

**INQUIRY INTO DOMESTIC VIOLENCE TRENDS AND
ISSUES IN NSW**

Organisation: Deaf Society of New South Wales

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Submission to the Inquiry into Domestic Violence Trends and Issues in NSW

Deaf Society of New South Wales

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BACKGROUND

The Deaf Society of NSW was established in 1913 and is a not-for-profit, bi-lingual, bi-cultural, community-centred organisation which exists to achieve equity for deaf people. Our services include employment services, Auslan interpreting, advocacy, education and training, independent living skills and community services.

The Deaf Society of NSW Consumer and Community Services is a specialist service for deaf and hard of hearing people. We provide a 'Walk In' service at eleven locations throughout NSW, offering either direct face-to-face assistance or access via technology. We also provide support and training on a one-to-one basis to assist deaf and hard of hearing people with disabilities or who require extra assistance to learn how to live independently. We also provide extensive information and casework support to deaf and hard of hearing people on an individual or family basis as required. Through this service, we frequently support consumers in matters involving domestic violence.

In the past 12 months, Deaf Society staff assisted an estimated 22 deaf or hard of hearing people who had experienced or perpetrated domestic violence (10 in metropolitan Sydney and 12 in regional NSW). In every single case, an ADVO was breached because the people concerned did not understand the terms of the order, the seriousness of the order, the penalties for breaching an order, or all of these aspects.

The Deaf Society of NSW welcomes the opportunity to contribute to the Inquiry into Domestic Violence trends and issues in NSW. The comments below are offered from the point of view of our expertise in consumer and community service provision to deaf and hard of hearing people. We are not a consumer representative body, but work closely with Deaf Australia NSW.

EXECUTIVE SUMMARY

Deaf and hard of hearing people often lack equitable access to information and legal processes. Specifically:

1. Publically available domestic violence information, especially for men, is not generally available in Auslan. The Deaf Society of NSW has a series of videos targeted to deaf women, but there is nothing available for deaf men.
2. Deaf children lack appropriate access to school education and are thus at risk of missing the benefits of early intervention education programs in schools.
3. Police do not always provide Auslan interpreters for interviews with victims or suspected perpetrators of domestic violence. In addition, courts and police are not always aware of the need for deaf relay interpreters to work with deaf people with minimal language skills or other needs. The importance of providing Interpreter Level (formerly level 3) NAATI accredited interpreters is also not widely understood.
4. Domestic Violence organisations find it difficult to source funds for interpreters.
5. No funding is available for private legal appointments. This does not impact all domestic violence matters involving deaf people, but it does impact those where legal representation is provided through a private solicitor or, in some cases, through community legal centres which cannot afford to cover interpreting costs. It also contributes to the general perception that legal processes are inaccessible to deaf people.
6. The sourcing and booking of interpreters for domestic violence matters by the Community Relations Commission sometimes appears to be handled in a way that does not take account of client needs or preferences, or the need of interpreters to prepare for interpreting assignments.

The inequity in access to information and legal processes leads to preventable breaches of ADVOs.

Early intervention, information and access to the legal system need to be provided in a culturally sensitive manner which takes account of individual communication needs in order to reduce the number of preventable breaches of ADVOs by deaf and hard of hearing people.

RECOMMENDATIONS

1. That government grants to organisations producing domestic violence information sheets, websites, etc. include a condition to set aside funds to commission Auslan translations of relevant information and resources produced by the projects, and that this requirement also apply to information provided by government departments and agencies.
2. That the NSW Department of Education provide qualified interpreters in schools so that deaf children can access early intervention education programs.
3. That NSW Police and NSW courts handing domestic violence matters develop and roll out a program of ongoing Deaf Awareness Training for all frontline staff.
4. That government grants to domestic violence support organisations include a condition that each grant application include a budget allocation for the provision of Auslan and deaf relay interpreters, and Deaf Awareness Training for staff.
5. That the NSW Government recommend to the Commonwealth that access to private legal appointments for deaf people be reviewed with a view to providing funding for interpreting in private and civil legal settings.
6. That the NSW Government work with the Community Relations Commission to improve the processes for booking Auslan and deaf relay interpreters in police, legal and DV support settings in NSW.

RESPONSE TO THE TERMS OF REFERENCE

Our response offers comments on each of the terms of reference below. We only comment in detail where we are able to offer information or recommendations specific to deaf or hard of hearing people.

STRATEGIES TO IMPROVE COMPLIANCE WITH ADVOS

A) THE USE OF GPS BRACELETS

The Deaf Society of NSW has no categorical position regarding the use of GPS bracelets with deaf people, but we would have some concerns about the use of such devices with deaf people for these reasons:

- Deaf people are less likely to have access to information about the uses of GPS bracelets, the way GPS bracelets work, and their rights with regard to the use of GPS devices.
- GPS bracelets could be viewed by some as an “easy fix” for dealing with a deaf person under an ADVO. Such devices should never be a replacement for genuine education and information provision to deaf people. GPS bracelets will not improve compliance if the requirements of the order are not understood.
- Levels of mental illness are high within the Deaf Community, including mental illnesses that manifest paranoid symptoms. We would be concerned that deaf people with these symptoms may be disproportionately distressed by the use of personal GPS devices, especially if they do not understand the way the device works or how information about them is stored and used.
- Deaf people need to access deaf-specific services which may be out of their local area (e.g. there is only one Deaf Society office in Sydney, located in Parramatta). Any restrictions on movement must allow them to access necessary services.

B) WHETHER EXISTING PENALTIES FOR DOMESTIC VIOLENCE ARE ADEQUATE

We have no specific recommendation about the adequacy of penalties.

EARLY INTERVENTION STRATEGIES

In our view appropriate early intervention could reduce the number of cases of domestic violence and breaches of ADVOS. Broadly, appropriate early interventions for deaf people would comprise:

ACCESS TO INFORMATION IN AUSLAN

An Auslan translation of clear information about domestic violence and ADVOs, particularly targeted for men, would improve understanding of what domestic violence is and the penalties for domestic violence.

IMPROVED SCHOOL EDUCATION ACCESS

Education in schools where deaf students are attending should include the use of qualified Auslan interpreters (or even better, teaching staff genuinely fluent in Auslan) to ensure they receive same information as other students.

COMMUNITY EDUCATION AND SUPPORT PROGRAMS

Deaf and hard of hearing people do not always know what domestic violence is, or realise that domestic violence is illegal. Domestic violence is also a somewhat taboo topic in the Deaf Community, and community attitudes to disclosure in some cases lag behind Australian attitudes generally. This leads to an unwillingness to disclose, or to ask for information. Workshops and forums can help to educate Deaf community more about domestic violence, but will only attract an audience when embedded within less taboo and less threatening workshops, such as women's health or men's health workshops. Building strong support networks for deaf women would also be of benefit as an early intervention measure.

IMPROVING PERCEPTIONS OF THE ACCESSIBILITY OF LEGAL PROCESSES

The perception of accessibility of legal processes is a barrier to the early prevention of domestic violence. For deaf victims, there is a fear that if domestic violence is reported, the legal process will be hard to understand, and that communication with police and courts will be stressful and difficult. Given the current inaccessibility of legal processes, this fear is well-founded. Interpreters are not always provided for police interviews, deaf relay interpreters are not always provided where needed, delays in sourcing interpreters leads to delays in the handling of domestic violence matters, and there is the potential for hearing family members to take advantage of superior access to arrange circumstances in their own favour. Negative experiences, and stories of negative experiences which circulate in the community, perpetuate the unwillingness to disclose and lead to late rather than early disclosure. If general accessibility to legal processes improved markedly, this could have a positive effect on prevention of domestic violence through making early disclosure more possible.

THE INCREASE IN WOMEN BEING PROCEEDED AGAINST

We have no experience of a rise in deaf or hard of hearing women being proceeded against by police for domestic violence related assault.

ANY OTHER RELEVANT MATTER

Certain improvements in the handling of domestic violence matters could significantly improve the compliance of deaf people with ADVOs.

CONTINUITY OF ACCESS TO APPROPRIATE INTERPRETING SERVICES

As outlined above, problems in booking and sourcing Auslan and deaf relay interpreters is a serious barrier to access to legal processes. Deaf people who have minimal education, and especially those without fluency in any language who are highly visual communicators, become disempowered in the legal system because of access problems.

Auslan interpreters are in very short supply. This means that a consumer may wait for some length of time before an appropriately qualified and skilled interpreter is available for an appointment or hearing. The

time delay makes it tempting for people involved to cut corners, and “make do” with written notes or communicate through family members, further disempowering the deaf person.

We have heard anecdotes that suggest these difficulties are further compounded by the booking practices of the Community Relations Commission (the interpreting service for police and most court matters) which:

- may not uniformly give clients the right to select their preferred interpreter/s
- may not attend to issues of continuity (i.e. provide the same interpreter for the same deaf consumer where possible to minimise stress for the consumer and enable the interpreter to become familiar with any idiosyncratic signing the consumer may use)
- may not provide appropriate briefing information to Auslan interpreters so that they can be fully prepared for interpreting assignments or be aware of possible conflicts of interest (e.g. the consumer’s name is not always provided, meaning that an interpreter may arrive at the assignment only to discover that the deaf person is a family member, in which case they would be ethically bound to withdraw from interpreting due to a conflict of interest)

A further complication is that funding is not available for private legal interpreting services or for access to domestic violence support organisations. Interpreters for these settings are usually booked through Sign Language Communications NSW/ACT (the Deaf Society of NSW interpreting service) which has no funding to cover this provision. Service providers and support agencies may be reluctant or unable to pay. In 2010-2011, Sign Language Communications NSW/ACT provided \$6,000 (28 bookings) in unfunded private legal interpreting. This does not impact on every domestic violence case, but it does impact those where legal representation is provided through private solicitor or, in some cases, through community legal centres which cannot afford to cover interpreting costs. It also contributes to the general inaccessibility of legal processes for deaf people.

CULTURALLY APPROPRIATE COMMUNICATION ABOUT ADVOS

A significant number of deaf people have had late access to language, have suffered educational disadvantage, and have missed incidental learning opportunities within their families, workplaces, and the wider community. In many cases, this means that they lack a full understanding of the law, the legal system, and the meaning of an ADVO. They may not understand the penalties for breaching an ADVO or what the exact requirements are regarding contact, etc. Consequently, deaf men in our experience are at considerable risk of breaching an ADVO. In fact, we haven’t assisted in any case where the person concerned kept the conditions of their ADVO. (Those who follow their ADVOS are probably unknown to us because they are less likely to need our services.) Culturally appropriate communication of information about ADVOS would, in our opinion, help to reduce breaches of ADVOS by deaf people.

Culturally appropriate communication must be in Auslan, or in the form most accessible to the deaf person. Where a deaf person does not have fluency in Auslan, or has other specialised communication needs (e.g. is deafblind, or is a recent migrant), a deaf relay interpreter must also be booked. Deaf relay interpreters are trained to convey information from standard Auslan in other formats (tactile communication, highly visual communication, etc.) to ensure understanding.

As some deaf people lack confidence in understanding written English, culturally appropriate communication involves taking time to go through written documents face-to-face, discussing each point and allowing time for questions. Easy English documents and Auslan translations, where available, are also good resources for ensuring understanding of written documents.

Culturally appropriate communication also entails taking account of power relationships and the mechanisms deaf people use cope in situations where they are disempowered. Often, for example, deaf people nod to indicate that they understand when in fact they do not. This is to avoid embarrassment, especially in formal settings, or when written documents are involved. Police, court staff, and Legal Aid solicitors who deal with deaf people under ADVOS need to have Deaf Awareness Training so they can identify this issue and employ suitable strategies to ensure the deaf person understands. Strategies may

include creating less formal settings, the use of easy English documents or translated Auslan information, booking deaf relay interpreters, or allowing more time for discussion and questions.

CONCLUSION

Deaf people lack access to the information and legal processes required to prevent domestic violence, deal with domestic violence when it arises, or follow ADVOs. Access to information in Auslan is limited, deaf children experience educational disadvantage, police and courts do not uniformly meet their obligations to book appropriately skilled interpreters, domestic violence support programs struggle to fund interpreting bookings, private legal interpreting is unfunded, and the Community Relations Commission does not appear to operate a uniformly deaf-friendly interpreting service. In our opinion, these issues combined contribute to a concerning number of preventable breaches of ADVOs in NSW. This situation could be improved by the creation of information about domestic violence and ADVOs available in Auslan for deaf men, improvements in access to school education, Deaf Awareness Training for police and court staff, funding agreement requirements to budget for interpreting services, a Commonwealth review of unfunded legal interpreting, and a review of Community Relations Commission Auslan interpreter booking practices.

Signed:

Date:

15/09/2011