

Children & young people in legal proceedings



Whether they are witnesses, defendants, intervenors or respondents, children and young people face considerable barriers to participation in legal proceedings, simply by virtue of their age, developmental level and world knowledge.

How an intermediary assists a child or young person in proceedings will vary depending on their age, communication needs and their involvement with the proceedings.

For example, in criminal cases, a child witness is most likely to be supported through the [Witness Service](#) and may participate through a S28 pre-recorded video, facilitated by a [Registered Intermediary](#), or perhaps via a live-link.

A young defendant, respondent or intervenor may be assisted by a [non-registered intermediary](#) throughout legal conferences and trial.

Young people without communication difficulties

It is important to remember that even children and young people who have strong communication abilities for their age may experience communication difficulties in legal proceedings. The Advocate's Gateway ([Toolkit 6](#)) notes:

“Even bright, intellectually able children find court communication methods, and language, challenging simply because of their age. The ‘rules’ of court communication are very different from those used in everyday conversation. For example, children are not used to having to

provide elaborate accounts. In everyday conversation gist information is enough. In addition, children are often told to listen and wait to speak. They are not used to being the main information providers (Lamb and Brown, 2006)”.

[Toolkit 8](#) further highlights: “Teenagers are at particular risk of miscommunication because of their reluctance to ask for clarification and adults’ expectation of their ability to understand”.

Young people with communication needs

Children and young people with communication difficulties and difference may find legal proceedings particularly challenging to understand and participate in.

It is important to be aware that some young people with communication difficulties or differences may not have received a diagnosis. For some, their needs may be unidentified, while others may face long waiting times, for example for [autism](#) and [ADHD](#) assessments.

Assisting young people at court

The strategies required to facilitate a child or young person’s understanding of and participation in legal proceedings will vary considerably depending on a wide range of factors such as their age, role in proceedings and their communication abilities. An [intermediary assessment](#) can identify what support and adjustments they may require.

The following adjustments and strategies may not apply to all children and young people involved in legal proceedings, but provide a general overview of possible measures.

Special measures

The court may agree to implement a range of special measures to facilitate a child or young persons' participation, such as:

- **S28 pre-recorded evidence** - this measure, allowing the court user to pre-record their evidence outside of live court proceedings, is automatically available to all child witnesses).
- **Live-link direction** - this allows the witness to give evidence remotely in real-time, from outside the courtroom. This measure can be used for child witnesses and can be extended to *some* young defendants (Criminal Procedure Rules, 2020).
- **Removal of wigs and gowns**, which may be particularly intimidating, confusing or discomforting for a child or young person.
- **Use of screens in the courtroom**, for example, to prevent a young witness from seeing a defendant. This measure *may* also be available to a young defendant or respondent, for example to support attention and reduce the impact of anxiety upon their evidence.
- **Application for an intermediary**, this measure is available upon application. Depending on the case and court user, an intermediary can assist during evidence or throughout proceedings (including in conferences relating to the case) to help facilitate communication and participation.

Communication in the courtroom

N.B., These adjustments should be adapted according to the court users age and communication profile:

- **Use everyday vocabulary**, avoid specialist

words (e.g., legal terminology) where possible. If more specialised vocabulary is unavoidable, provide a simple explanation. For example, after the indictment is read, explain its contents in simple terms.

- **Avoid figurative language**. Young people typically have more limited exposure to non-literal expressions which are commonly used in court. Use concrete language instead. For example, swap "*I don't want to kick this issue into the long grass*" for "*I don't want to put off dealing with X*".
- **Use short sentences as far as possible**. It may help to imagine speaking in 'bullet points'.
- **Allow opportunity for a court familiarisation visit**, where the young person can be shown the courtroom. Seating arrangements and the roles of each participant can be discussed, as well as clear instructions e.g., 'what to do if you want to ask your barrister a question'.
- **Request that the young person is permitted to sit outside of the dock**, ideally alongside a familiar person (such as a support worker or family member - in the absence of an intermediary).
- **Request the young person is permitted access to a fidget aid** (particularly if this is recommended by an intermediary) such as a stress ball, to help them manage their emotions and attention.
- **Provide a simple list outlining the hearing process**, which will support the young person to 'follow along' during proceedings.
- **Request regular breaks** are scheduled to support the young person's attention and to allow opportunity for recaps, explanations and simplifications in conference.
- **Request a Ground Rules Hearing** to discuss adaptations which will be implemented during hearings, including during the young person's evidence.
- **Encourage all advocates to introduce themselves** to the young person outside of

court. Ask that they explain their role, but approach the meeting in an informal way and keep it person-first.

- **Carefully consider question style** during the young person's evidence. Each young court user will have a different communication profile and questions should be adapted accordingly. As a general rule, use direct questions (starting with a direct interrogative such as "What?", "Where?", "When?" or "Did?". Use everyday vocabulary. Keep questions very short. Ask about one issue at a time. Avoid tag questions and interrogative statements.
- **Remind the young person of what to do** during their evidence. For example, it may assist to recap at the outset of each 'round' of questioning that they should "Say if you don't know", "Say if you don't understand", "Say if you need a break".

Communication in conferences

- **Take time to build rapport.** This will help ensure the child or young person feels as comfortable as possible, making it easier for them to self-advocate (for example, by indicating when they do not understand or need a break) and share any information they think is relevant. Rapport-building will look different for every child or young person, but some helpful steps can include using first names, choosing less formal attire for conferences, removing any professional lanyards, and taking time to find out about their interests. Depending on the young person's age and interests, ice-breaker activities may prove helpful.
- **Set out the 'rules' and structure of the meeting.** For example, remind the client that they must say when they don't understand (a simple post it they can point to could be implemented to facilitate this), and introduce a topic list at the outset of the meeting. It may empower the young person if they are given the opportunity to choose the order in which topics are discussed.

- **Make tasks interactive.** For example, if asking them to explain a narrative, involve them in making post-it notes of each event which they can then order chronologically. If discussing a decision they need to make, encourage them to create a pros and cons list.
- **Use visual aids** to explain more abstract or complex information and concepts. For example "joint enterprise", a "pool of perpetrators" or "consecutive" vs. "concurrent" sentences. Learn more about [creating visual aids here](#).
- **Do not assume understanding - check it.** Ask open questions which encourage the young person to explain what they have understood in their own words. If they are not comfortable with this approach, ask them their opinion about the topic, this will help you to indirectly gauge their level of understanding and provide further explanation, where necessary. Learn more about [checking understanding here](#).
- **Take regular breaks.** These can be used for informal conversation that supports rapport building, or provide the young person with a total communication break which supports their attention and emotional regulation.
- **Provide easy-read summaries** of key case documents and notes of what has been discussed in meetings. These can support the young person's retention of key information. Learn more about [creating easy read documents here](#).



Further reading

- The Advocate's Gateway - [Toolkit 6: Planning to question a child or young person](#)
- The Advocate's Gateway - [Toolkit 8: Effective participation of young defendants Witnesses & Defendants with Autism](#)
- Youth Justice Legal Centre - [Explainer videos for young people](#)
- Youth Justice Legal Centre - [Legal guides and toolkits](#)
- MoJ - [Videos for children attending court](#)
- Howard League - [A guide to remand for young adults](#)
- [Supporting Young Offenders to Communicate in the Youth Justice System: A Scoping Review](#) (Sowerbutts et al, 2021)

From The Access Brief

- [How to create visual aids](#)
- [How to create easy read documents](#)
- [How to check understanding](#)
- [Supporting emotional regulation](#)
- [Intermediary assessments](#)
- [How can an intermediary assist at trial?](#)
- [ADHD in legal proceedings](#)
- [Developmental Language Disorder \(DLD\) in legal proceedings](#)
- [PTSD in legal proceedings](#)
- [Autism in legal proceedings](#)
- [Learning disability 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.