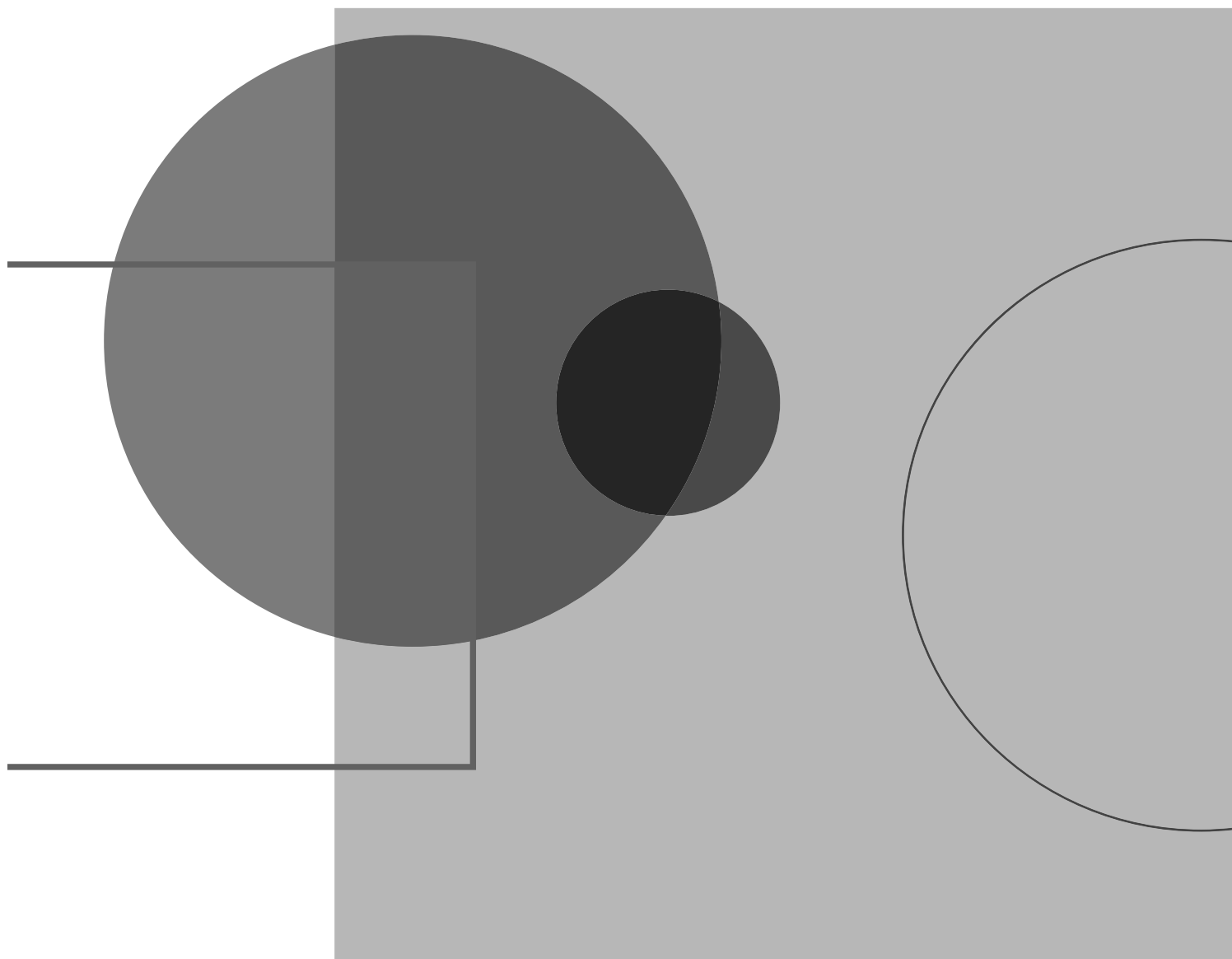


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Access to written information: a social equity, social justice issue



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Cathy is an internationally acknowledged expert in the area of developing documents for people with limited literacy, the language, the techniques, the images and format to use. She presents both nationally and internationally about Easy English. Her business provides training, consultancy and translation services to Easy English.

Cathy has previously been involved in establishing Australian quality benchmarks, resource development and the development and adherence to in-house standards for Easy English.

By Cathy Basterfield

Overview

Participation, inclusion and rights are intrinsic to the way we interact with our world. Developing information in Plain Language is one way to ensure more people can access, participate and know how to be part of their community, and know their rights and responsibilities.

Reading information about government services, your rights, information about common laws, health information and access to corporate businesses should not become a reading test. Yet for people who don't have functional literacy, these tasks become just that.

Many just don't engage at all. Information needs to be simpler.

We must engage with consumers—real consumers. This paper draws attention to the many people who are marginalized, and why they need Easy English.

Background

The Universal Declaration of Human Rights, 1948¹ enabled more people in the community to become more aware of the needs of the individual in many different circumstances about their rights, but also their responsibilities to themselves, their own community and the wider community.

In 2006, The United Nations Convention on the Rights of Persons with Disabilities² was ratified.

This Convention lists, among other areas, Article 5, *Equality and non-discrimination*, and then further identifies women and children with disabilities—two further marginalized groups within an already marginalized group. Article 9, *Accessibility*, and Article 21, *Freedom of expression and opinion, and access to information*, recognize the importance of information being easy to access, in the way a person understands it, in the way the person can meaningfully use it, in the same timeframe as the rest of the community. When written information is only available in complex or plain language, a significant number of people in our community are unable to follow these Articles in the Convention.

Many other articles in the Convention remind the reader of the importance of people having access to written information in their daily life, as it relates to their legal entity, legal rights and responsibilities. Other examples include Article 10, *Right to Life* (and the decisions that implies); Article 12, *Equal recognition before the law*; Article 19, *Living independently and being included in the community*; Articles 25 (*health*), 26 (*habilitation and rehabilitation*), 27 (*work and employment*) and 30 (*participation in cultural life, recreation, leisure and sport*); Article 28, *Adequate standard of living and social protection*; and Article 29, *Participation in political and public life*.

Literacy

Communities today are assumed to be highly literate, due to factors such as access to education, quality health, and the recognized value in our societies of the educational journey that children undertake. Therefore, when a person does not attain a functional level of literacy skills, we might think they only represent a minority of those living in our community. However, repeated research in this space, driven by Statistics Canada in partnership with the Organisation for Economic Co-operation and Development (OECD), has shown time and again these assumptions are incorrect.

The Programme for the International Assessment of Adult Competencies (PIACC) from 2013³ is the most recent iteration of this data. The data concluded that significantly high percentages (and raw numbers) of people in all our communities lack the range of literacy skills to undertake a range of day-to-day reading tasks in a meaningful manner. For example, 44% of the adult Australian population (50% of the US, 44% of Canadian and UK adult populations) has literacy that does not meet the demands of a range of current day-to-day activities. In 2016, the New Zealand data was one of a number of other countries added to the data, at 43% of the adult population.⁴ This suggests that many individuals are still not able to use the information written for the public, even when it is in Plain Language.

Any one person could be someone in this data. In Australia, the percentage represents 7.3 million adults; in the United States, it represents 100 million adults. These people do not necessarily have a recognized or identified disability. They are literally the “man or woman” in the street. The person could be someone who comes to the counter and says, “I left my glasses at home” or “I don’t have time to read it now, I will get back to you about this.” However, the person can also be someone who is marginalized, such as a person:

- with an intellectual disability
- with a poor educational outcome
- who lives in a low-income household
- in the Deaf community
- with an acquired disability (including stroke, head injury or dementia)
- in an indigenous population
- who is elderly
- who is a migrant or refugee
- who is unwell or stressed.

Research for these populations of people suggest many are more likely to be poor, have no job, be more unwell, and have more contact with the police and the courts.

Legal literacy

A number of countries have developed definitions of “legal literacy” that are useful for this discussion.

A question that can be asked is does legal literacy relate to legal capability? A number of researchers have looked at this question in great detail. I encourage you to read further on this, as it relates to the people we write for in the legal context. McDonald et al. (2014)⁵ asked “Why do people take no action?” Reasons such as “didn’t know what to do,” “would be too stressful,” and “cost too much” were all reasons cited. These then create an effect of doing less, at a later time, when the issue is more complex. So, in fact, issues such as complexity and stress are borne out. The authors suggest a more “holistic approach to ... further access to justice.”⁶

NOTES

1 United Nations. Universal Declaration of Human Rights. Retrieved November 2016 from www.un.org/en/universal-declaration-human-rights

2 United Nations. Conventions on the Rights of Persons with Disabilities. Retrieved November 2016 from <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

3 Programme for the International Assessment of Adult Competencies, OECD. Survey of Adult Skills. Retrieved November 2016 from www.oecd.org/skills/piaac

4 Ministry of Education and Ministry of Business Innovation and Employment. (2016). Survey of Adult Skills (PIAAC) Skills in New Zealand and around the world, Wellington, New Zealand.

5 Universal Declaration of Human Rights. Retrieved November 2016 from www.un.org/en/universal-declaration-human-rights

6 Hugh M. McDonald and Julie People. (2014). Legal capability and inaction for legal problems: knowledge, stress and cost, Law and Justice Foundation No. 41. Retrieved November 2016 from [http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/\\$file/UJ_41_Legal_capability_and_inaction_for_legal_problems_FINAL.pdf](http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/$file/UJ_41_Legal_capability_and_inaction_for_legal_problems_FINAL.pdf)

7 McDonald and People. (2014). *Legal capability and inaction for legal problems: knowledge, stress and cost*, p. 1.

8 Law and Justice Foundation. (2012). *Legal Australia-Wide Survey: Legal need in Australia*. Retrieved November 2016 from www.lawfoundation.net.au/ljf/app/&id=1DAA9FBD6F6B-3513CA257B5F00168DFA Accessed November 2016

9 See American Bar Association: www.americanbar.org

10 See Canadian Bar Association: www.cba.org

An Australia-Wide Survey: Legal need in Australia (2012)⁷ identified:

- “Legal problems are widespread throughout society;
- Can have a dramatic adverse impacts on many aspects of daily life;
- Access to justice must aim to enable **all** citizens to make effective use of the law.”

Legal information, written in Plain Language, is one step in that direction. However, for the many people identified earlier in this discussion who do not have a range of literacy skills for a range of day-to-day reading tasks, this is not enough.

The American Bar Association has developed a definition of Legal Awareness⁸ in two parts.

These are (1) the ability to make critical judgments about the substance of the law and the legal process; and (2) knowledge of the available legal resources and also how to use the legal system.

These aspects require the lay person in the community to be able to access a range of legal information meaningful to them, know about their rights and potential breaches of the law, and therefore be sufficiently informed to decide whether to consider pursuing a legal matter. Then the person needs know where or how to get resources to determine the legal journey, and how to use the legal process in a meaningful way. This ranges from access to police, and the role of solicitors and barristers and the courts, to understanding rights and responsibilities about, for example, privacy, confidentiality and neighborhood disputes. To be effective in this space, a person’s legal literacy needs to meet their needs.

The Canadian Bar Association has described “legal awareness”⁹ and “legal literacy” in another way, suggesting the need for a person to understand words used in a legal context, to draw conclusions from the information, and then to use those conclusions to take action.

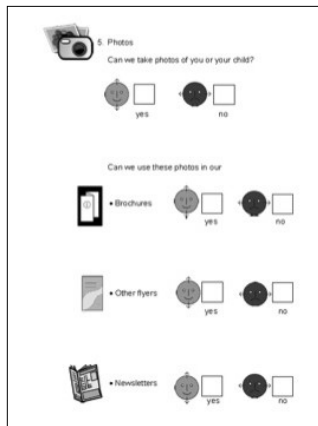
The literature recognizes that use and need for legal information in our communities is increasing. The literature explains that all legal information must be available to the person who needs it—from the lawyers and judges to the relatively uninformed lay person whose contact with the legal system is minimal. This availability has been described as a continuum approach to information. As in all parts of society, as people are being asked to be more autonomous and self-directed in managing their increasingly complex lives, it is essential that the public has appropriate written materials available to them so they can make meaningful choices and decisions.

To that end, the 2016 Victorian Government Access to Justice Report is timely in its aims. The state government’s stated aim of the Access to Justice Review was to “improve access to justice for Victorians with an everyday legal problem or dispute, and ensuring the most disadvantaged and vulnerable in our community receive the support they need when engaging with the law and the justice system.”¹⁰ The report clearly sets out a number of recommendations about Access to Information, including making Easy English available for public use. Specific areas identified to help achieve this are:

- entry points into the legal system
- how to increase the understanding of community members about how they can get help with everyday legal issues
- how to support self-represented litigants.

As in many endeavors, quality and consistent development of Easy English is required to ensure the best possible outcomes for consumers.

Below are some excerpts of examples of Easy English work in Australia, focusing on legal information. These examples remind us that legal information occurs in a wide variety of contexts, which the person with limited literacy has the right to access and understand in a way that is meaningful to them.



Excerpt from a consent form. "Can we use your photo?" Note: Every place where the person's photo could be used is asked about.



Excerpt from a New South Wales new law in 2013. One of four training books to help consumers understand the new law.



Excerpt from a fact sheet about Family Violence. The sheet is about the rights and steps a person can take to stay safe.

11 'Access to Justice', Department of Justice and Regulation, Victoria State Government, Australia, p. 53. Accessed 1 November 2016 from https://engage.vic.gov.au/application/files/3314/8601/7221/Access_to_Justice_Review_-_Report_and_recommendations_Volume_1.PDF

12 Project completed by Access Easy English and Ability Options, 2015.

13 Project completed by Access Easy English and NSW Council for Intellectual Disability, 2014.

Consent¹¹

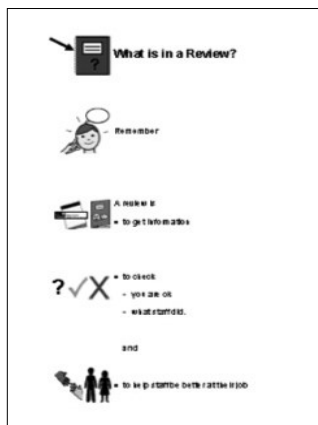
Where else do we all have to consent? How much do we understand of the consent forms we are asked to complete and sign?

Laws¹²

What laws would you like to understand better? What are the benefits for the public better understanding many everyday laws or changes to those laws?

Information for the public¹³

Many public documents are written in a more complex manner than the person with limited literacy can read, understand and use meaningfully for themselves.



Excerpt from a Government procedure



Excerpt from a research project, assisting with changes to the law



Excerpt from a letter to a Member of Parliament

14 Project completed by Access Easy English and Integrated Family Violence Network, 2016.

15 See Department of Human Services, Victoria State Government, Australia. Retrieved November 2016 from www.dhs.vic.gov.au/___data/assets/word_doc/0004/920695/quality-of-support-review-guideline-easy-english-09-2015.doc&sa=U&ved=0ahUKEw-jOppL071LKAhXkMKYKHeN-TAKoQFggEMAA&client=internal-uds-cse&usg=AFQjC-NE-6KsxU7ZRsxHGcyATkT-33LyS8Nq

16 Women with Disabilities Victoria. Voices Against Violence: Paper Seven: Summary Report and Recommendation in Easy English. Retrieved November 2016 from www.wdv.org.au/documents/Voices%20Agaisnt%20Violence%20Paper%20Seven%20Easy%20English%20Summary%20%28PDF%203MB%29.pdf

17 Project completed by Access Easy English and National Disability Service, 2014.

Further examples include:

- Explanation of Intervention Order—used by court officials
- Legal Aid New South Wales—Police Powers: www.legalaid.nsw.gov.au/resources

(Search Words: Easy English)

Policies and Procedures¹⁴

All departments have procedures about the order of tasks and how to follow processes.

What procedures do you need to be able to read, understand and follow?

Research¹⁵

Information gathered from the community, and which assists law makers and policy writers, is invariably developed into an academic report. Participants rarely hear anything further about the research in which they participated. What motivation would someone have to participate again if they are never able to read about the outcomes of previous research in which they have participated?

Engaging with the political process¹⁶

What elements of the political process do you read about, understand and act upon?

Everyone has the right to engage with the political process. Voting is one part of this process. Understanding candidate information and writing letters to our Members of Parliament are other ways to engage in this process.

Written information in the legal context is a critical way that members of society engage with others. With governments and agencies encouraging people to be more autonomous, it has become more critical to include all members of society. As writers, we must not ignore the hidden, and often most vulnerable, people living in our communities. Plain Language is important to take legal information from complex legality to a level that any educated person can read, understand and use meaningfully. Yet Easy English is equally important to increase meaningful engagement by the large numbers of vulnerable people living in all our communities.