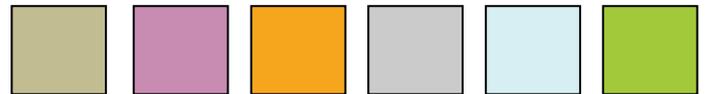




FORENSIC MENTAL HEALTH SERVICES
MANAGED CARE NETWORK
www.forensicnetwork.scot.nhs.uk

People with Learning Disabilities and the Scottish Criminal Justice System

Information about Court



Written by:
Dr. Keith Bowden, Consultant Clinical
Psychologist, NHS Forth Valley

Dr. Fergus Douds, Consultant Learning
Disability Psychiatrist, The State Hospital

Mrs. Yasmin Simpson, Forensic Speech &
Language Therapist, NHS Fife

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Information about Court

“Supporting people with Learning Disabilities”





People with learning disabilities can find it difficult to cope with going to court as a **witness**, **victim** or **accused**.



There are laws to protect the rights of people with learning disabilities in the criminal justice system.



Witnesses or Victims who have a learning disability will get help from the **Victim Information and Advice Service**. This is part of the Prosecution Service.



This service helps people with learning disabilities who are **Witnesses** to a crime and people who are **Victims** of a crime. They will tell **Witnesses and Victims** what is happening.



It is very important to find out if a victim or witness has a learning disability.



This will mean that they will get the help they need to go to court.



People with learning disabilities can find it difficult to cope with going to court as an **accused person**.



There are laws to protect the rights of people with learning disabilities in the criminal justice system.

Some people with learning disabilities may not need any help going to court.



Some people accused of a crime may not be **fit for trial**.

This may be because they do not understand what is happening to them.



It may be because they are not well enough mentally to go through a trial.



The sheriff or judge can allow the use of **Special Measures** under the **Vulnerable Witnesses (Scotland) Act (2004)**.



The sheriff or judge needs to think about:



- Is the accused person vulnerable?
- If the person is vulnerable will this mean that they may not be able to give evidence properly?



- What might help the accused person?



- What might help them to give evidence better?

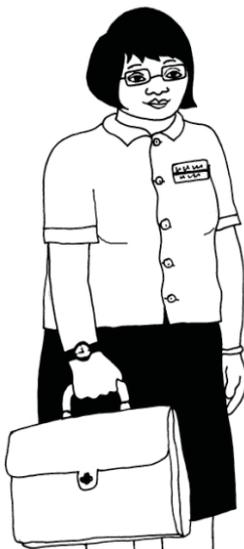


If the prosecution or defence think that someone accused of a crime has a learning disability and may need help to give evidence, they might ask for an assessment from a psychiatrist or a psychologist.

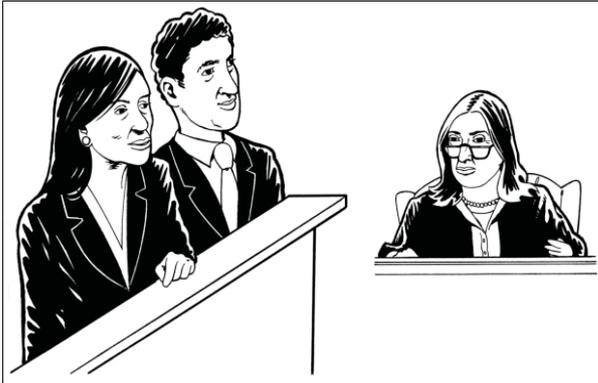


A psychiatrist will assess the person's mental health.

A psychiatrist will also assess the person's ability to respond to the charges, (fitness to plead)



A psychologist will assess the person's verbal and reasoning skills (ability to work things out)



The prosecution or defence can tell the sheriff or judge that the person has a learning disability.



The sheriff or the judge can then ask for an assessment.



The sheriff or judge can allow the person more time to give evidence.



The sheriff or judge can give the person more breaks during the court process.



If someone is accused of a crime and they are found guilty they may not be allowed to go home.



If someone is accused of a crime and they are found guilty they may have to pay a fine.



If someone is accused of a crime and they are found guilty they may have to do community service.



If someone is accused of a crime and they are found guilty the sheriff may tell them what they have to do.



If someone is accused of a crime and they are **not** found guilty then they will be allowed to go home.



People with learning disabilities can find it difficult to cope with going to court as an **victim** or **witness**



There are laws to protect the rights of people with learning disabilities in the criminal justice system.



Some people who are witnesses or victims may find it too difficult to go to court.

This may be because they do not understand what is happening to them.



It may be because they are not well enough mentally to go to court



The sheriff or judge can allow the use of **Special Measures** under the **Vulnerable Witnesses (Scotland) Act (2004)**.



The sheriff or judge needs to think about:



- Is the witness or victim vulnerable?
- If the person is vulnerable will this mean that they may not be able to give evidence properly?



- What might help the witness?



- What might help them to give evidence better?

Special Measures under the **Vulnerable Witnesses (Scotland) Act 2004** for people accused of, victims or witnesses to crimes can be:



- The use of a screen to sit behind to give evidence.



- To give evidence via a TV link from another part of the court or another building.



- To use a supporter when giving evidence.



- To make a statement to the Police or other agency like Social Work which can then be read out in court.

**Special Measures under the
Vulnerable Witnesses
(Scotland) Act (2004) are to:**

- Take evidence by a Commissioner, this means to:
 - Video record all of the questions asked by the prosecution and the answers given by the witness
 - Video record all of the questions asked by the Defence (cross examination) and the answers given by the witness
 - Play the recording of the evidence from the witness at the trial





The prosecution and defence need to know if the person with a learning disability knows the difference between the **truth** and **lies**.

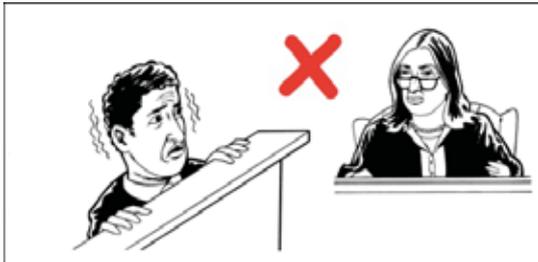


The prosecution and the defence solicitors may need to speak to someone who knows the person well.



Victim Support can help people with learning disabilities who are **victims** or **witnesses**.

Victim Support can help people with learning disabilities to understand what happens when they go to court.



Sometimes people with learning disabilities can be easily led by the person asking questions.

This is sometimes called **suggestibility**.

Some types of questions , like

“You did see this didn’t you?”

“Did you see this, yes or no?”

can be difficult for someone with a learning disability.



It is very important that people in the court do not use language that is too difficult for someone with a learning disability to understand.



Sometimes the person accused of the crime may not be able to give evidence at a trial.



This may be because of their learning disability or because of a mental health problem.



There will be an **examination of the facts** by the criminal justice professionals.

They will consider whether or not the person is guilty of the crime.



If someone with a learning disability is found guilty of a crime they would be seen by a social worker.

This social worker would be from the Criminal Justice Social Work Service.

(See the Guide called: Information about Criminal Justice Social Work Services)



The person with a learning disability may also see a psychologist.

People with learning disabilities can get a range of sentences like anyone else if they are convicted of a crime. These are now called **Community Pay Back Orders** and can have any of these conditions:



- Fines to pay



- Community Service



- Probation



People may also be sent to Prison.



If someone with a learning disability has committed a crime but cannot understand the court process, the sheriff or judge can make sure that they get help.

the new
mental
health act:
an easy
read guide



The person could be get treatment under the Mental Health (Care and Treatment) (Scotland) Act 2003.



They could be sent to hospital for treatment.



They could be told that they have to see a psychiatrist or psychologist.

More Information and Resources

There is easy to understand information available from some of these organisations:

- Mencap's 'Make it Clear' campaign home page
www.mencap.org.uk/html/ldw/makeitclear/index.asp
- Mencap 'Easy-to-use' pages
www.mencap.org.uk/html/easytoread/easytoread.asp
- List of Books Beyond Words titles
www.rcpsych.ac.uk/publications/booksbeyondwords/bbwtitlesa-z.aspx
- "Being a witness: a guide for child and adult vulnerable witnesses" - A CD Rom that includes useful information about going to court, video clips of witnesses giving evidence in court and using special measures, as well as a virtual tour of a courtroom. This is also available in DVD format.
Published by the Scottish Government
Copies are available by phoning: 0131 244 2213
- "Being a witness – going to court" - A booklet for adult witnesses in criminal and children's hearing court proceedings. Published by the Scottish Government
Hard copies are available by phoning: 0131 244 2213
www.scotland.gov.uk/Topics/Justice/criminal/17416/InformationMaterials
- "Being a witness – the use of special measures" - A booklet for adult witnesses in criminal and children's hearing court proceedings. Published by the Scottish Government. Hard copies are available by phoning: 0131 244 2213
www.scotland.gov.uk/Topics/Justice/criminal/17416/InformationMaterials

- “What happens next?” A DVD resource for people with a learning disability
Published by Lanarkshire ACE, Speak Out Advocacy Project. The DVD is available by phoning: 01355 230202.
- “Victims of Crime in Scotland” - A Scottish Government website with information for victims.
www.scottishvictimsofcrime.co.uk
- “I am a witness in court – a guide for people with learning disabilities” - An easy-read booklet published by the Scottish Government. Hard copies are available by phoning: 0131 244 2213.
www.scotland.gov.uk/Topics/Justice/criminal/17416/InformationMaterials
- British Institute of Learning Disabilities, Advocacy homepage
www.bild.org.uk/04advocacy.htm
- Foundation for People with Learning Disabilities, Advocacy homepage
www.learningdisabilities.org.uk/page.cfm?pagecode=ISRVADAR
- Voice UK, advice for advocacy and self-advocacy groups
www.voiceuk.org.uk/trainequalaccess2.htm
- The UK Advocacy Network (UKAN)
www.ukan.co.uk/index.html
- The New Mental Health Act: An Easy Read Guide
www.scotland.gov.uk/Publications/2007/09/03145057/0



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