## Blindness. Low vision. Opportunity.

## Vision Australia submission

## Victorian Law Reform: Inclusive Jury Consultation

## Submission to: Victorian Law Reform Commission

## Date: 19 March 2021

## Submission approved by: Chris Edwards, Manager Government Relations and Advocacy, NDIS and Aged Care, Vision Australia.

# Introduction

Vision Australia is making a submission to the Victorian Law Reform Commission’s Inclusive Juries inquiry because we believe that the realistic opportunity for people who are blind or have low vision to be included on juries is long overdue. An evolving feature of the jury system since the time of the Magna Carta has been that of a “trial by one’s peers”. This concept is a cornerstone of the jury system in Contemporary Australia, but the 384,000 Australians who are blind or have low vision are rarely, if ever, given the opportunity to exercise their role as “peers of the accused” by serving on a jury.

The Commission’s inquiry represents a positive and significant first step in the process of legislative reform and the transformation of legal practice to be more inclusive of people with a disability. We have very much appreciated the opportunity to have a number of detailed discussions with the Commission prior to making this submission, and we look forward to working further with the Commission as the inquiry progresses.

In this submission we have provided responses to the majority of questions included in the consultation paper produced by the Commission to inform the inquiry. We have omitted those questions which call for a response that is beyond the scope of our expertise or experience, for example, questions that refer specifically to Auslan.

As an Appendix to the submission we have provided a table of typical supports that a person who is blind or has low vision may require in order to participate effectively in the jury process.

# Responses to Consultation Questions

## 1 - Do you have any experience of not being able to serve as a juror in Victoria because you are deaf, hard of hearing or blind or have low vision? What happened? Did you excuse yourself or were you excused by the Juries Commissioner or the court?

We have received very little feedback following a recent invitation for clients to share their experience of jury service with us. One client from regional Victoria said that they had been summoned for jury duty but that they had not been selected. Another client, not from Victoria, noted:

*“I was called for jury duty in July 2019 and was not accepted, because I am legally blind. I had to provide a medical certificate about my vision impairment. The reason the Court gave me was that I would not see the person's facial expression.”*

Another client told us about their experience serving on a jury 30 years ago, again in a non-Victorian jurisdiction. They had low vision at the time, but needed assistance locating the jury room and the pre-trial assembly area. They were selected despite not being able to see the alleged offender and being unable to see some exhibits or examine the transcript of the trial.

This limited feedback is consistent with the anecdotal evidence we have obtained from our discussions with clients over the past 15 years, i.e., when people who are blind or have low vision are summoned for jury service, they either seek an exemption at the earliest stage of the process, or else are excluded or deemed ineligible at a later stage. It may be that people who have low vision are marginally less likely to be prima facie excluded than people who are blind.

When people who are blind or have low vision seek an exemption from jury service, it is most likely because they anticipate that their needs for reasonable adjustments will not be met, and that they will therefore face insurmountable frustrating barriers. As the client who was told that their ineligibility was due to their inability to see facial expressions commented:

*“There are so many obstacles that blind and low vision people experience, that even those who have a good level of energy and initiative to change things for the better, are giving up.”*

We are compelled to conclude that in practice, very few people who are blind or have low vision have served on juries anywhere in Australia during the past 30 years.

## 2 - The Commission has identified some of the key reasons underpinning the need for reform. Are there any other reasons you would like to bring to our attention?

Over the past 30 years or so a number of factors have combined to reinforce expectations of full, equal, dignified and independent participation by people with disability in every aspect of life, including civic participation such as jury service. The consultation paper provides a comprehensive overview of these factors, to which we would add the impact of initiatives such as the Commonwealth Government’s National Disability Strategy, the National Disability Insurance Scheme (NDIS), and the growing number of Disability Inclusion Acts and derivative Action Plans that are being implemented in states and territories. The cumulative effect of this constellation of factors is to instil the belief that full social, economic and civic participation is a right, and that reasonable adjustments can and must be made in order to promote and protect this right. Access to justice - including participation in judicial processes such as jury service – is no longer seen as occupying a separate or privileged place in society that should be sheltered from the impact of evolving expectations. Thus, People who are blind or have low vision simply do not believe that the inability to see facial expressions is in any way a relevant consideration when assessing their suitability for jury service, let alone that it should be adduced by a court as a sufficient condition of ineligibility.

## 3 - Should the *Juries Act* 2000 (Vic) be amended to specifically require the courts to consider the provision of reasonable supports for people who are deaf, hard of hearing, blind or with low vision?

We strongly believe that amending the Act to include specific obligations to consider providing reasonable supports is the only way that people who are blind or have low vision will ever be given the realistic opportunity to serve on a jury in Victoria. Experience in Australia and overseas has consistently shown that lasting progress in the promotion and protection of the rights of people with a disability is only achieved when it is required or supported by legislation. In Australia this is clear when reviewing the impact of the Disability Discrimination Act 1992 (the DDA), and the three Disability Standards that have developed under the provisions of the DDA. In the US, the accessible public ICT procurement requirements of the Rehabilitation Act have been pivotal in improving the accessibility of a wide range of technologies, and have even been identified as the catalyst for companies such as Netflix to introduce audio description to their content.

There are some areas where voluntary codes or agreements have helped deliver positive change for people with a disability, but in our view, and having regard to the slow-changing nature of the legal system and the legal profession, jury service for people who are blind or have low vision is not one of these areas.

## 4 - Is the ACT approach appropriate for Victoria? –

Having examined the ACT approach, we feel that it is appropriate for Victoria, recognising, of course, that there may need to be customisations made to the wording and examples in the ACT legislation. We strongly recommend that if the ACT approach is adopted in Victoria, it is expressed in language that reflects current views of disability (so, for example, words like “suffer” are not appropriate) and that the illustrative material provided in the legislation is more diverse. As experience is gained supporting jurors who are blind or have low vision, it will be important to be able to modify and expand the amount of illustrative material to ensure that it is accurate and current, and for this reason it may be preferable to include it in a Regulation or other complementary material to the legislation itself.

## **5 - What would be the best way to notify Juries Victoria and the courts that a prospective juror is deaf, hard of hearing, blind or has low vision and of the supports they would need** to serve?

In our view, the most effective way would be to provide an opportunity in a questionnaire (in an accessible format) accompanying the jury summons for a person to identify their disability and nominate (by choosing from a list) the supports that they would or might need. This information would then be used by Juries Victoria to initiate contact with the person to discuss their support needs in greater detail.

While we are confident that most people who are blind or have low vision would be comfortable with this approach, we do not recommend that it be mandatory for a person to disclose their disability and indicate their support needs at this stage. There may be situations where a person acquires a disability (or the impact of their existing disability changes) after they are summoned, or a person may, at the time of receiving the summons, be unfamiliar with the kinds of supports they would need if they were selected to serve on a jury. The majority of people who are blind or have low vision have had little if any experience serving on a jury, and may need time and discussion with others before they can make informed decisions about the supports they would need. Obviously, the more time that is available to organise supports the more likely it is that they can be provided without undue burden, but it should be open to a potential juror to request the provision of reasonable supports at any time including, in theory at least, after a trial has commenced.

## 6 - Should the trial Judge make the final decision about whether or not a person who is deaf, hard of hearing, blind or with low vision can discharge their duties in the circumstances of the particular case?

There is a risk that leaving the final decision about a person’s suitability up to the trial judge could result in a poor decision based on lack of understanding about the benefits of reasonable supports and prejudicial attitudes to blindness or low vision. However, such risk could be mitigated by providing professional development in the area of disability awareness for all those involved in the trial process, and the provision of detailed guidance material. In any case, the trial judge has the responsibility for conducting the trial, and so is best placed to make decisions that take all the circumstances of the case into account. Apart from being impractical, we think that any other approach where the trial judge was not responsible for making the final decision could contribute to a lack of acceptance by judges and the legal profession generally to the idea that people who are blind or have low vision can serve on juries with appropriate supports.

## 7 - Is a similar process to the ACT appropriate, where the Sheriff makes a preliminary decision and matters only need to go to a hearing if the recommendation is that support cannot be reasonably provided?

Although there is no data available yet about how well this ACT approach is working in practice, it does seem reasonable to suppose that making preliminary decisions when possible will result in greater efficiency and less unnecessary burden on the courts. It is essential, however, that any and all decisions, at whatever stage they are made, involve consultation with the potential juror who is blind or has low vision.

## 8 - At what stage of the jury selection process should this assessment occur?

The earlier in the process that an assessment occurs, the more time there is to organise supports, and to work through any issues that may arise because of the circumstances of a particular case. Conversely, if it is decided, through discussion and consideration of all the options, that reasonable supports cannot be provided for a particular person in a particular case, then it will be less inconvenient and stressful for the person if that decision is made as early as possible in the jury selection process.

## 10 - What sorts of matters should be considered in determining whether it is ‘reasonable’ to provide supports? Is the ACT approach appropriate or should additional factors be listed in legislation?

While the concept of reasonableness will always require subjective judgement, we favour an approach that includes as much certainty as possible in the legislation by enumerating factors that must be taken into account when assessing the reasonableness of supports. These factors include the time required to arrange the supports having regard to the timeframe of the trial, the costs involved and whether these costs can be met from existing budgets, the effect (if any) of providing the supports on other aspects of the trial including the jury process, and the extent to which providing the supports will enable the prospective juror to participate fully and non-controversially in the jury process. We believe it is important that when assessing costs the burden is weighed against the benefits, including broader policy benefits, much as the concept of unjustifiable hardship implies that some hardship is justifiable.

## 11 - Should prospective jurors be questioned in open court, or in a private hearing?

We believe that it is essential that prospective jurors be questioned in a private hearing that includes only the judge and the parties involved in the trial, rather than in open court about matters related to reasonable supports and the impact of their blindness or low vision on their jury service. Conducting such discussions in open court is very likely to create unacceptable levels of stress for potential jurors who are blind or have low vision, and is almost guaranteed to lead to a suboptimal outcome.

## 12 - Does the Juries Commissioner need any further powers to allow Juries Victoria to better channel a prospective juror into a more suitable jury pool?

Whilst we are not sufficiently familiar with the current powers of the Juries Commissioner to comment explicitly on this question, we do believe that it is important for the Commissioner to have clear and adequate powers to allow for the transfer of a prospective juror into a more suitable pool. These powers would need to include the power to assess the availability of reasonable supports and to ascertain the requirements of particular trials.

## 13 - Should the Act give a judge a specific power to exclude a prospective juror if it appears that notwithstanding supports, that person could not perform their duty in the circumstances of the particular trial for which the person has been summoned?

On balance, we believe that such a power is necessary: we can envisage a (small) number of situations in which a person who is blind or has low vision would be unable to discharge their duties as a juror, for example, because of inherently visual components of key evidence. However, such a power must be accompanied by a clear expectation that it is to be used sparingly, as a last resort after all other options have been explored.

## 14 - In what type of situations might it not be appropriate for a person who is deaf, hard of hearing, blind or with low vision to serve even where supports can be provided? Is this likely to occur often?

There will be situations from time to time where it is not possible for a person who is blind or has low vision to participate in the jury process. These situations will occur when key issues in the trial turn on the interpretation of visual evidence that a person who is blind or has low vision cannot access without relying on the interpretation of another, sighted, person. An example would be where the jury is required to compare two graphic images in a trial about a trademark ownership dispute, or where the interpretation of CCTV footage is intrinsic to the determination of guilt or innocence of an accused.

It is important to note that the presence of visual evidence is a necessary, but not a sufficient condition for the exclusion of a prospective juror who is blind or has low vision. For example, jurors may rely on visual cues when assessing the demeanour of a witness, but there are non-visual cues that can be equally, and perhaps more, accurate. The key to prima facie exclusion of a prospective juror who is blind or has low vision is whether each juror must arrive at their own interpretation of visual material and whether the jury’s interpretation will affect the outcome of the trial.

Although we have no statistics available to us about the percentage of trials whose outcome relies on interpretation of visual evidence, we feel that such situations would be relatively uncommon. If legislative reform is achieved and people who are blind or have low vision are provided with support to serve on juries, it will be important to collect a range of data, including the number of exclusions.

## 15 - If a juror is excluded from a particular trial should they be returned to the jury pool to serve on a different trial?

Our strong view is that people who are blind or have low vision should only be excluded from jury service because of particular factors in particular cases. As such, it is entirely appropriate that a potential juror be returned to the jury pool for a different trial.

## 16 - Should the common law prohibition on supporters or interpreters assisting in the jury room be modified by legislation?

We strongly believe that any legislation aimed at enabling people who are blind or have low vision to serve on juries must include a modification of the “13th person” prohibition. It will often not be necessary for a support person to accompany a blind or low vision juror into the jury room, but there will be occasions where support is necessary. A juror who is blind or has low vision will, of course, be free to interact with other jurors and take part in discussions in the jury room, but it should not be a requirement or expectation for other jurors to provide the specific support that may be required. A blind or low vision juror should not be obliged to depend on other jurors for assistance, as this would reduce their independence of thought and may create pressure for them to accept a decision or view that goes against their own inclination.

The supports that a juror who is blind or has low vision may need in the jury room are likely to be focused on accessing documents, graphs, charts or other written material to which the jury has access. We cannot envisage a situation where the provision of this support would interfere with the jury’s deliberations in any way.

We believe that without a legislated modification of the “13th person” rule, there will be situations where a juror who is blind or has low vision will be needlessly precluded from carrying out their duties as a juror. We note that there is such a modification in the ACT legislation, and although we are not aware of an occasion where this has been invoked, we see no benefit in excluding such a modification in the Victorian legislation.

## 17 - Should the supporters or interpreters be required to swear an oath/s or affirmation/s to accurately interpret/support proceedings, maintain the confidentiality and secrecy of deliberations and not disclose any information learnt in the jury room?

Our view is that requiring people providing support to jurors who are blind or have low vision to swear an oath or make an affirmation along these lines is entirely appropriate, and will help to build confidence among the legal profession and the community generally that people who are blind or have low vision can serve on juries without in any way undermining the integrity of the process.

## 18 - Do new offences need to be created to deter or punish supporters or interpreters from revealing information about jury deliberations or to stop others from soliciting information from supporters?

If existing offences do not cover a breach of confidentiality of jury deliberation by a person providing reasonable supports, then we are in favour of new offences being created. Having appropriate deterrents will help build confidence that people who are blind or have low vision can be supported to serve on juries without sacrificing the sanctity of the jury room.

## 19 - Should supporters or interpreters be required to complete additional training to assist in jury deliberations and trial proceedings? What should that be?

We believe that additional training will be essential in order to maximise the effectiveness of supports for the blind or low vision juror, and also to ensure that there is confidence in the integrity and accuracy of the supports being provided.

In our view the most effective way of providing reasonable supports is to assign a specific person, drawn from a pool of suitably-trained employees in the court system, to each juror who is blind or has low vision. In most cases it will be possible for one person to provide all the supports that are required.

21 - If legislation provides for the consideration of reasonable supports, should a person who is deaf, hard of hearing, blind or with low vision still have the option of being excused from service because of their hearing or vision loss?

In general we do not believe that blindness or low vision should be a sufficient reason for being excused from jury service. However, there may be reasons associated with an individual’s disability that make it difficult or impossible for them to serve, and it should not be unduly onerous for them to seek to be excused in such cases. For example, a person who is blind may not have access to the technology needed to read electronic documents, or they may lack specific skills in reading the complex documents that will form evidence in a particular trial. A person may also have additional disabilities that will make it more difficult for them to participate effectively in the jury process. It is therefore important that the Act include clear guidance and enumeration of reasons that would be sufficient for an excuse. It is also important that there is the option for an excuse to be limited to a particular case, rather than automatically triggering a permanent exemption.

## 22 - What can be done to reduce the likelihood of a peremptory challenge being used solely on the basis of the prospective juror being deaf, hard of hearing, blind or with low vision?

In our view, the cumulative impact of continuing education, disability awareness training, explicit guidelines and statements, and a gradual increase in the number of people who are blind or have low vision serving on juries, will be most effective in ensuring that disability is not a factor in exclusions or challenges. It will therefore be essential to include such measures along with legislative reform, since legislation alone is unlikely to be the catalyst for the significant cultural change that is required in the legal profession.

## 23 - Should there be guidelines for the Victorian Bar outlining that challenges should not be used on discriminatory grounds including on the basis of disability?

We believe that it is better to have more guidelines emphasising the egregious nature and consequences of disability discrimination than fewer, so we support the development of guidelines directed towards the Victorian bar. They would reinforce the cumulative effect of other measures in fostering a culture of equity and inclusion in all aspects of the legal system, including the jury process.

## 24 - Should the judge make a statement discouraging the use of challenges on discriminatory grounds?

We think that the explicit discouragement of disability discrimination in a statement from the trial judge would be a useful reinforcement of the principles of equity and inclusion.

**25 - Should the guidelines for stand asides expressly state that disability is not a ground for the exercise of a stand aside?**

Our strong view is that the guidelines must emphasise that disability is not a legitimate ground for a stand aside. Even though it would be difficult to monitor the effectiveness of such a guideline in practice, we believe that it would complement other measures aimed at creating a more inclusive culture in the jury system.

**26 - What technologies/supports would assist people who are deaf, hard of hearing, blind or who have low vision to serve as jurors?**

In an Appendix to this submission we have provided a table of typical supports required by a juror who is blind or has low vision. The technology component of these supports will most often be related to reading documents such as trial transcripts, and would include visual magnifiers, electronic braille notetakers, iPads, or Windows laptops equipped with screen-reading or screen-magnification software. Because there are many combinations and configurations of technology used by people who are blind or have low vision, we think that it will in most cases be preferable for jurors to use their own equipment rather than relying on equipment provided by the court. If a prospective juror does not have their own adaptive technology, and it is determined that they would need to read documents during the trial, then alternatives would need to be explored, such as having the court-appointed support person read the documents. It must be recognised that these alternatives may not be satisfactory in all cases, especially if the documents were complex and if the juror would be required to refer to them frequently.

**27 - What role could a support person play in assisting people who are blind or who have low vision in court and the jury room? Who is likely to perform this role?**

We envisage that a court-appointed support person would assist a (prospective) blind or low vision juror from the time they arrive at the court precinct (for example, by taxi or public transport) until they leave after the trial or after they have been stood aside. The support person would assist the blind or low vision juror with a variety of tasks and activities, including: navigating around the court environment (for example, getting from one part of the building to another, finding the bathroom, locating meals and refreshments); identifying key people such as the trial judge and the foreman of the jury; accessing documents and other material during the trial; describing (but not interpreting) information presented visually, such as charts and graphs.

There may be rare occasions where a juror who is blind or has low vision would require support from a professional orientation and mobility instructor, or a professional audio describer. However, in the vast majority of cases we believe that all support could be provided by one court-appointed support person, provided that they have undertaken appropriate training in how to support someone who is blind or has low vision. Existing employees in the court system could be assigned to provide this support, especially if they have already had experience assisting witnesses who have a disability.

## 29 - How could supports be provided where courtrooms are not evenly accessible or equipped with aids?

In general prospective jurors who are blind or have low vision will be less inconvenienced by deficiencies in physical access than other disability groups (though there will be exceptions, such as when a person who is blind also uses a wheelchair). prospective jurors who are blind or have low vision will usually want to use their own adaptive technology rather than relying on equipment provided by the court, since they will then be able to use technology with which they are familiar and which is configured to their specific requirements. In any case, however, it will be important for court officials to flag potential access issues early on in the jury selection process.

## 30 - Should there be an option for a person who is deaf, hard of hearing, blind or with low vision to able to visit court before empanelment to familiarise themselves with the court and explore with court officials what particular supports they might need to serve?

We certainly think that this should be an option available to prospective jurors, but note that there will often be costs involved (taxis, hiring a support worker, etc.) and so consideration will need to be given to whether the court can meet these costs as part of its provision of reasonable supports. Not every prospective juror who is blind or has low vision will be in a position to visit the court precinct beforehand, and in such cases alternative arrangements must be made for any discussions with court officials that would take place there (such as by using telephone or Zoom).

## 31 - Should guidelines about the operation of new laws be developed by the court and Juries Victoria to accompany reforms to ensure that they operate effectively?

In general we are in favour of including as much guidance material in the legislation as possible, notwithstanding that it is not mandatory. If guidelines are developed separate to the legislation, we would favour including a reference to them in the legislation to ensure that the guidelines and the legislation are read together.

## 32 - How should court and jury rooms be organised to accommodate a person who is deaf, hard of hearing, blind or with low vision, using supports to serve?

In most cases only small adjustments would be required. Examples include ensuring that there is sufficient space to accommodate a Seeing Eye dog if the blind or low vision juror uses one, or seating a low vision juror in a place in the courtroom or jury room where they are not negatively impacted by glare or bright light. In all cases any adjustments required must be discussed beforehand with the blind or low vision juror.

## 33 - What trial adjustments might be needed to accommodate a juror using supports to serve?

Any trial adjustments required are likely to be directed towards providing efficient and timely access to documents. It will usually be most effective for documents to be provided to the juror who is blind or has low vision so that they can access them using their adaptive technology when reference is made to them during the trial. If documents include visual presentation elements such as graphs or charts, it will probably be most effective for the lawyer introducing them to describe these visual elements.

## 34 - What is the best way of informing the court and parties about the use of supports in the trial process? When should this occur?

In general we believe that the trial judge should explain the supports to the court at the beginning of the trial. In most cases this would occur after separate discussions between the judge and all the lawyers involved in the trial. Note that all discussions would have an explanatory purpose, and would therefore need to take place after decisions had been made about the reasonable supports that would be provided. It could also be a good idea for the court to notify the lawyers prior to the trial as soon as it has been determined what the supports should be, so that they are aware.

## 35 - How should jurors be informed about how a fellow juror’s supports will work?

We think that the most effective approach would be for supports arrangements to be explained to the jury as a whole as part of their pre-trial briefing. Jurors would have the opportunity to ask questions and seek clarification about any aspect of these supports. We envisage that the blind or low vision juror would be part of this discussion, so there would be value in having a preparatory discussion with them to decide how the part of the jury briefing dealing with supports would be framed.

36 - Does the use of supports raise any questions about the accuracy of a trial record for appellate court consideration?

Our view is that in the vast majority of cases the supports required by a juror who is blind or has low vision should have no bearing on the accuracy of the trial record. For example, a blind or low vision juror may require support in accessing data provided in a visual form such as a chart or graph, but it is not the role of the support person to interpret the data within a given context, just to provide access to it. Where key aspects of a trial require interpretation of inherently visual material by the jurors, it will probably not be possible for a person who is blind or has low vision to serve on the jury.

There may be (probably rare) situations where a juror who is blind or has low vision will require support from someone who has had professional training in the techniques of audio description, in order to gain access to visual details that are ancillary to, but not an inherent part of, the trial (for example, dress styles, physical attributes). It is important to bear in mind that professional audio-describers are trained in how to provide access to visual information by eliminating subjective interpretation in favour of objective elements about which there would be quasi-universal agreement. We therefore feel that the need for a professional audio-describer as part of the support team would not, in itself, affect the accuracy of the trial record.

## 37 - What are the likely cost implications associated with reforming the law?

While we are not in a position to provide a quantitative estimate of the costs of reforming the law, we note that there will be costs associated with the provision of reasonable supports, as well as initiatives such as disability awareness training for judges and court officials. In our view the cost of providing reasonable supports could be minimised by utilising existing employee resources in the court system, supplemented by the provision of additional training.

## 38 - Do the cost considerations differ in regional areas?

Because of the smaller number of potential jurors who are blind or have low vision living in regional or rural areas, it may be more cost-effective to source support people from metro areas where there will be more trained employees and, importantly, greater experience in providing supports. We think that, overall, the cost implications are likely to be modest at **worst.**

## 39 - How could supports be provided in the most cost-effective way?

We think that it should be possible to provide training to people already employed in the court system so that they are able to provide appropriate support to a juror who is blind or has low vision. There may be occasions where a professional trained in audio description or orientation and mobility may be required, but we feel that these occasions would be rare, and that for the most part a juror who is blind or have low vision could be well-supported by an existing person after undergoing appropriate training.

## 40 - Would Disability Awareness Training for court and Juries Victoria staff be useful to ensure reform is effective?

We strongly support initiatives such as disability awareness training. This training could mostly be delivered via e-learning, with content developed and validated by the blindness and low vision sector. There may be a need for some training to be delivered face-to-face, especially for people providing direct support and who would need to be familiar with how to safely guide a blind person and other basic orientation and mobility techniques. Experience has shown that disability awareness training can lead to transformations in the way participants understand disability and their appreciation of the contributions that people with disability can make in all areas of society.

## 41 Do you have any suggestions about how to overcome misconceptions about the ability of people who are deaf, hard of hearing, blind or with low vision to serve?

We are confident that measures such as mock trials involving jurors who are blind or have low vision (including the mechanics of arranging reasonable supports), opinion pieces and articles in law periodicals about how people who are blind or have low vision can participate effectively on juries (including examples from overseas experience), as well as assessable learning modules dealing with equity and diversity in formal legal training, will, over time, go a long way towards changing misconceptions and prejudicial attitudes.

# Appendix

## Inclusive Juries - Reasonable Supports

The following table categorises the most common of supports that a person who is blind or has low vision is likely to require in order to serve on a jury. Not everyone will require every support, and many of the supports could be provided by a court-appointed support person with appropriate training. The various categories of support would be a useful framework for discussing support needs with a prospective juror who is blind or has low vision.

| Process - Environmental  | Reasonable Support  |
| --- | --- |
| Navigation to and from the Court building  | O&M Instructor / NDIS Support Worker / Support Person. A Court appointed assistant may be necessary once the person reaches the Court building if that person does not have access to any of the above.  |
| Navigating Courthouse security | Court-appointed Support Person. A Court-appointed support person will be necessary once the person arrives at the Court precinct.  |
| Navigation of the Courtroom | O&M Instructor (on call / standby), to assist the person with blindness / low vision to pre-orient and familiarize himself or herself with the Court environment |
| Navigation between the Courtroom and the Jury room | Court-appointed support person to assist the blind or low vision juror to familiarise themselves with the route between the Courtroom and the Jury room.  |
| Accessing meals  | Assistance from Court-appointed support person.  |
| Using a Dog Guide to navigate | Allocation or identification of a place to toilet the dog guide. Water bowl. Familiarizing other jurors with dog etiquette. Negotiated or designated place for the dog guide whilst the person is in the jury box.  |
| Jury Views (if not deemed to be inherently visual case) | Assistance from Court-appointed support person both in terms of navigation, and description of the site.  |

| Process - Jury Service | Reasonable Support  |
| --- | --- |
| Knowledge of who is in the room, where they are positioned, and their roles | Verbal description of the layout of the Courtroom and the personnel, ideally given in advance.  |
| Accessing items of evidence -written  | Allowing extra time to convert and read necessary material and/or to configure adaptive technology |
| Accessing items of evidence - physical  | Assistance from Court-appointed support person to describe physical item.  |
| Accessing items of evidence – video or photographic (if not deemed to be inherently visual case) | Assistance from Court-appointed person to describe video or photographic evidence that is not inherent to the outcome of the trial.  |
| Contacting the Judge to ask a question, raise an issue, or seek clarification  | Court-appointed support person, foreman of the jury, depending on the context.  |
| Making notes about the evidence  | Allowance, Equipment such as electronic notetakers and document readers should generally be provided by the juror. Court would arrange charging points, wifi access, and any other facilities required to access documents.  |
|  | Assistance from Court-appointed support person to read any information that is presented during jury deliberations in a written or inaccessible form.  |
| Access to, and formatting of the transcript of the proceedings  | Providing Court with guidelines about how to make transcripts accessible and navigable.  |

## About Vision Australia

Vision Australia is the largest national provider of services to people who are blind or have low vision in Australia. We are formed through the merger of several of Australia’s most respected and experienced blindness and low vision agencies, celebrating our 150th year of operation in 2017.

Our vision is that people who are blind or have low vision will increasingly be able to choose to participate fully in every facet of community life. To help realise this goal, we provide high-quality services to the community of people who are blind, have low vision or have a print disability, and their families.

Vision Australia service delivery areas include:

* Registered provider of specialist supports for the NDIS and My Aged Care Aids and Equipment;
* Assistive/Adaptive Technology training and support;
* Seeing Eye Dogs;
* National library services, early childhood and education services and Feelix Library for 0-7 year olds;
* Employment services;
* Production of alternate formats;
* Vision Australia Radio network including a national partnership with Radio for the Print Handicapped;
* NSW Spectacles Program; and
* Government advocacy and engagement.

We work collaboratively with governments, businesses and the community to eliminate the barriers our clients face in making life choices and including fully exercising their rights as Australian citizens.

Vision Australia has unrivalled knowledge and experience through constant interaction with clients and their families, of whom we provide services to more than 26,000 people each year, and also through the direct involvement of people who are blind or have low vision at all levels of our organisation.

Vision Australia is well placed to advise governments, business and the community on challenges faced by people who are blind or have low vision as well as they support they require to fully participating in community life.

We have a vibrant Client Reference Group, comprising of people with lived experience who are representing the voice and needs of clients of our organisation to the board and management.

Vision Australia is also a significant employer of people who are blind or have low vision, with 15% of total staff having vision impairment.