

THE DDA AS A TOOL FOR CHANGE

The Australian Association of the Deaf point of view
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For Australian Association of the Deaf (AAD) and those we represent, the DDA has been both a blessing and something of a curse.

AAD represents Deaf people who use Auslan (Australian Sign Language). We have no reliable statistics, but a study undertaken 10 years ago found at least 16,000 Deaf people who use Auslan every day (and another 16,000 hearing people who also use it everyday). We believe the numbers are higher but as happens so often when it comes to disability, reliable statistics are very hard to find. This is one thing I intend to put on our wish list for the next ten years – reliable, regular and *relevant* Australian Bureau of Statistics information in relation to disability, including the use of Auslan.

Observant colleagues may have noticed that Auslan was included in the 2001 Census question related to language use. However, the question was ambiguous in that the Census is framed in terms of what we do at home. Many Auslan users live with hearing families and do not necessarily use Auslan at home. How would these people have answered the Census question? How reliable will the resulting statistics be? There was no question related to disabilities. How will we know whether these Auslan users are Deaf or hearing? A country which cannot get its act together even on reliable statistics about disability has a very long way to go in terms of even understanding its own population, never mind such esoteric ideas as justice, equality, dignity. I don't know that the DDA can be used to get us the statistics we need, but surely we need relevant and accurate statistics in order to help us make better use of the DDA.

For Deaf people, the major issues in going about their daily lives are:

- Education
- Employment
- Recognition of Auslan, and Interpreting
- Access to information

Issues such as access to services, access to buildings, transport etc where they impact on Deaf people invariably involve some form of access to information.

So I would like to structure this paper in terms of these major issues.

Education

Education is probably the single most important issue for Deaf people. It is also the single most difficult issue on which to advocate and effect change.

Generations of Deaf children have been and continue to be “educated” in a system controlled by people who are not deaf and who focus on deafness as a defect that needs

to be “fixed”. The system attempts to educate them using a language (English) that they do not know fluently and cannot fully access; a system that excludes Auslan, and if it uses signing at all insists on using a form of sign contrived by hearing people. And these generations of Deaf children have emerged with poor English skills, poor education, poor general knowledge, poor self-esteem and so on and so forth. This is not to comment on all such people, but it is particularly revealing that we meet so many “experienced teachers of the deaf” who cannot communicate with us as deaf people.

AAD advocates that children who are severely and profoundly deaf should be educated bilingually in Auslan and English. Of course, some states are now making some bilingual education programs available. This is an improvement, a step in the right direction, but there remain many problems too numerous and complex to discuss here. And in places where there is no bilingual program, parents who want it (a minority) still have to fight a resistant system. This is happening to a parent right now in Canberra.

But how do we use the DDA to advocate for this? The Standards? I'll tell you right now. Bottom line. Since I commenced in this position as AAD Manager early this year and have tried to get my head around the DDA Standards – not just the Education Standard, all of them - just understanding the process of how Standards are developed and what my role in it all is supposed to be, what I'm “allowed” to do, what I'm not “allowed” to do, how to get my hands on the latest relevant document, or even to figure out what *are* the latest relevant documents etc has been nothing but a nightmare.

It is too complicated. It is too confusing. It is too politicized. Particular Standards are too controlled by particular interest groups with insufficient avenues for input from others. And we particularly object to the way Government is relying so heavily on the labour of volunteers and poorly resourced community organisations to develop the Standards. Since when did community organisations develop laws? Why is Government not putting the required resources into developing the DDA Standards in a clear and orderly process with clear avenues for input from all who wish to do so, not just a chosen few and those who have been around long enough to have figured out what's going on. Why, 10 years after the introduction of the DDA are there still no Standards?

So the confusion surrounding the development of the DDA Education Standard has somewhat stymied AAD's activities on advocating for education for Deaf people. We don't know where we are!

But our difficulties in advocating for education are not all related to the Standards issues. Much of it lies at our own doorstep – we need to get our act together and develop clear strategies. We have recently begun the first step. Although we know what the broadbrush problems and issues are, we need factual and up to date information on the current state of play, so we recently began a project to gather this information. We will then develop a strategic plan for focusing our advocacy activities.

Michael Small has been especially helpful in clarifying what we need to do in order to make best use of the DDA for such large and difficult issues as education. He keeps saying to me, “You need to break these big issues down into smaller issues that can be handled under the DDA.”

So that is what we are going to be trying to do with education. Start by identifying single, small issues and then use the DDA to do something about them. In using the DDA for

these issues, we will continue to consult with HREOC and other relevant organisations to work out the best strategies.

Employment

Employment is probably the second most important issue for Deaf people. It is also probably the second most difficult issue on which to advocate and effect change. I say second because education is the key to appropriate and satisfying employment.

For AAD the issues and problems involved in advocating for employment are similar to those for education. It is such a large area. We need to break it down into smaller components that we are able to do something about rather than trying to confront the beast whole.

But it isn't just the DDA that we need to be using. We need to be working on Government itself. As we said in our response to the "Australians Working Together" package:

We are concerned about the general assumptions, which seem to underpin the entire package. The package refers to such aims, philosophies, requirements as:

"People can find it difficult to leave the welfare system because there are few financial incentives and other supports to do so." (page 6)

"...the Government will spend more on additional support and incentives, encouraging people on income support to stay connected to the economic and social life of Australia." (page 7)

"...incentives to take up short term casual work will also be offered..." (page 7)

"We will require more people on income support to improve their own situation by undertaking a range of activities, such as part time work, study or community work." (page 7)

These statements indicate an underlying assumption that unemployed people do not want to work, or are not prepared to help themselves without being pushed to do so. While we do not wish to assert that nobody abuses the system, we are concerned that people who genuinely wish to work are being unfairly tarred with a brush that applies only to some. And further, that they are being required to undertake activities to "prove" they are not abusing the system – activities which are not necessarily in their best interests and do not necessarily help them.

For the majority of Deaf people who are unemployed, the problem is often not that they need to help themselves – improve their skills, experience etc – but that employers are unfairly biased against them. For example, many Deaf people do have excellent qualifications and skills and yet fail to get jobs for which they are qualified because employers make assumptions based on their deafness, such as that communication will be "too hard", that they "can't use the telephone", that engaging Sign Language Interpreters is "too expensive", or that they are a safety risk.

But discrimination in employment is very hard to prove. Employers of course do not actually say that these are the reasons the person did not get the job. They need only say that "another person was better qualified" and under State and Federal

legislation, which was designed to eliminate these practices, the Deaf person has nothing on which to appeal.

In addition with the vast number of employers using recruitment agencies, they are able to hide behind an additional smokescreen to escape being called to account under these laws.

A system that requires Deaf people to “help themselves” based on the assumptions outlined above, adds insult to injury.

We need more than the DDA when we have a Government that puts in place programs such as those at Centrelink based on such assumptions.

And we need to develop strategies for educating employers.

Recognition of Auslan, and Interpreting

Auslan is the language that is used by the Deaf community. The Deaf community in many ways is like an ethnic community in Australia – its members belong to both the Deaf and the wider communities. Sign language is also seen as the main distinguishing feature that defines a Deaf community. A major role of AAD is to enhance the status of sign language in Australian society. As the World Federation of the Deaf (of which AAD is a full member) asserts:

If Sign Language is rejected, the situation of Deaf people is weak and unequal.

Sign language covers a wide range of areas in a Deaf person's everyday life. It impacts areas where language is an essential tool, ranging from family life through to media and telecommunications and including education, employment and community access. It is a continual source of disappointment to Deaf people in Australia that Auslan is not seen as an appropriate language in which to provide community services. It is especially disappointing that a recent agreement between AAD and the ABC, for the provision of sign language on FLY TV, has now been railroaded by competing interests.

The UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities makes specific reference to how sign language is an inherent part of service provision:

...consideration should be given to the use of sign language in the education of deaf children, in their families and communities. Sign language interpretation services should also be provided to facilitate the communication between deaf persons and others.

Interpreting between Auslan and English is an essential aspect in the life of the Deaf community and enables Deaf people to participate equally in the wider community. Often it is the Deaf person's principal means by which they access the wider community in which they live. AAD views the provision of training programs in sign language interpreting as vital to enable a satisfactory level of access to interpreting services.

Although interpreting services are available, Deaf people continue to be disadvantaged for a number of reasons, including:

- Prohibitive cost of this service. Sign language interpreting is provided by charities or independent providers, who have to cover their costs. In NSW it costs around \$165

for a two hour service. Many people balk at paying this level of fee, eg employers who wishes to discuss employment with a Deaf person.

- Weakness of current legislation that does not explicitly state that equal access for Deaf people means adequate sign language interpreting provision.
- Lack of quality assurance and training programs for interpreters. This means that there is insufficient monitoring of interpreters, especially in the area of skills development and complaints resolution. And there is such a shortage that under-qualified or unprofessional interpreters can still obtain work with some employers.

AAD needs to develop strategies to address these and other issues. As with education, we have begun a project to compile factual information on the current state of play and will then develop strategies.

Access to Information

This is the area where we have been most active and most successful.

a) Telecommunications

Since its establishment in 1986, AAD has had a very active and committed subcommittee on telecommunications access. We spent ten years of lobbying before we succeeded in convincing the Commonwealth Government to provide the funding for a National Relay Service (NRS) to help make the telephone system accessible, and to provide TTY's for people on low incomes. The NRS was established in 1995.

In that year too, AAD joined a complaint under the DDA, the Scott vs Telstra case, which resulted in Telstra having to provide TTYs to deaf people. At first this took the form of a voucher to enable deaf people to purchase a TTY. In 1998 Telstra decided on a different system and, as we said they should always have done, now provide TTY's on the same basis as telephone handsets are provided to everyone else.

These two achievements were important steps forward, not only for Deaf people but also for hearing impaired people (who do not use Auslan and so do not form part of our constituency) and for people with a speech impairment.

b) Captioning

We have also been very active in the area of captioning and currently have a representative on three HREOC working groups – on captioning on free to air television, on pay tv, and in cinemas. We have become involved in two of these cases not by initiating or joining complaints ourselves but by keeping an eye on cases in the system and identifying those that are of strategic importance and on which we could have input.

An example of this was the Byrne vs Hoyts Cinemas case. In this case, Byrne, a hearing impaired man in Perth made a complaint against his local Hoyts Cinema. When HREOC called a public enquiry, AAD sent in a submission and became involved in the negotiating process. The result was much larger than one local cinema and Deaf and hearing impaired people are now able to see a limited number of captioned movies in CBD cinemas in all capital cities. Of course there is still a long way to go before we have equal access to cinemas, but by agreeing to start small, we have established a negotiation and collaborative process that is continuing and we intend to build upon this early success.

In the third case, pay TV, our Board considered the progress that was being made with captioning and the climate surrounding it – ie we were aware, from these and other lobbying activities, that the pay TV industry were aware they would most probably be next in line for some pressure to provide captioning. So our Board decided the time was ripe for something to be done in this area. One of our Board members elected to initiate a complaint with a request that AAD be her representative.

In all these cases we have collaborated with other people and organisations involved, such as Deafness Forum, WA Deafness Council, and the (now disbanded) National Working Party on Captioning. We continue to discuss strategy with these other representatives and this has been very valuable. There has been one occasion when we have chosen not to consult with other organisations on a specific issue, for very specific reasons, but generally on issues that affect each of us, we make every effort to discuss strategy and to consult.

Negotiating with industry representatives on issues like this is never easy. You go along knowing that what you want is really very clear and simple. And you sit around the table with a bevy of lawyers and technical experts who give you a million reasons why they cannot do it and use weird jargon you've never heard before. And you think, "Well, gee, I just want a few captions. If they can make pictures bounce off satellites and all this other mumbo jumbo, what's this garbage about how a few captions is HARD?" But you can't say that because you won't look smart and on the ball, and you can't bring out your technical expertise and wow them with how much you know about all this. You are after all just a community representative trying to get a bit of access for your community. But the problem is there are so many issues you need to be on the ball about. You don't have the time to spend focusing on one area to the extent that these techies do, you've got to look after a very wide range of issues, all of which are different and highly involved. Where do you get the time and the resources to do all the background research on every issue so that you can bounce jargon back at them in this negotiating game?

This is where I think that HREOC sometimes expects too much of community organisations. It's one thing for us to do our homework – and to a certain extent we most definitely should. But there has to be a line somewhere on what can be expected of us. There are situations where I think that HREOC could be providing more support to community organisations by bringing in, for example, independent experts to advise and inform rather than expecting community organisations to provide or find the expertise.

I don't know about other community organisations, but AAD prefers wherever possible to always have a Deaf person as a representative. We are, after all, all about Deaf people taking their rightful place in society; it isn't necessary for others to speak for us. However, precisely because Deaf people have been and continue to be discriminated against in education and employment, Deaf people with particular types and levels of expertise can be very hard, often impossible, to find. It would help us a great deal if HREOC could in some cases bring in the experts.

c) Telephone banking

More recently I have had input into the industry standard on telephone banking that is being developed by the Australian Bankers Association (ABA). AAD itself undertook no advocacy activities directly on this issue. We were approached by the ABA and requested to attend meetings and provide input. I haven't yet got around to asking, but I gather that this was a result of the work that HREOC has been doing with the ABA on a number of different industry standards.

It can be difficult for us to keep up with all that is happening in the DDA area, and we were not in fact on the ball on this issue, so we very much appreciated HREOC pointing the ABA in our direction.

This raises another issue where I think that I would like to see some changes at HREOC. The website is wonderful and choc a bloc with really valuable information. However, it can be time consuming to keep up to date with it, to wade through all the information, which because it is often in legalese, is not always easy to understand and requires real concentration and time to absorb and to analyse which issues we should be trying to get involved with.

I think I would like to see some simplification of information, together with more targeted information alerts. We receive, for example, general email alerts to new information on the HREOC site, and this is very helpful and much appreciated. But often, because I'm tied up with other deadlines and issues that are always "urgent", or because I don't see the connection with Deaf people, I don't follow them up, or I look only quickly and superficially at them, or the length and complexity of the information – and therefore the time required - discourages me from closely examining it. Organisations like AAD would really benefit if we could work out something with HREOC that alerts us only to issues and cases that are directly relevant to us, and that makes the information easy to absorb.

Closing remarks

At AAD I think there is a general feeling that we have been successful in the use we have so far made of the DDA. We have learnt a great deal from our activities. We have not always got exactly what we wanted but we have made progress in the right direction and have built alliances and co-operative negotiating partnerships that we believe we will be able to continue to build upon and achieve further positive outcomes. It isn't always about being adversarial or litigious – we can be friends with our "enemies".

We also feel that HREOC itself has been extremely helpful in the manner in which they have worked with us – in helping us to identify what we need to do, in understanding how to use the DDA more effectively, in pointing us in directions that we need to go.

There is of course a lot more we need to do, but with the resources we have had, we feel we have done well.

There is though, one last point I feel is important to make. I don't want to "whinge about a lack of resources" – and AAD is in fact better resourced now than it has ever been before – but it is a fact of life that organisations like AAD are working at knocking down huge mountains with little ice picks. To do this effectively we need to be able to concentrate on the most strategic points of the mountains.

But in many ways, what is actually happening is that because issues are often brought to the table by others, and we cannot afford not to be involved, we are finding that we are spending a great deal of time working on an agenda that we have not set ourselves. We have to work at issues that we may feel are not necessarily of primary importance in the list of priorities. But because we do need to work on those issues if they come to the table, we have less time to do other important work that enables us to identify our own priorities and do the background work required to get them to the table.

This is something we can perhaps discuss at the Summit. How can each of us have more control over our own agenda without adversely affecting the agenda of others?