

Villamanta Disability Rights

Legal Service Inc.

A Free Victoria-wide service



**Villamanta Disability
Rights Legal Service Inc.**

Information Booklet

Revised June 2010

Our Mission

Villamanta advances the rights of people, particularly those who have an intellectual disability, who have a disability related legal or justice issue

How to contact Villamanta

Villamanta Disability Rights Legal Service Inc.

44 Bellerine Street, Geelong, Vic. 3220

Free Call Advice Line - 1800 014 111

For people who have a disability related legal or justice issue

Open Monday — Friday 1 p.m. to 3 p.m.

Telephone (03) 5229 2925 — 9 a.m. to 5 p.m.

Fax (03) 5229 3354

Email legal@villamanta.org.au

Website www.villamanta.org.au

Publications

Orders for publications can be made through our website at www.villamanta.org.au

or

Email publishing@villamanta.org.au

Villamanta Disability Rights Legal Service Inc. is part of the Australian Network of Disability Advocacy Services funded by the Australian Government.

Reg No A0023376z

ABN 32 690 988 253

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Villamanta Disability Rights Legal Service Inc.

What is Villamanta Disability Rights Legal Service Inc.?

Villamanta is a Victorian Community Legal Centre that works only on disability related legal issues. Our main purpose is to make sure that people in Victoria who have a disability can know about the law, and can use the law, to help get their rights. We work mostly for people who have an intellectual disability.

Who pays for Villamanta?

Villamanta is a free service for people who have a disability, their carers and their advocates. We get money to run the Service from the Australian Federal Government through a law called the *Disability Services Act*. Sometimes we get money from other places to do special projects.

What does Villamanta believe?

Villamanta advances the rights of people who have a disability. We believe people who have a disability have a right to be treated in ways that are fair and reasonable, and give them opportunities, freedoms, and a standard of living that are equal to those for people who do not have a disability.

We aim to make it possible for people with a disability to know about the law and to **use the law** to make sure that their rights are recognised and acted upon by others.

Who runs Villamanta?

Villamanta is run by a community based Management Committee. Committee members are elected every year at the Villamanta Disability Rights Legal Service Inc.'s Annual General Meeting. Anyone who is a member of Villamanta can nominate to be on the Management Committee.

Villamanta encourages anyone who supports its aims, in particular people who have a disability, to become members of the Service. It does not cost anything to become a member. Members have the right and power to have a say about the work Villamanta does.

What does Villamanta do?

Villamanta provides:

- A free call telephone information, advice and referral service;
- Some legal assistance for people who have a disability about disability related legal problems. This may include some casework;
- Community Legal Education;
- Policy and Law Reform.

We also sell **books and manuals** and other services through our publications section. You can find out more about these services in this booklet.

We also send out a **free newsletter**, a few times a year, to anyone who wants it. If you want to get our newsletter just phone us and ask to be put on our mailing list. We also have **information sheets** about the law, which we can send you, and a **web site** with lots of free information, including the information sheets.

Our web site address is: www.villamanta.org.au

How does Villamanta decide what to work on?

A lot of the work Villamanta does is in response to things that people contact us about. We also work in important areas where people's rights are at risk or where people need support to understand or stand up for their rights. We decide what things we will work on through our annual planning process.

Members of Villamanta are invited to have their say about what we should be working on by *writing to us*, or *phoning us*. We also get information from people we do Community Education for.

When we are doing our **annual planning**, people talk about:

- What has come up in the last year;
- What we have learnt from what we have been working on;
- What we have found out through our work;
- What is the best use of Villamanta's time and money.

Using this information, we work out what the important issues should be for Villamanta in the following year. These issues are then talked about at the next Committee of Management meeting where a final list is agreed on.

More about what we do

Telephone information, advice and referral service

Villamanta has a free call number for people who live anywhere in Victoria. Some people wanting information, advice or referral about a disability related legal issue can call 1800 014 111 for free. Some other people need to call us on our other number, (03) 5229 2925 which is not free (see below).

Who can use this free telephone information service?

- Anyone who has a disability and lives in Victoria;
- Anyone calling as an advocate, friend or relative of a person who has a disability;
- Carers who support a person with a disability;
- Non-government or not for profit service providers.

Who CANNOT call us on our FREE 1800 telephone advice number? (These people are asked to pay for their call by contacting us on (03) 5229 2925)

- People working for government departments;
- People from the media;
- Students or others doing disability research;
- People wanting information about something other than a disability related legal issue.

Who will be asked to contact another organisation instead of Villamanta?

- Anyone wanting information that could be used against a person or a group of people who have a disability;
- Anyone wanting information about a problem with someone who already uses our services;
- Anyone wanting information that is not about a disability related legal issue;
- Anyone with a problem that the legal system cannot help;
- Anyone likely to get better advice from someone else.

Legal assistance and casework

Villamanta has lawyers whose job, where possible, is to help people with their disability related legal problems. Because Villamanta is a small organisation it cannot do casework for, or give legal assistance to, everybody who asks for it.

Who may be able to get legal assistance and/or casework from Villamanta ?

- Any person who has a disability and a disability-related legal problem;
- Any guardian, administrator, family member, friend, advocate, or other person who has been asked by someone who has a disability and a disability related legal problem to contact Villamanta on their behalf.

Villamanta usually only has one or two lawyers who work on individual cases. In working out who can get our lawyers to work for them, Villamanta thinks about these things:

- ◆ how serious the issue is in terms of basic rights;
- ◆ the merits of the case, which means how likely it is to be successful (including the effect of the matter upon the client);
- ◆ whether it will make a positive difference for a lot of people who have a disability;

Villamanta uses a Casework Team approach to decide which cases to take on.

- whether someone else can do the job;
- whether we have the skills and resources that are needed;
- whether we can work on the problem with another person or organisation;
- whether the matter falls within one of our priority areas.

Priority areas

Our priority areas may change each year as we go through our annual planning process.

Some examples of priority areas for casework have been:

- Advancing the rights of people who have, or may be about to have, their finances managed by administrators
- Advancing the rights of people who have, or may be about to have, their decisions made by guardians
- Advancing the rights of people to have accommodation/ services/quality of services, that meet their needs and that conform with the principles of the *Disability Services Act 2006*
- Access and equity in tribunals and with complaint mechanisms, including hearings of the Guardianship List of the Victorian Civil and Administrative Tribunal, the Forensic Leave Panel and the Disability Services Commissioner.

What sort of legal assistance and/or casework do we give?

Some examples of things we do are:

- Representing people in tribunals, such as the Guardianship List of The Victorian Civil and Administrative Tribunal or the Forensic Leave Panel;
- Writing letters on behalf of people on matters to do with disability related legal issues;
- Negotiating on behalf of people on disability related legal issues;
- Giving advice about disability related legal issues;
- Supporting people to make complaints.

What sort of legal problems do we assist with?

Problems we may be able to provide legal assistance with usually come within our priority areas.

We may also provide legal assistance in other areas if important issues of law are raised which are likely to affect other people who have a disability.

When will we not be able to give legal assistance?

We do not provide legal assistance when it is likely that you will get a better result from another lawyer or organisation. For example, if you have a legal problem that is to do with a mental health issue, the Mental Health Legal Centre might be able to do a better job than Villamanta **OR** if the assistance is against a person who has a disability or group of people who have disabilities **OR** if there is a conflict of interest (See page 8 under "Who will be asked to contact another organisation...") **OR** if we do not have the resources. If we do not have the resources, people may be placed on our waiting list sometimes.

Community Legal Education

Villamanta provides community legal education about the legal rights of people who have a disability.

Who can get community legal education from Villamanta?

Villamanta does community legal education mostly for people who have a disability. We may also do community legal education for people who do not have a disability, but only if:

- The community legal education is for people who are likely to use that information to further the rights and interests of people who have a disability;

- We are satisfied that the information we give will not be used against the interests of people who have a disability;
- There is not another organisation or person who is likely to be able to provide the same information.

What do we do in community legal education?

Some of the ways in which we do community legal education include:

- Talking with groups of people about legal rights affecting people who have a disability;
- Sending out information about legal rights affecting people who have a disability;
- Giving general information over the phone on legal rights affecting people who have a disability;
- Working to help communities learn how to improve the rights of people who have a disability.

Policy and Law Reform

Villamanta works to change governments' and other organisations' policies and laws or rules to try to get a fair go for people who have a disability.

Who do we work with to change policies and laws?

Villamanta works with lots of different individuals and organisations to change policies and laws.

These include:

- People who have a disability;
- Other disability advocacy groups;
- Politicians;
- Government employees;
- Anyone interested in working to improve the rights of people who have a disability.

What do we do to try to change policies and laws?

Some of the ways we work to make policies and laws better can include:

- Talking with and lobbying politicians;
- Negotiating with government departments and other organisations;
- Organising and supporting community campaigns;
- Working with other community groups that are trying to change policies or the law;
- Running court cases.

What areas do we give priority to in our policy and law reform work?

We try to give attention to changing policies and laws within Villamanta's priority areas of work.

Your rights when you use any of our services

Villamanta is committed to providing the best possible service and to making sure that people in Victoria who have a disability know about the law, and can use the law, to get their rights. We are also committed to providing services in a way that meets our responsibilities under the *Disability Services Act 1986* (an Australian Federal Government law)

The *Disability Services Act 1986* sets out **standards** that must be met by organisations that provide services to people who have a disability.

Some of these **standards** mean that at Villamanta we must:

- Be there for people who need us most;
- Work with you so you get the service you need and want;
- Give you choices about what can happen and let you make your own decision about what you want us to do;

- Keep information you give us confidential and protect your privacy;
- Support and encourage you to be involved in general community issues and to use the same services other people use;
- Treat you fairly and with respect and not discriminate against you;
- Have good management of how we run Villamanta so we can get the best results for people we work for;
- Give you the opportunity to complain or tell us how you feel if you are not happy with decisions we make or with the way in which our service is provided and try to fix problems you have with us;
- Make sure you have the chance to be involved in making decisions about how our service works and what we do.

How Villamanta works to uphold your rights

An Accessible Service

When you contact Villamanta our first job is to check that we are the right service for you. Villamanta is funded to provide certain types of services. If we cannot give you the service that you need, we will try to find someone who can.

If the service that you want from Villamanta is something that we are funded to do, and it is something that we have the skills and resources to do, we will work with you to try to get what you want.

If at any time you want us to stop working for you, we will. We will also try to help you find someone else to help you if we cannot.

When you agree that we have got you what you want, or we believe that we have gone as far as we can to get you what you want, we will close your file. You can have a copy of your file at any time. If you contact us again about a new problem we may be able to open a new file for you.

If you meet with any of the Villamanta staff you can bring a support person or family member with you.

We will not discriminate against you because of your disability, whether you are male or female, or because of your age or the country or culture you come from, or your language or religion.

However, if you have an **intellectual disability**, we will usually give you priority over people who do not have an intellectual disability, because that is what Villamanta is funded to do.

A Service That is Relevant To Your Needs

If you contact Villamanta for ***advice or legal assistance***, a worker at Villamanta will listen to you and where possible, we will give you advice, information or help based on the things you tell us. We will help you with what we know about the law and how it can be used to work out your problem.

If what you want is difficult or impossible to get, we will tell you. We will talk with you about things that could happen, as well as how long it might take to get a result. We will tell you how to get a second opinion if you want one. You may have to pay for a second opinion if it is from a private lawyer.

If one of our lawyers acts for you on a legal matter, you will be given regular updates about how your case is going and asked to make decisions about what to do as the case goes on.

If you contact us for ***community legal education***, our community legal education workers will talk with you about what you want. We will talk about what sort of people would attend your community legal education session, and the sorts of things they want information about. We will then plan our community legal education session to try to give you what you want.

If you contact us about ***policy or law reform***, we will talk with you about what the issue means to you, or why you think it is important. We will ask you what sorts of things you would like to see done about it. Our aim is to make sure our policy and law reform work achieves results that people with disabilities want.

If it is difficult for you to talk to us over the phone, we will do our best to arrange somewhere to meet with you in person, or we will set up some other way of communicating with you. You can have anyone else with you as a support when you contact Villamanta. If you do not know a suitable support person we will try to help you find someone.

Decision making and choice

When we give you information, advice or legal assistance we will tell you about the different ways you can go to deal with your problem. We will explain the risks and benefits of these different ways of dealing with your problem. Based on what you have told us, we will give you our professional opinion about what action is most likely to get you what you want.

We will not take any action on a legal matter unless you or your representative tell us to do so.

Privacy & Confidentiality

The right to privacy

Everyone who contacts Villamanta has a right to privacy. Villamanta observes the legislative requirements of the ***Information Privacy Act 2000 (Vic)***, the ***Privacy Act 1988 (Cth)*** and the ***Health Records Act 2001 (Vic)***.

The rules about privacy cover **any information we have about you**, including information that might have come from other people and information that is not about a legal problem. Everyone who contacts us has a right to privacy. We will not give anyone else information about you that they do not need to know.

To help protect your confidentiality and privacy, we will:

- Try to limit the number of Villamanta workers you have to deal with;
- Make sure that, if you contact us, you can talk to a worker in private;

- If you are on our mailing list or membership list, we will not give information about you without first getting your permission;
- Make sure that the statistics we keep do not identify anyone who has contacted us;
- Only get information from you or about you that is necessary for us to:
 - Provide a proper service to you; or
 - Tell the Government who funds us what they need to know to make sure we are doing our job properly. This information includes statistics about things like the age, gender, ethnicity, occupation, postcode and the disability of the people who contact us. (We do not tell them your name, address or telephone number).

Statistics means, for example, how many people call or how many people are a particular age, or live in a particular part of the state.

The right to confidentiality

Whenever anyone talks to a Villamanta worker to get legal advice they have a right to confidentiality. Whatever the person wanting legal advice says will be ***confidential***. The right to confidentiality is legally enforceable. The laws that apply to lawyers say how lawyers must practise according to strict rules including that they must protect the confidentiality of their clients. (***The Legal Profession Act 2004*** (Vic.))

The rules about confidentiality cover all the **information you give** anyone at Villamanta about a problem you have. If you get legal advice or legal assistance from Villamanta you have a legal right to confidentiality.

Any information a Villamanta worker gets from you will not be given to anyone else unless:

- We **ask you first and you agree to it**. You do not have to agree to the release of information but if you do we will usually ask you or your representative to sign a form to show you have agreed to the release of this information;

- **and** a worker at Villamanta needs to talk or write to another worker, lawyer or barrister in order to give you better advice or assistance;
- **or** a court has ordered the lawyer or worker to break confidentiality.

If you believe your privacy has been breached you can contact:

Health Services Commissioner — Complaints and Information
Telephone: (03) 8601 5200 - Toll Free: 1800 136 066
www.health.vic.gov.au/hsc/

Office of the Victorian Privacy Commissioner
GPO Box 5057
Melbourne VIC 3001
Ph: 1300 666 444
www.privacy.vic.gov.au

Office of the Federal Privacy Commissioner
GPO Box 5218
Sydney
NSW 2001
Ph: 1300 363 992
www.privacy.gov.au

Record keeping

A written record is kept every time you contact Villamanta about something different.

This record contains two types of information:

- ◆ The first is about you (unless you want to remain anonymous) and includes basic information about why you have called, your age, your ethnicity and your occupation. This information is put into a computer database so that we can use the information to guide the work we do to improve the rights of people who have a disability.
- ◆ The second type of information is about what you wanted and what we did to help you. This information is filed for reference only and kept in a locked safe place.

We also have computer databases that list members of Villamanta and people who get our newsletter and mailing lists for particular campaign activities.

If you have contacted Villamanta, you have the right to see and have a copy of the information we have about you. If you are on one of our databases you have the right to have your name removed.

If someone at Villamanta has done legal work for you, they will have opened a casework file containing your information. This means:

- The casework file will be opened in your name and have a record number;
- If you have more than one legal problem, you will have a separate file for each problem;
- The file will record all relevant information about your legal problem;
- The file will be kept in a safe place;
- When the legal work is finished, the file will be closed;
- You will be told when your file has been closed;
- You have the right to look at and get a copy of your file at any time.

Avoiding conflict of interest

A **conflict of interest** arises if working for one person, or one group of people, would mean we may be compromising the needs or interests of someone else we also have a commitment to.

For this reason, we:

- Will not give legal advice or assistance to people who are on opposite sides of an argument;
- Will not give legal advice, legal assistance, or community legal education to someone who does not have a disability if we think they might use that advice, assistance or information in a way that could be bad for the rights of someone who has a disability;
- Will not give legal advice to people or organisations providing services to people who have a disability if there is any chance that the people with disabilities who use that service might want legal advice or assistance about the same issue;
- And we will always make every attempt to talk with the person who has a disability, even when someone who says that they are speaking on behalf of a person who has a disability makes the first contact with Villamanta.

If two or more people with a disability are having a dispute with each other, we will only provide legal advice or assistance to the person who contacts us first.

If you contact us and we believe that there would be a **conflict of interest** for us to work for you, we will tell you that we believe we have a conflict of interest. If Villamanta cannot help you, we will try to help you to find another organisation or person that can.

Complaints and grievances

If you are not happy with how Villamanta does its job, or about the decisions we make, we want you to tell us.

We will:

- Listen to you and take your complaint seriously;
- Encourage you to have the support of an independent advocate if that is what you want;
- Not discriminate against you because you have made a complaint;
- Accept and deal with the complaint regardless of how you let us know about it;
- Deal with the complaint quickly;
- Make sure that the complaint is investigated;
- Tell you about other independent places outside of Villamanta you may complain to, including:
 - ◆ The Complaints Resolution & Referral Service;
 - ◆ The Legal Services Commissioner;
 - ◆ The Law Institute of Victoria;
 - ◆ The Office of the Public Advocate;
 - ◆ The Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs;
 - ◆ Other disability advocacy services;
 - ◆ Other community legal centres.
- Let you decide whether your complaint will be investigated by:
 - ◆ someone at Villamanta; or
 - ◆ someone independent of Villamanta.
- Tell you the results of any Villamanta investigation and what is going to happen; and
- Tell you what other choices you have if you are not happy with the result.

Anonymous complaints

If you want to complain about Villamanta and you do not want to tell us your name, you do not have to tell us your name, unless:

- You have made a serious allegation against a Villamanta worker - under the principles of 'natural justice' any person has the right to know who is making allegations against them, and what those allegations are; or
- The only way we can deal with the complaint is for us to know who you are.

Complaints process

If you want to complain about Villamanta you can choose the process to be followed. You can talk to any of the workers at Villamanta or the Executive Officer. It is the Executive Officer's job to listen to complaints and try to sort them out.

If you do not want to talk to the Executive Officer, you can contact the Chairperson of the Committee of Management. Any worker at Villamanta can tell you how to contact the Chairperson of the Committee of Management. You can send a letter to the Chairperson at Villamanta. If the envelope has "Private and Confidential" on it, staff will not open it. They will give it to the Chairperson

When Villamanta becomes aware of your complaint:

- Within seven days we will give you a copy of our Complaints Policy, which explains your rights;
- Within fourteen days we will organise a meeting with you to talk about it further. This meeting will be between you and the representative from Villamanta you agree to talk with. You will be able to bring an independent support person to the meeting if you want to;

- If the problem cannot be sorted out at this meeting, you will be able to choose what to do next and how to have your complaint investigated. You will also be able to choose who you want to investigate the complaint;
- If you choose to have someone from Villamanta investigate the complaint, we will carry out the investigation as quickly as possible, but always within a month, unless there are exceptional circumstances that mean that this would not be possible;
- We will let you know, in writing, of the outcome of the investigation when it is completed;
- We will also offer to meet with you once the investigation is completed, and to explain what is going to happen about the issues raised in the complaint;
- If you are not happy with the investigation, or any of its outcomes, we will talk about this with you and remind you that you may have the complaint investigated further by someone independent of Villamanta.
- We will give you the names and contact details for independent organisations that may be able to investigate the complaint, including:
 - ◆ The Complaints Resolution & Referral Service;
 - ◆ The Legal Services Commissioner;
 - ◆ The Law Institute of Victoria;
 - ◆ The Office of the Public Advocate;
 - ◆ The Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs ;
 - ◆ Other disability advocacy services;
 - ◆ Other community legal centres.

Making Complaints to Outside Bodies

Complaints may also be made by clients to the following external bodies. (The appropriate body will depend on the type of complaint that is being made):

Disability Services Commissioner

Phone: 1800 677 342 (free call) **Phone:** 1300 728 187 (local call)

The **Legal Services Commissioner (Vic)** www.lsc.vic.gov.au

Level 9, 330 Collins Street, Melbourne, VIC, 3000.

Phone: 1300 796 344 (local call Australia-wide) or **(03) 9679 8001** (Note: Complaints to the Legal Services Commissioner must be made in writing).

The **Department of Families, Housing, Community Services and Indigenous Affairs** (Villamanta's funder) **Phone:** 1800 634 035, **Fax:** (02) 6133 8442, **Email:** complaints@fahcsia.gov.au, **Post:** FaHCSIA Complaints, PO Box 7576, Canberra Business Centre, ACT, 2610 (**Note:** The Department recommends that you try to resolve the matter with the relevant organisation before contacting the FaHCSIA Complaints team).

The **National Disability Complaints Resolution and Referral Service (CRRS)**, a complaints resolution service for people using Australian Government-funded disability employment and advocacy services, when complaints cannot be resolved internally and/or service users feel that they cannot use a service provider's internal complaints mechanism. www.crrs.org.au **Phone:** 1800 880 052.

The **[National Disability Abuse and Neglect Hotline](#)** - an Australia wide telephone hotline for reporting abuse and neglect of people with disabilities using Government-funded services. **Phone:** 1800 880 052.

The **Office of the Public Advocate (Vic)**

www.publicadvocate.vic.gov.au

5th Floor, 436 Lonsdale Street, Melbourne, Victoria, 3000.

Post: P.O. Box 13175, Law Courts, VIC, 8010.

24-hour emergency service: Phone: 1300 309 337 (local call cost)
Fax 1300 787 510 (local call cost) **TTY** (03) 9603 9529

The **[Commonwealth Ombudsman](#)**. Complaints to the Ombudsman can be made in writing, by phone, in person or by using an online complaint form.

Phone: 1300 362 072 **Email:** ombudsman@ombudsman.gov.au **Post:** GPO Box 442, CANBERRA, ACT, 2601

Becoming involved in Villamanta

If you have a disability, in particular if you have an intellectual disability, you are encouraged to become involved with Villamanta.

Ways you can become involved in Villamanta include:

- Nominating for membership of the Villamanta Committee of Management;
- Giving us feedback about how we do our job, and/or making suggestions about how we can do our job better;
- Talking to us about issues that you believe we should be working on.

You can send us a letter or email or telephone us, or ask to meet with a Villamanta worker to talk about your suggestions.

Villamanta will pay people with disabilities some of their travel and other costs, if these costs are because of their involvement in Villamanta.

Publications

Villamanta sells books and training manuals. Villamanta sells its publications so that it can use this money to do more work to advance the rights of people who have a disability.

Below is a list of the books that Villamanta sells:

- **people.dot.community**
A practical manual on how to run a successful campaign to advance human and community rights, written by Annie Nash
- **Duty of Care - Who's responsible?**
A book for professional staff, students and volunteers within the disability, aged, youth, health and children's services sectors which guides the reader through concepts of negligence law and duty of care issues, written by Ian Parsons

- **Oliver Twist Has Asked for More** - *The Politics and Practice of Getting Justice for People with Disabilities, written by Ian Parsons*

- **Cripples, Coons, Fags and Fems**
A book for those interested in or affected by discrimination and prejudice for being different, written by Ian Parsons

- **Duty of Care and Negligence** - *A Training Manual for Carers and Support Workers*
An essential manual for providers of disability, aged, children and health care services. This manual covers duty of care issues faced daily by service managers, support workers and carers.

If you would like to buy a book you can:

- ◆ contact us on (03) 5229 2925; or
- ◆ visit our website www.villamanta.org.au; or
- ◆ email us at publishing@villamanta.org.au

Training

Villamanta provides some training about disability related legal matters such as Duty of Care and Negligence.

If you would like more information about training you can contact us on (03) 5229 2925

