

Empowered Lives

SECURING CHANGE FOR VICTORIANS WITH DISABILITY



Empowered Lives brings together people with disability, advocates, and organisations across the Victorian disability community.

Together, we have developed this platform for change – outlining the key issues that face Victorians with disability in their interactions with Victorian Government systems, and setting out achievable actions the Government can take to provide more opportunities for people with disability, more inclusive environments and communities, and stronger support when needed.

This factsheet provides information about one of the areas for change identified in the platform.



9 Uphold rights in the justice system

Goal: Victorians with disability understand their rights and responsibilities and have access to justice.

Effective and equal access to justice is a human right for people with disability,¹ who are more likely than other Victorians both to experience legal problems and to be the victims of crime. Too often people with disability end up in the justice system because other systems fail to provide appropriate support.

Better outcomes for victims and perpetrators means ensuring systems and procedures are accessible, people understand their legal rights and obligations, and people who work in the justice system understand the unique and diverse needs of people with disability.

We call on the Victorian Government to:

Ensure equal access to legal information and processes

It is critical that people with disability have the support they need to understand the law and their rights and obligations, and to seek justice when it is needed. An important part of this is making sure information is accessible and widely available, and there is enough time for people with disability to understand what is happening and what their choices are.



Processes and frameworks around questioning people with disability and supporting them to give evidence need to be strengthened to ensure equal access. Training should be provided to judicial officers,² and appropriate communication supports should be funded and provided. Stronger partnerships between legal assistance and disability advocacy services would also improve justice outcomes for people with disability.³

Allowing and supporting people who use interpreting to participate in jury duty would be another important step towards inclusion.

Improve support for people in the justice system

People with disability are over-represented in the criminal justice system at all points of the process,⁴ and particularly in detention, but there are inconsistent screening / assessment processes when people enter the system, and there is not enough specialist support once in the justice system.

More information

More information about Empowered Lives, including the full platform and an Easy English summary, can be found online at empoweredlives.vcross.org.au/

Improving screening processes and providing appropriate supports and treatments, including for young people with disability,⁶ would help to improve outcomes. Providing appropriate support would also mean that more people would be able to go to court, reducing the need for unfitness to stand trial determinations and the potential for miscarriages of justice.⁷ There also needs to be more support for people with disability transitioning out of the prison system, including engaging with the NDIS

¹ UN Convention on the Rights of Persons with Disabilities, Article 13.

² Royal Commission into Family Violence, *Final Report: Summary and Recommendations*, 2016.

³ ALRC, *Equality, Capacity and Disability in Commonwealth Laws*, ALRC Report 124, 2014, Chapter 7.

⁴ For example, one study found that one third of women and over 40 per cent of men in Victorian prisons have an acquired brain injury, compared with 2 per cent of the general population. Department of Justice, *Acquired Brain Injury in the Victorian Prison System*, Corrections Victoria Research Paper Series, Paper No. 04, 2011.

⁵ Victorian Ombudsman, *Investigation into the rehabilitation and reintegration of prisoners in Victoria*, 2015.

⁶ P Armytage and J Ogloff, *Youth Justice Review and Strategy: Meeting needs and reducing offending*, Victorian Government, 2017, p 157.

⁷ B McSherry, E Baldry, A Arstein-Kerslake, P Gooding, R McCausland and K Arabena, *Unfitness to Plead and Indefinite Detention of Persons with Cognitive Disabilities*, Melbourne Social Equity Institute, University of Melbourne, 2017.

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