

Improving the criminal justice system for people with disability



Attorney-General's
Department

Discussion Paper for Consultation

May 2013

Easy Read Version

Creating a
vibrant city

Safe
communities,
healthy
neighbourhoods

An **affordable**
place to live

Every **chance**
for every child

Growing
advanced
manufacturing

Realising the
benefits of the
mining boom
for all

Premium food
and wine from
our **clean**
environment

Contents

Foreword.....	5	Making things better for people with disability.....	19
Introduction.....	6	Calendar dates.....	20
Background.....	9	Have your say.....	21
Disability Justice Plan.....	11	General questions.....	22
Changing the law to help victims and witness.....	12	Questions about changing the law.....	25
Making the legal system better.....	14	How to have your say.....	28
Other changes we are thinking about.....	18	About you.....	30



The South Australian Government wants to make the criminal justice system better for people with disability.

Foreword

Everyone has rights. We all have a right to get help from the criminal justice system so that our rights are met.

We need to make sure that the system is fair for everyone.

We know that people with disability do not always have their rights met.

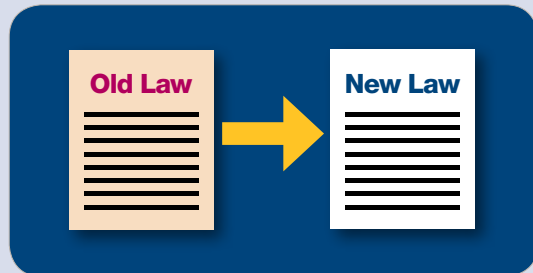
We want to make changes to the law and the criminal justice system so that people with disability can keep safe and have their rights met.

We want to talk with people with disability who have had problems having their rights met through the criminal justice system.

We need to hear about all the problems.

Please tell us your stories.

We also want your ideas about making the system work better. We want to know what you think.



John Rau
Deputy Premier
Attorney-General



This is an easy to read version of the paper called Improving the Criminal Justice System for People with Disability.

The full paper is on the website at:
www.saplan.org.au/yoursay



We can also post a full paper to you.
For help call Disability Information and Referrals
on 1300 786 117.

Introduction

The South Australian Government wants to make the criminal justice system better for people with disability.



The criminal justice system means how we deal with crime.

It includes:

- how we find out about crime
- asking people to tell their story about what happened
- how the police arrest people
- taking evidence from people
- how the police charge people for a crime
- going to court - how people speak up and tell their stories
- how people get punished for their crimes.



We want to make the system work better for everyone. This includes a person who is a **victim** of crime, a **witness** or a **person accused of a crime**.



A **victim** of crime is a person who has a crime done to them.



A **witness** is a person who might see something or know something about what happened. They can tell the police and courts what they think happened.

A **person accused of a crime** is someone the police have charged with breaking the law. The person can tell the police and courts what they think happened.



We want to work with other people to make the system better for everyone.

We want to hear from people with disability and their friends and family members. We also want to hear from anyone else who can help us make a better system.



We have many questions:

- What help do people with disability need to deal with the criminal justice system in a fair way?
- How can we help victims?
- How can we help people accused of a crime?
- What are the things we need to fix in the criminal justice system?
- How can we make these things better?
- How can people with disability stay safe from harm?



This information will help us to write a **Disability Justice Plan**. We already know some things we must write in the Plan.

- We must change the law to help people speak up and stand up for their rights.
- We know that some people need more help to tell their stories to the police and to the courts.
- We need to train staff so that they can help people with disability to speak up and be heard.

Background

In July 2008 the Australian Government ratified the United Nations Convention on the Rights of Persons with Disability. This means that we support the Convention. Now we must all stick to the agreement. The Convention says that people with disability have the same rights as other people.

In 2011 the Council of Australian Governments agreed to make sure people with disability can enjoy the same rights as other people. All governments supported a plan to make this happen.

The plan is called **National Disability Strategy 2010–2020**.

In October 2011 South Australia wrote a report called **Strong Voices**. This report talks about people with disability in South Australia. It tells us things that need to be made better for people with disability.

The Strong Voices report said that we should have a **Disability Justice Plan**.





The report said:

- The people who write the report must talk with people with disability and those that speak for them.
- There must be enough funding to look into crime against people with disability.
- The legal system must work harder to put on trial people who may have done harm to people with disability.
- The police and courts must give more help to **vulnerable** people to tell their side of the story.
- Vulnerable people, such as children, may be more at risk of harm.
- Vulnerable people find it harder to speak up and stand up for their rights.



Disability Justice Plan

We want to support the rights of **all** people with disability when they come in contact with the law. First we need to write a plan about the things that need to change.

A **Disability Justice Plan** will list the things we need to change.

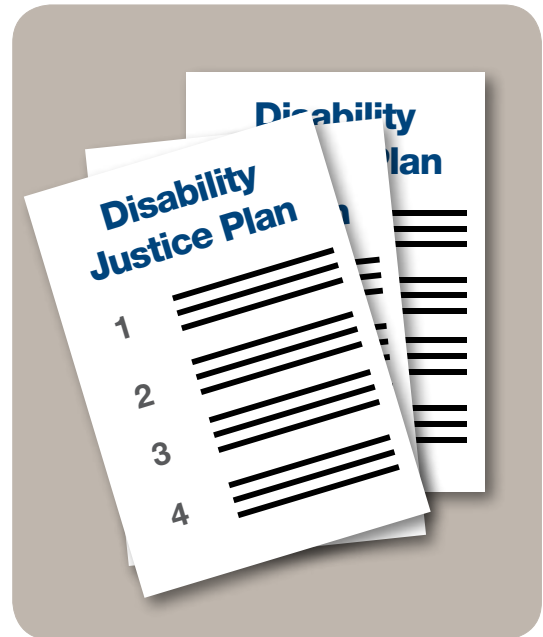
We know some things that we must change:

- We must try harder to stop crimes against people with disability.
- We must train staff better. This includes the police and people in the courts.
- We must help people with disability who need to give **evidence**. This means we must help them to speak up and tell their side of the story.
- We must write guidelines for staff so that they know how to help people.
- We may need to change the law to help people with disability to have equal rights.

First we need more information.

We want to talk to people with a lived experience of disability before we write the plan.

We will also talk with other people such as carers and family members, disability advocates and the community.





Changing the law to help victims and witnesses

Some people are **vulnerable**. These people may be at risk of harm.

Vulnerable people often find it difficult to speak up and stand up for their rights.



Vulnerable people may be a **victim** of crime or they may be a **witness**.

A **victim** is someone who has a crime or something nasty done to them.

A **witness** is someone who sees or hears something happen.



Each person has their story to tell about what happened.

A vulnerable person may be accused of a crime. They may need to tell their story in court.

Everyone has rights.



We want to help vulnerable victims and witnesses to speak up.

We must also help people accused of crime to speak up.

We know that some people need help to speak up. We know that children and people with intellectual disability find it difficult to speak up.

Some people with other disabilities may find it hard to speak clearly.

For example, a person with cerebral palsy may know what they want to say but they may find it difficult to speak clearly. Other people may not always understand what they say.

These people can be **vulnerable** victims or witnesses.

We want you to tell us about people you think are vulnerable





Making the legal system better

We want to make things easier for a vulnerable witness.

For example, we want to make sure that they do not need to keep telling their story. We would like these people to tell their story to an officer with special training.



Children and people with intellectual disability are sometimes victims of sex crimes or someone hurts them. Or sometimes they witness one of these crimes.

We think these people need special help.

Here are some examples of how we might help them:

- We must deal with these special cases very quickly.
- We want to be able to use video and tape recordings for evidence.



- Sometimes victims speak with their family or carers about bad things that happen. We think that we should be able to use some stories told to carers and other people as evidence.



You may have other ideas about how to help vulnerable people in court.

We want to help all vulnerable people. We want to help victims and witnesses. We also want to help people accused of crimes.

Here are some of our ideas:

- We could have specially trained support people.
- A support person could help a vulnerable person in court or during an interview. This person could help the vulnerable person to understand questions. The support person could help them to tell their story.





- A support person could help someone with intellectual disability. They could also help a person who cannot speak clearly. A support person could help these people to tell their story to the police or in court.
- A support person could also help the police, the lawyers and the courts. A support person could help these people to listen carefully to vulnerable people and speak clearly.



Any changes to the law will need to maintain the right of every accused person to a fair trial.

We would like to know your ideas about how we can help vulnerable people.

We want to know what you think.

We want to support the rights of all people with disability





Other changes we are thinking about

There are other ways that we can help vulnerable people.

We want to help people with intellectual disability to be safe from sexual abuse.



We may need to change the law.

For example, in South Australia it is not a crime for an employed support worker or volunteer carer to have sexual contact with a person with intellectual disability.

In New South Wales it is a crime.

Before we change the law we need to think about many things.

For example, a person with disability may give **consent** to have sex with their carer.

Consent is when someone says that something is OK.

What do you think? Does the law need to change?

What should the law say about carers?

How do we help people with intellectual disability to be safe?

Making things better for people with disability

The Disability Justice Plan will say what needs to happen to the law and the things that need to change.

We know that staff will need training. We will write **guidelines** to help staff.

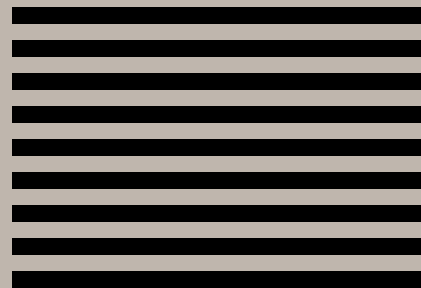
The guidelines will tell everyone how to help vulnerable people who come in contact with the criminal justice system.

They will tell staff how to help everyone speak up and tell their story.

This will help people have their rights met, such as in court.

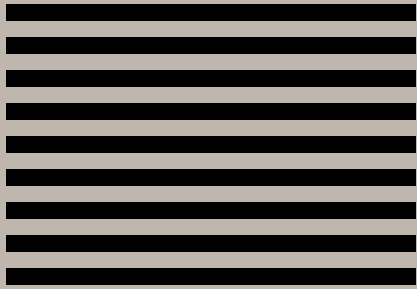


Staff Guidelines





New Law



Next steps

There are many things to do. We want to write a new law as soon as possible.

We may finish the new law before we finish the whole Disability Justice Plan.

Here are the steps:

1. First we want to talk to you about the new law.
2. We will write a draft of the new law.
3. When the law is finished it will go to Parliament.



General questions

You do not have to answer these questions.

The questions may help you think about what needs to change.

Your ideas will help us to write a good Disability Justice Plan.

Q1 What are the big problems we need to fix so that people with disability have fair treatment by the criminal justice system?

Q2 What can be done to fix these problems?

What do you think?

Q3 How can we help people with disability who are victims of crime?

How can we make sure that they can speak up and have fair treatment?



Q4 How can we help people with disability stay safe from abuse?

What can we do?





Q5 How can we help people with disability if they are accused of a crime?

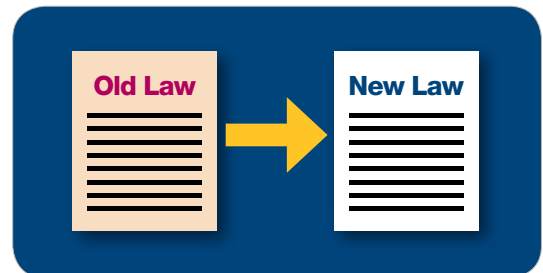


Q6 Do you have any other ideas for making the criminal justice system fairer?

Questions about changing the law

You do not have to answer these questions.

The questions may help you think about what changes we need to make to the law. Your ideas will help us to write good law.



Q7 We have written our ideas about changes to the law. What do you think?

Are they good ideas?

Q8 We have written our ideas about 'vulnerable people'. What do you think?

What sort of people are vulnerable?

Q10 We plan to write guidelines for staff.
The guidelines will tell staff how to help people with disability.
One example is how to take evidence – how to help people with disability tell their story about what happened.



Staff Guidelines

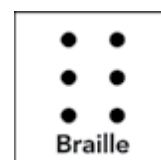
Q11 What should we tell court staff and judges about how to help people?

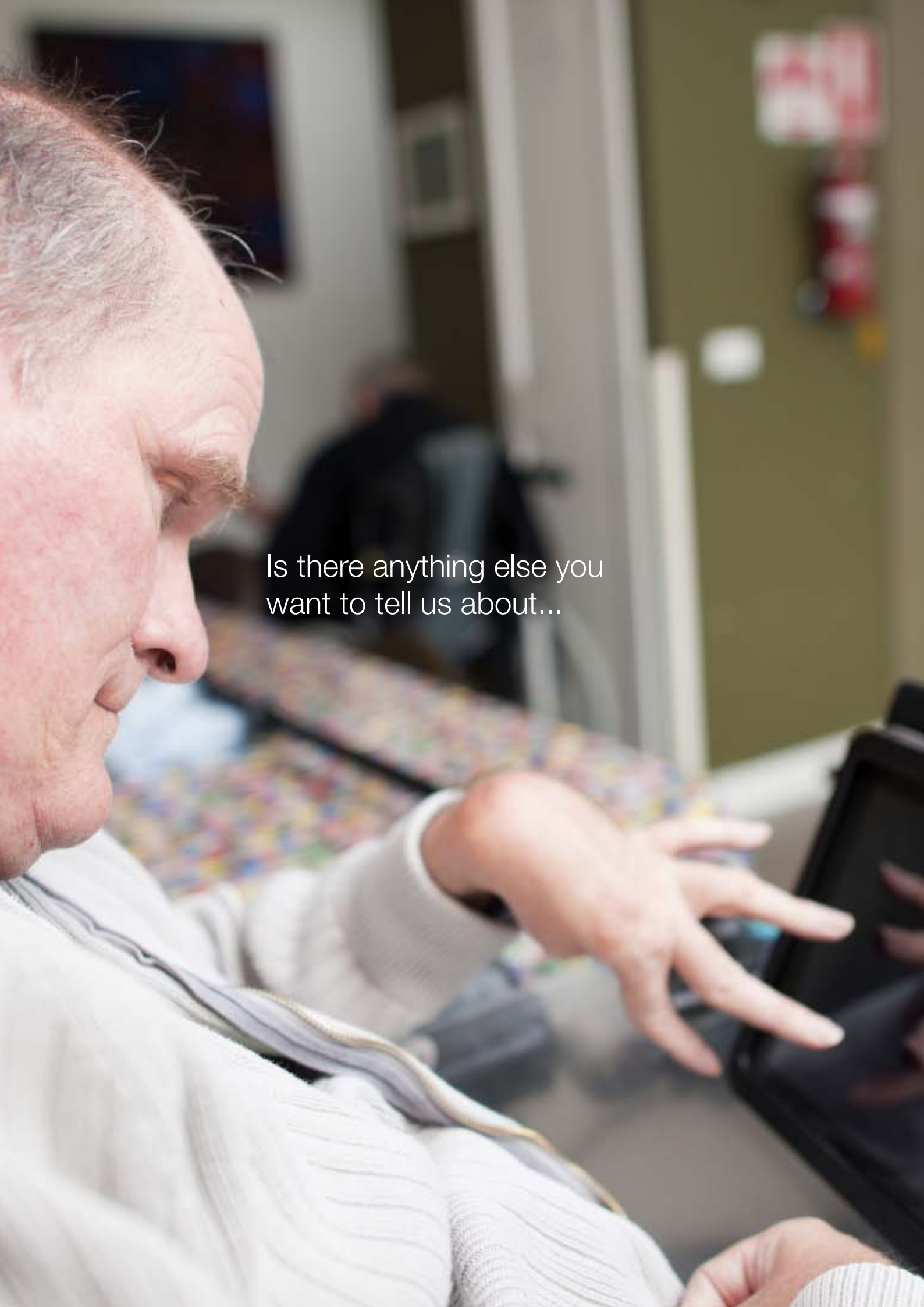
Q12 Is there anything else you want to tell us about changes to the law?

How to have your say

There are many ways to have your say and give us your ideas.

- Go to the online survey:
www.saplan.org.au/yoursay
- Send a letter to:
Disability Justice Plan
Attorney-General's Department
GPO Box 464
Adelaide SA 5001
- Send an email to: disabilityjusticeplan@agd.sa.gov.au
- Go to a community meeting. The times and dates will be on the website: www.saplan.org.au/yoursay
- By phone.
 - Call Disability Information and Referrals on phone **1300 786 117** on a weekday between 9.00am and 5.00pm. (If you are calling from a mobile please let the phone service know and they will ring you back, as mobile rates will apply).
 - To use Speak and Listen, call **1300 555 727**
- Disability Information and Referrals can arrange an interpreter if you need one.
- Please ask the Attorney-General's Department if you need a copy of this paper in Braille, phone **(08) 8463 4364**.
- For languages other than English, the Attorney-General's Department can also arrange translation services:
Phone **(08) 8463 4364**.
- Please phone the Attorney-General's Department about any other matters on **(08) 8463 4364**.



A close-up, profile view of an elderly man with thinning hair, wearing a light-colored hospital gown. He is sitting up in a hospital bed, looking intently at a tablet computer held in his hands. His right hand is positioned over the screen, suggesting he is interacting with it. The background is a blurred hospital room, showing a bed with a colorful patterned coverlet and a doorway leading to another area. The lighting is soft and indoor.

Is there anything else you
want to tell us about...

You do not have to give us your name or details.

If you do give us your details it will help us understand more about the needs of people with disability in South Australia.

We will keep your details private.

Gender Male
 Female

Age group 10-17 18-24 25-34 35-44
 45-54 55-64 65-74 75-84 85+

What situation best describes you?
(you may select more than one)

I am a volunteer
 I am a student
 I am employed
 I am unemployed
 I receive a disability support pension
Other

Please tell us if you

Are a person with disability
 Have a family member with disability
 Provide support to a person with disability
 Work in the disability sector
 Volunteer in the disability sector
Other

If you are a person with disability, please tell us your main disability type

Intellectual disability Physical disability
 Neurological disability Autism spectrum disorder
 Acquired brain injury Sensory disability
Other

Please tell us if you are of Aboriginal or Torres Straight Islander descent

Yes
 No

Please tell us if you speak a language other than English in the home

Yes

No

If yes, please specify

Postcode

Thank you for taking the time to complete this survey. If you would like to receive email updates about the Disability Justice Plan, please supply your contact details below:

Name

Email address

For any other queries, please contact the Attorney-General's Department on Telephone number (08) 8463 4364

For more information

Disability Justice Plan
Attorney-General's Department
GPO Box 464
Adelaide SA 5001
Telephone (08) 8463 4364



Government of South Australia
Attorney-General's Department