

Attention Deficit Hyperactivity Disorder (ADHD)



What is ADHD?

ADHD (Attention Deficit Hyperactivity Disorder) is a common, often lifelong, developmental neurological condition “characterized by a persistent pattern of inattention and/or hyperactivity or impulsivity that interferes with functioning or development”.

The condition is also associated with difficulties with sensory sensitivity, timekeeping, mathematical ability, reading comprehension, and sleep. There are three categories of ADHD:

- **Inattentive** (20-30%): Difficulties with attention and focus. Individuals may have difficulty maintaining focus on one task, may flit from one activity to another, or may be easily distracted.
- **Hyperactive and impulsive** (15%): The main symptoms are related to impulsivity and hyperactivity, which may present as behavioural difficulties or risk-taking behaviour.
- **Combined** (50-75%): A combination of inattentive and hyperactive/impulsive symptoms.

Undiagnosed ADHD

Although ADHD presents in childhood, many people do not receive a diagnosis until it is sought in adulthood.

Some people are less likely to have a diagnosis. Underdiagnosed populations include people with ADHD but no outward hyperactivity, people in ethnic minority groups, and women and girls.

Your client may present with ADHD symptoms, but may not have been assessed or diagnosed. This means that they will not have access to specific ADHD support such as medication.

Facts & statistics

25%

of adult prisoners in Britain met the criteria for some form of ADHD (Freckelton, 2020)

96%

of offenders with ADHD have co-occurring problems including mood, anxiety, and conduct (Young and Cocallis, 2021)

19%

of young offenders have some form of ADHD, compared to 1.7% percent in the general population (Hughes et al, 2012)

Sources

Freckelton, I. (2020) *The Impact of ADHD in Criminal Law*, Psychiatry, Psychology and Law 202; 26: 817-840,

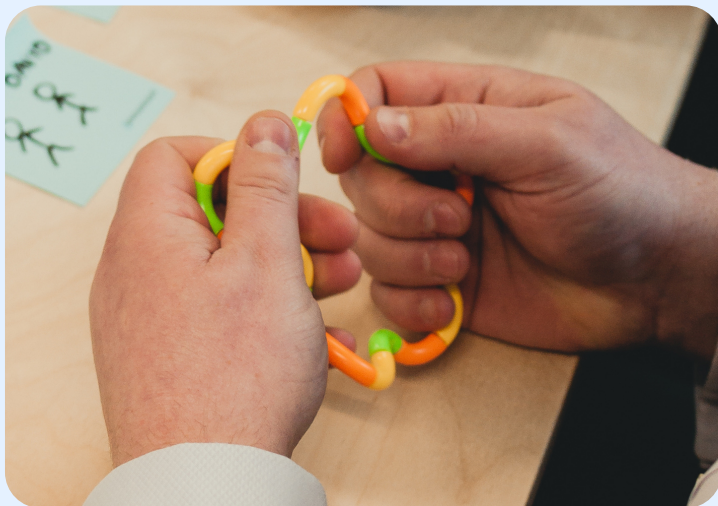
Hughes, N., Williams, H., Chitsabesan, P., Davies, R., Mounce, L. (2012) *Nobody made the Connection: The Prevalence of Neurodiversity in Young People who Offend*, Children's Commissioner report,

Young, S., Cocallis, K. (2021) *ADHD and Offending*, Journal of Neural Transmission, 128(7): 1009-1019

Impacts of ADHD at court

ADHD may impact your client during legal proceedings in a number of ways. They may:

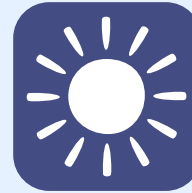
- Have difficulty waiting for their turn to speak in conferences or court. They may seem impatient to tell you something whilst they remember, if they experience forgetfulness.
- They may have difficulty inhibiting the first response they think of. For example, they may be more likely to answer “don’t know”, which can be seen as evasive.
- Have difficulty consistently focussing on proceedings. They may miss key evidence or arguments.
- They may also struggle to give full, clear instructions in structured manner, if having difficulty organising their thoughts into responses.
- Be easily distracted by factors such as background noise or people coming in and out of the courtroom.
- Have greater difficulty towards the end of the day when their medication may be wearing off.
- Be restless or have or excess energy. They may present as fidgety or feel the need to leave their seat.
- Have difficulties with emotional management, particularly when stressed, overloaded or overstimulated.



Tips for legal professionals



When taking background information, ask whether your client ever had ADHD as a child. This may elicit a different response to “Do you have ADHD?” as many people are incorrectly told that they grow out of the condition.



Consider the environment, whether this is a conference room or the courtroom. Are there adjustments you can make to minimise distractions? This may include choosing a quieter room (away from adjoining rooms), seating your client to face away from windows, or requesting that entrance/exit from the courtroom is avoided during hearings.



Monitor your client’s attention levels and patterns of attention throughout the day. Do they struggle with longer days due to the impact of fatigue or medication, for example? Based on your observations and any information they provide, suggest adjustments to break schedules, the length of the court day or the time your client will give evidence.



Take regular breaks during conferences and hearings. Encouraging your client to leave the room and engage in some movement can make breaks more effective in supporting attention and emotional regulation



Request shorter court days to support difficulties with maintaining attention over an extended period, and limit the number of different topics or witnesses attended to each day.



Use physical copies of paperwork, as this is often easier to engage with (for clients with effective literacy skills) compared to information presented on screens. Paperwork can be highlighted or drawn on to help your client focus on relevant information.



Provide a simple note of key information or topics for your client (dependent on literacy skills) to take home after conferences or hearings. This can be a helpful reminder and support retention of important details. For clients with literacy difficulties, a recorded voice note may be helpful.



Try interactive tasks to support your client's engagement. This might involve re-enacting a key event to help them describe it, rating each point within a statement with 'agree' or 'disagree', or creating a timeline of events together (either on paper or using a set of post-its which can be rearranged).



Consider the structure of conferences. Taking full instructions may be challenging, as people with ADHD can sometimes make connections between topics or switch between topics at a fast pace, providing a lot of information, but in a way that is less easy for others to follow.

Preparing and introducing a topic list at the start of the meeting can assist your client to remain focused on what you need to discuss, and can be used to refocus them if necessary.

For clients who switch topics rapidly, taking brief notes whilst they are speaking can assist you to follow up after digressions and clarify any unfinished points.



Recap key points from conferences and hearings, as your client may have lost focus. It may assist to ask them to recap what they can remember, before 'filling in the blanks'.



Movement or restlessness does not always mean inattention or disengagement. Though increased restlessness may indicate it's time for a break, clients with ADHD may find remaining seated for the duration of a meeting challenging or uncomfortable. Allowing them to stand, pace or move around the room during conferences may support engagement and focus



Implement strategies to regulate emotions and de-escalate sensory overload. This may include:

- Scheduling regular breaks, implementing extra breaks when your client appears stressed or frustrated
- Encouraging free movement (where permitted)
- Providing fidget aids (like a stress ball).



Be aware of the higher likelihood of impulsive answers. Your client may give an initial response of "*I don't know*", but be able to provide a more detailed response when given time to process the information.

Whilst giving evidence, they may benefit from a slower pace and encouragement them to take their time to think. During conferences, you could revisit key points later on, checking whether they have anything to add.

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

- [How to create visual aids](#)
- [Supporting emotional regulation](#)
- [Intermediary assessments](#)
- [How can an intermediary assist at trial?](#)

About ADHD UK

ADHD UK is a registered charity, funded exclusively by personal donations. The organisation aims to help people navigate their life with ADHD, seeking to reduce the stigma that some attach to those with ADHD.

ADHD UK works to build awareness, and undertake or fund research that will have a meaningful positive impact on those with ADHD.

The charity provides a wide range of helpful information on its website and through initiatives like the annual ADHD UK global conference. They also run free, peer-led [video support groups](#) for people with ADHD from a wide range of backgrounds.

Visit the website to learn more and [donate](#).

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 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.