

How to support attention difficulties



What is attention?

In basic terms, attention is the ability to focus on a specific task or stimuli, while 'tuning out' other things. Almost all of us will have limitations in terms of how long we can focus on something and how well we can suppress distractions.

Attention can be thought of as the 'first building block' of successful communication. In order to achieve effective communication, all participants must first be able to pay attention to the interaction which is taking place.

For example, if your client is unable to focus on your legal advice, the contents of an expert report, evidence in the courtroom or an oral judgement, they will not be able to move on to the next steps in the 'communication chain': processing, understanding and retaining the information.

Many people have difficulties with attention, including those who do not have any formal diagnoses. However, there are some forms of neurodivergence and some conditions which may impact an individual's attention skills.

People with [Attention Deficit Hyperactivity Disorder](#) (ADHD) may struggle to maintain attention over a prolonged period, may be easily distracted and may have difficulty switching their attention between different topics and tasks.

[Autistic people](#) may have sensory sensitivities or special interests which place additional demands upon their attention.

People with a mental health condition, such as [Post-Traumatic Stress Disorder](#) (PTSD), may experience flashbacks or trauma responses to certain topics, which impact their attention.

Other mental health conditions, such as [anxiety](#) and [depression](#), can also adversely impact attention, as can conditions which increase fatigue (such as [stroke](#) or [brain injury](#)).

Attention in legal proceedings

Legal proceedings require all participants (including legal professionals!) to exert attention for prolonged periods, often while listening to complex, lengthy or emotive information in a courtroom environment, which contains many potential sources of distraction.

Even in conferences, away from court, your client may need to focus on a very large volume of information about challenging topics for a long period of time.

If your client is having difficulty managing, maintaining or switching their attention in court or conferences, they are likely to miss key information, which can have a range of adverse effects upon their participation. They may, for example, miss a key point of evidence in the courtroom, which they would otherwise wish to challenge, or may not attend to important legal advice during conferences, and be unable to make a fully informed decision about their case.

Assisting attention

The strategies required to support an individual who has attention difficulties will vary from person to person. An [intermediary assessment](#) will provide insight into your client's communication strengths and difficulties and make bespoke recommendations to support them at all stages of proceedings.

The following general tips may be of assistance. You may find it helpful to [explore our other guides](#) to working with clients with specific diagnoses.



Consider the environment. For conferences, choose a quiet, private space. You may choose to seat your client facing away from windows. In hearings and meetings, minimise distractions (such as lighting that triggers any sensory sensitivities your client may have).



Ask your client about their attention. They may have insight into how long they can focus for, signs they have lost attention, common distractions and strategies which assist.



Try using an attention scale which your client can use to indicate their level of attention. This can help to inform when breaks should be taken. A 'break card' may help them to self-advocate when they have lost focus.



Provide a daily court timetable including the likely stages that will be included in proceedings each day. An overview of the different stages in a long conference may also prove helpful (e.g., when you will take breaks).



Take regular breaks and encourage your client to take a complete rest from processing information. They may benefit from some fresh air or playing a smartphone game.



Use a topic list in conferences. Introduce what you will discuss and cross off each topic or task as it is completed. If your client digresses or becomes distracted, referring them back to the list may help to redirect their attention.



Encourage your client to move around in meetings or hearings (if permitted). They may benefit from standing up or walking. A fidget object, such as a piece of Blu Tack or a stress ball may also assist.



Be aware that **physical movement and restlessness may not always be a sign of inattention**, these presentations may be strategies which support attention.



Provide a simple note of discussions and key points from hearings (if your client has effective literacy) to ensure they have access to all key points they may have missed through loss of attention. If your client has literacy difficulties but is able to access voice notes, sending a short 'bullet point' style verbal update may also be helpful.

Signs of reduced attention

Being aware of the signs of attention difficulties in your client can help you to implement breaks and other strategies more effectively. It is important to remember that everyone is different.

For example, fidgeting and physical restlessness may indicate reduced attention in some people, but may be an effective attention management strategy for others.

Some common signs of reduced attention include:

- **A change in your client's responses.** They may provide less relevant, slower, more hesitant, less detailed or more rushed and

impulsive responses to questions as their attention wanes.

- **Increased physical restlessness or fidgeting.** However, as noted, this presentation does not always mean your client has lost focus.
- **Appearing increasingly disengaged or distant.** They may engage less, look down or look away from the conversation or task which requires their attention.
- **Increased emotional dysregulation.** Your client may appear increasingly frustrated when their attention wanes.
- **Increased distractibility.** They may respond more markedly to environmental stimuli, e.g., movement outside a window, a ringing phone or papers rustling.

Further reading

- [ADHD and Offending](#), Young, S., Cocallis, K. (2021) - *Journal of Neural Transmission*.
- [Interrogative suggestibility, compliance and false confessions among prisoners and their relationship with attention deficit hyperactivity disorder \(ADHD\) symptoms](#), Gudjonsson et al (2008) - *Psychological Medicine*.
- [Attention Deficit Hyperactivity Disorder \(ADHD\) and the Criminal Law](#), Freckelton (2020) - *Psychiatry, Psychology and Law*.
- [ADHD & Criminal Justice: Understanding the Iceberg](#) (2022) - *Communicourt blog*.

From The Access Brief

- [ADHD in legal proceedings](#)
- [Autism in legal proceedings](#)
- [PTSD in legal proceedings](#)
- [Anxiety in legal proceedings](#)

Intermediary services

If you are concerned about your client's ability to communicate effectively and participate in legal proceedings, Communicourt can help.

We will assess your client to understand their communication needs and how these might affect them in court. Your client does not need to have a diagnosis. Our reports will identify any particular communication issues and make bespoke recommendations to help you and your client throughout proceedings.

If intermediary assistance is recommended, one of our highly trained intermediaries can be there throughout proceedings to facilitate those recommendations.

Intermediaries are mostly funded by HMCTS, with no charges or payments required by legal representatives.

How to book an intermediary

- 1 Refer online.** Refer your client for an assessment through [our online portal](#) (5 minutes).
- 2 Funding.** We send a quote for you to send to Legal Aid / HMCTS to approve (24 hours).
- 3 Book assessment.** Once funding is approved, please let us know. We will schedule an assessment (2-6 weeks).
- 4 Assessment will** take up to 3 hours and can be conducted in person or remotely. You will then receive a report (7 days).
- 5 Book dates** for hearings or conferences. We will send you booking forms to be signed by the court. Once signed, we will book the intermediary.