

Association of Blind Citizens of New Zealand Inc
Submission in Response to the
Examination / Review of the 2014 Family Justice Reforms
November 2018

Introduction

Blind Citizens NZ is a disabled people's organisation (DPO). We exist to give voice to the aspirations and lived experiences of blind, deafblind and vision-impaired New Zealanders.

The New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 both seek to protect disabled people's rights to freedom from discrimination. Despite this, there is little evidence of this legislation being used to enforce compliance. Therefore, unlawful discrimination remains very much a reality for disabled people.

New Zealand has championed international conventions and we played a lead role in the drafting, development and subsequent ratification of the United Nations Convention on the Rights of Persons with Disabilities (the Disability Convention). Our submission responding to review of the 2014 Family Justice Reforms (Justice System) draws upon the Convention, and the rights of disabled people within the Justice System. Outcomes that will enable blind, deafblind and vision-impaired people to have the same level of access to the Justice System as non-disabled people, is the primary focus of our submission. In the context of our feedback, when used alone, the word "blind" encompasses all those with a vision impairment who can identify with some or all of the points raised.

In our submission, we refer to "assistive technology". This refers to specialised equipment, and/or software installed on an off-the-shelf computer or device, that gives blind people access to information. This may include screen-reading software that converts text on the screen to synthetic speech, screen magnification software that enlarges the image on the screen, or an electronic braille display that converts content displayed on the screen to braille. We also use the term "preferred format". This refers to the various means by which blind people access information other than through standard print, i.e. large print, braille, audio, electronic devices, email, and telephone.

Blind Citizens NZ well-established position with respect to access to public information is set out in our published brief entitled "Bridging the Information Gap". Excerpts of our brief are included in this submission.

Access to Information

Blindness imposes restrictions on the nature and amount of information gleaned by a blind person when living in a world designed primarily for sighted people. When we refer to information, this is not necessarily restricted to the written word. In our view, information extends across many areas of



life where in its various forms, exists to provide members of the community with direction, instruction and knowledge to enable them to function successfully wherever they happen to be.

The scenario painted here, reflects some of the experiences a blind person has when exposed to, or interacting with, the Justice System.

There is a presumption and/or perception that most information to be read is being made available to someone with sight. This in our view, fuels the presumption that sight is necessary in order to form the basis of many everyday functions. Even when thinking about the Justice System, in our view, little thought is given to the fact that when information is not available to a blind person in their preferred format, that this may constitute discrimination. Blind people are citizens too – they have the same rights as anyone else to access information, regardless of what this might be.

Experiences shared by people from our community inform our submission. Where possible, we outline what needs to happen to enable blind people to experience the same rights as non-disabled people. The same rights to privacy, dignity, and confidentiality, when exposed to the Justice System and dealing with information, and the same rights to participate fully in society as independent and equal citizens.

Court documentation and processes

In this section, we comment on the experiences of blind people whom for whatever reason have needed to interact or been exposed to the Justice System. These cumulative, recent experiences (within the past four years), present a picture that reinforce a Justice System that requires further change. Experiences include for example:

- When first entering the Justice System, a blind person will quickly realise how lacking this is towards meeting their blindness needs. Form filling which requires the provision of personal, sometimes sensitive, confidential information poses additional challenges. Instead, someone else will be required to complete the form for them. Yet there is no reason why forms should not be available in a range of formats. This would ensure for example, that a blind person could complete the form using whatever means they have.
- When filing proceedings, the information sheet that accompanies this process, asks for various pieces of personal information. However, to the best of our knowledge nowhere on this form, or anywhere else, are there questions, or an opportunity for anyone to disclose they have a disability. Including a question of this nature would for example, alert those working in the Justice System that they have someone with disability-related needs. There would be an immediate response towards recognising reasonable accommodations including access to information in a blind person's preferred format.
- Provision of scanned PDF documentation, which cannot be accessed using assistive technology. Therefore, the blind person is unable to read material that will often contain very private, sensitive information. There are guidelines for the production of accessible information – all documents are borne accessible and with the right advice, they would remain this way.
- When a blind person receives information that is inaccessible to them, there appears to be no provision within the Justice System to equalise this situation in any way. We emphasise that when we refer to inaccessible information, this could mean the difference between a blind

person appearing in court on a custody matter for example, on the correct day/time and at the right location.

- A blind person receiving information that is inaccessible to them, sought help from the Justice System. The advice they received was to seek legal advice, which actually, they could not afford. In our view, situations such as this are unacceptable!
- When a bailiff serves a blind person with documentation, they cannot inform them about the contents of the package served. If the person happens to have assistive technology, then potentially they might be in a position to gain access to, and read some of the information. When there are elements of documentation that are handwritten, this is just not possible. Someone without any assistive technology may well be even more in the dark. Even if they have a notion about what the documentation is about, there is no way they can be certain. Their recourse? Well, they must seek out someone they trust, to read this to them. This might happen quickly, or may take days. Once again, the blind person must bear the burden of a Justice System that is inaccessible to them.

A blind person should never be in the position feeling they have no option other than to call in a favour from friends, or be reliant on family and whanau to read documentation to them. Situations such as we describe, leave a potentially already vulnerable person, feeling even more so. Furthermore, there are people in our community who would not have the confidence and/or personal resource to pursue options such as we describe. Perhaps even more important is they may not realise that within a system where we expect better, that a breach of their rights has happened, and that they are experiencing a form of discrimination. We make the point that even a strong-minded blind person, who has made their way with support from friends, parents, family or whanau using personal resource, can also be left feeling exposed and vulnerable.

We ask Panel members to put yourselves in this position – would any of you feel comfortable having to ask someone to read personal, sensitive information that you would not want anyone else to know about. Probably not...

Legal Aid

Where both parents of a child are beneficiaries and shared custody of the child/children is the aim, Blind Citizens NZ is mindful that the benefit system in Aotearoa New Zealand pays only one parent for the cost of the child/children. The phrase “it is a winner take all situation” has been used with us, to convey feelings of frustration about the unfairness of the Justice System. Where both parents are unable to reach agreement with each other, each parent will compete against the other for as many hours of their child/children’s time as they can get. This all comes at a cost.

Legal Aid is available, but only if it can be claimed by one or other of the parents, who are also beneficiaries. In a situation such as we describe here, where both parents are beneficiaries, the parent who receives less than half the children’s time gets a smaller benefit payment. This means they may not be able to afford to have significant time with their own child/children. This in our view introduces a financial incentive that could fuel and/or encourage ongoing dispute.

Blind Citizens NZ believes there are gaps in the Justice System with respect to Legal Aid. The punitive eligibility situation that exists for blind people who are also beneficiaries and in need of Legal Aid is unacceptable. While accepting there is a need for eligibility criteria for Legal Aid, it seems to Blind Citizens NZ that the income threshold is too low.

On this basis, how then, do disabled people who are also beneficiaries get anywhere near the level of legal advice they need. Blind / disabled beneficiaries are penalised, yet in our view these people are from the very communities of people who should receive legal support.

United Nations Convention on the Rights of Persons with Disabilities

New Zealand ratified the Disability Convention in September 2008. The expectation therefore, is that Government works towards implementing the Disability Convention. Blind Citizens NZ, as a member of the DPO Coalition, which comprises seven disabled people's organisations, and in our "disabled people led monitoring" role, is aware of the steps taken already, to influence change and implement the Disability Convention.

We refer the Panel to the Disability Convention. In our view, the Justice System fails disabled people, and it fails to honour New Zealand's commitment to his international treaty. We identify the following articles specifically:

- Article 9: Accessibility
- Article 12: Equal recognition before the law.
- Article 13: Access to justice

When information, systems, environments and procedures are inaccessible to a blind person, whether adult, or child, then the Justice System is failing citizens of this country. It is breaching human rights, and it is in breach of the Disability Convention, which recognises those rights.

We urge the Panel to consider in its work, how the Justice System can embrace those Articles listed, and any other international treaties that aim to protect disabled people.

Conclusion

Blind Citizens NZ appreciates the opportunity to make this submission in response to the examination / review of the 2014 Family Justice Reforms (Justice System).

In our view, the Justice System is largely inaccessible to blind people. The lack of supports and reasonable accommodations such as we have described, forms the basis of our position. It is unacceptable for anyone, let alone a parent or guardian who happens to be blind, to have to fend for themselves in a Justice System in Aotearoa New Zealand. There is in our view, a distinct lack of knowledge about blindness / disability within the Justice System.

Blind Citizens NZ, a leading blindness consumer led and driven organisation, looks forward to working with the Panel to provide guidance and advice on the various areas we have identified in our submission.

About Blind Citizens NZ

Founded in 1945, the Association of Blind Citizens of New Zealand Inc (Blind Citizens NZ) is New Zealand's leading blindness consumer organisation. We are one of the country's oldest, and largest disabled people's organisations. Blind Citizens NZ's aim is to heighten awareness of the rights of blind, deafblind, and vision-impaired people, and to remove the barriers that impact upon their ability to live in an accessible, equitable and inclusive society.