

POSITION STATEMENT

TITLE: ACCESS TO JUSTICE

ISSUE:

There is a lack of access to justice in many Courts in Australia, for people who are Deaf or have a hearing impairment. Approaches to Court officials and those with authority in the area of justice, over many years, have met with mixed success.

Federal courts are responsible for their own administration. Each court separately establishes policies regarding the provision and use of interpreters. Commonwealth buildings are required to comply with the Building Code of Australia (BCA) and the Disability Discrimination Act 1992 (DDA). The DDA provides for the development of standards in relation to the access or use of any premises by persons with a disability, that the public is entitled or allowed to enter or use. Those standards are under development but it is not known whether they will be introduced or, if they are, what they will require regarding hearing access. An Australian Standard (AS1428.5) is also being developed which, when completed, is likely to be referenced by the BCA and any DDA Access to Premises Standard. All new courtrooms built must include hearing loops. The Federal Court's policy on interpreters specifically includes Auslan. Courts fund interpreters in some circumstances only, such as economic hardship.

In the Northern Territory, infrared assistive hearing devices for the benefit of some people with a hearing impairment are installed in some newer Darwin Courts. In Alice Springs there are three areas with infrared assistive hearing devices installed. There are no such devices, however, in the many Bush Courts, despite the fact that indigenous people are over-represented in those who come before the Courts, often as the result of their hearing loss disadvantaging them educationally so that getting a job becomes more difficult.

In NSW, many Courts have poor acoustic qualities requiring very costly remedial action. The NSW Attorney-General's Department has put in place a system whereby portable infrared assistive hearing devices can be pre-booked for use in particular Court hearings. This system is operating reasonably well in the areas where it is available. All Court staff members are supposed to be educated to be responsible for meeting the needs of all people with disabilities, to ensure that justice is done. Progressively, Courts are being equipped with facilities enabling names of participants to be displayed on illuminated signs, rather than called (and frequently mispronounced).

The preferred methods of communication for Deaf, Deaf-Blind and hearing impaired Court participants vary. They include interpreters (Auslan, Deaf-Blind, oral [or lip speakers], signed English and cued speech), real time captioning (transcription), and hearing augmentation (hearing loops, FM and infrared systems). Courts generally

will only employ an accredited Auslan interpreter, which means there is a problem in respect of signed English, cued speech, and lip speakers.

Many hearing impaired people tend to trumpet hearing loops as the best hearing augmentation solution for them, but forget that technological systems need to be usable by hearing impaired people who do not have hearing aids and by people who:

- (a) have hearing aids with a 'T' switch,
- (b) have hearing aids with audio input, or
- (c) have hearing aids without a 'T' switch or audio input.

The needs of people without hearing aids or without T-switches or audio input can be met with a well thought out infrared system with an appropriate selection of receivers or by an audio loop with supplementary receivers. The frequency response and the adjustable volume gain of receivers needs to be suitable for people with varying severity of hearing impairment. However, many systems are installed with little regard to the end user. Some headsets provided have been found to be inappropriate for hearing aid users in that they cover the aid, cause feedback and offer little inductive coupling.

Court participants include magistrates, witnesses, solicitors, judges, jurors, prosecutors, defendants, counsel, officials, spectators, etc. Equality will not be achieved until all participants in a Court's proceedings are enabled to know every word that is spoken by every other participant.

POSITION:

That the Federal, State and Territory Attorneys-General put in place programs designed to ensure full and equitable access to all Courts in Australia for all people who are Deaf or have a hearing impairment, using their preferred methods of communication.

COSTS OF POSITION:

No costing has been undertaken. Costs should not be an issue because of the importance of the human right of access to justice.

RESEARCH BASIS:

In 1998 Deafness Forum commissioned research that analysed the acoustics of public auditoria "A Comparative Evaluation of Public Address Sound Systems and Augmentative Listening Systems, when used by hearing-impaired persons". That study examined a number of courtrooms in NSW.

APPROVED: Board - 29 October 2000.

REVIEWED: Board - October 2001, 25 October 2004. CEO - 18 November 2004.



DATE OF NEXT SCHEDULED REVIEW: No review currently scheduled.