aspects of the court system from complaints, to victim statements and court or other hearings.

Barriers can be subtle, but many times the barriers to access to communication and Rights is obvious. Subtle barriers can include:

- Not allowing time for the person to communicate;
- Court attendants, solicitors, barristers and judges being unaware of how to communicate with someone who does not talk. This may be because workers have never met someone who communicates in this way before;
- Dismissing changes in behaviour as being insignificant;
- Dismissing communication unless it is done using speech;
- Specific topic language/images/objects/signs may not be available to the person as part of their communication system – these need to be provided as part of the preparation for a conversation on the persons justice needs and rights.

Less subtle barriers can include:

- Lack of knowledge by staff in the court and justice system of Key Word Sign and Gesture;
- Lack of training by all staff involved in the justice system in how to communicate with people with little or no speech;
- Lack of knowledge of expert Speech Pathologists in the area of Augmentative and Alternative Communication. These skills are paramount as experts in providing expert opinion in the matter of identifying independent messages from communicators, communication assistance to someone in a court or other hearing or making victim impact or other statements.
- Not using the person's communication system.

## **Future improvements**

### **Addressed against the Terms of Reference**

1. the availability of easily accessible information on legal assistance services and the Victorian justice system, including advice on resolving common legal problems;
2. -
3. -
4. potential reform to the jurisdiction, practices and procedures of the Victorian Civil and Administrative Tribunal (VCAT) to make the resolution of small civil claims as simple, affordable and efficient as possible;
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#### 1. & 9

A whole of Justice approach to Accessible Information, in particular, Easy English.

This includes:-

- a. Fact sheets on basic rights and legal information;
- b. Fact sheets on various tribunals and how they operate;
- c. Standards,
- d. Rights and Complaints;
- e. Reports;
- f. Enquires;
- g. Training material and advocacy materials;
- h. Access to websites;
- i. Printed material available in key locations.

#### **Priorities include:**

- a. Training for staff in Regional and Head offices and agencies to learn to develop key documents and proforma's in Easy English, including why this is necessary.
- b. Contract to have critical public domain documents developed into Easy English.

4. & 9.

Develop training for all court and tribunal staff, including judges, solicitor's and barristers, court attendants and front of court staff on communication awareness, communicating with people with complex communication needs, and basic communication strategies.

This needs to be delivered by specialist Speech Pathologists, experienced and skilled in the area of Augmentative and Alternative Communication, preferably in conjunction with people with Complex Communication Needs.

With my expert knowledge and insight into Easy English, I would be interested in pursuing further dialogue with the 2016 Victorian Government Access to Justice Enquiry about how to implement Easy English.

I would be pleased to share my expert skills and knowledge about communicating with people with Complex Communication Needs with this Review to improve the outcomes for people with Complex Communication Needs as they access the justice and tribunal system.

I thank you for this opportunity to submit comment to this 2016 Victorian Government Access to Justice Review.

*Cathy Basterfield*

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[http://www.speechpathologyaustralia.org.au/library/SPyce\\_Report\\_FINAL\\_lores.pdf](http://www.speechpathologyaustralia.org.au/library/SPyce_Report_FINAL_lores.pdf)

Communication Impairment in Australia  
[http://www.speechpathologyaustralia.org.au/library/2013Factsheets/Factsheet\\_Communication\\_Impairment\\_in\\_Australia.pdf](http://www.speechpathologyaustralia.org.au/library/2013Factsheets/Factsheet_Communication_Impairment_in_Australia.pdf)

Disability, Ageing and Carers, Australia: [www.abs.gov.au](http://www.abs.gov.au) #4430

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