

Autism & legal proceedings



What is autism?

Autism is a lifelong neurodevelopmental difference. Autistic people may think, communicate and interact with the world in a different way to neurotypical people.

Autism has many different features, and no two autistic people are the same. However, there are some common autistic traits. These may include cognitive and communication strengths. For example, some individuals may:

- Have strong attention to detail
- Be creative and visual thinkers
- Be honest and truthful in very direct ways

Some autistic people may also have cognitive or communication differences, which can make communication in neurotypical settings more challenging, for example:

- **Executive functioning differences**, which can affect planning, focussed attention, task initiation and other skills. Differences in this area may drive a need for routine and difficulties adapting to changes and transitions.
- **Strict adherence to routines**, and repetitive behaviours
- Difficulty seeing things from **different perspectives**. A very strong and inflexible sense of justice and fairness.

- **A narrow range of interests** and very intense interests
- **Sensory differences**, including over or under-stimulation from external stimuli such as smell, heat, light, noise or touch.
- **Difficulty predicting** what is going to happen next.
- Difficulties **understanding non-verbal communication** or the intent of language

Autism can co-occur with conditions such as a learning difficulty or disability, attention deficit hyperactivity disorder (ADHD), dyspraxia and epilepsy. Some autistic people have mental health conditions like depression and anxiety.

Undiagnosed autism

Many autistic people do not have a diagnosis. This is particularly common within the criminal justice system, where individuals may not have had access to support or services over the course of their lifetime.

If you have noticed some of the traits listed, it is important to consider whether the court user you are working with may have undiagnosed autism, in order to adapt your communication and make appropriate interventions (e.g., requesting an intermediary assessment).

The following presentations may indicate that your client has autistic traits:

- Difficulties with the use and understanding of language, which make social interactions more challenging
- Struggling to understand the verbal information you provide (*in combination with other indicators*)
- Very direct responses, or speaking at length about a particular topic and frequently digressing to speak about that topic
- Sensitivity to sensory stimuli in the environment e.g., light and noise
- Heightened anxiety or difficulty regulating their emotions during meetings, conferences and hearings (in combination with other indicators)

Impact on communication

Your client may have differences in their use and understanding of language, making neurotypical social interactions more challenging.



They may have difficulties with social communication such as understanding 'social rules' (e.g. conversational turn-taking), understanding non-verbal communication, or may have different preferences regarding eye contact (note reduced eye contact does not mean an individual is not listening).



Your client may speak at length about topics of interest to them, which do not appear immediately relevant to the situation. They may not respond to social cues to return to the topic of conversation.



They might find it difficult to see things from another's point of view or interpret others' behaviour. They may see things in 'black and white' terms or demonstrate empathy differently.



Your client may have difficulty understanding non-literal language or drawing inferences from information. They may not understand sarcasm or humour.



Their speech and language skills may be limited. While some autistic people have above average language skills, others may be non-speaking, or have difficulty expressing themselves verbally. They may also struggle to process and understand verbal information.



Emotional changes may have a considerable impact upon your client's communication skills. For example, when upset, they may have more marked communication difficulties.

For some autistic people, stress, emotional changes, overstimulation, fatigue and other factors can make it especially difficult to communicate in neurotypical settings. Some people report experiences such as autistic burnout, autistic meltdowns and shutdowns.

It's important to keep in mind that every autistic person is different. For this reason, their presentation and difficulties throughout court proceedings can vary considerably. There is no 'one size fits all' approach and it is important not to make assumptions about your client's communication skills.

An intermediary assessment will explore each area of communication to identify your client's specific strengths and difficulties, then make bespoke recommendations to assist your client at court. Your client does not need to have a formal diagnosis for a referral to be made. Learn more about [intermediary assessments here](#).

Communication tips



Introduce yourself and your role and allow plenty of time for rapport building. Ask about your client's interests and discover what is important to them.



Ask your client what they find helpful and unhelpful when communicating about their case or at court. They may have good insight into strategies which assist them.



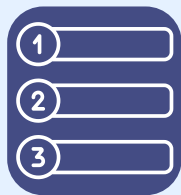
Be mindful of the environment, it can be helpful to ask if the room is suitable e.g. not too bright or noisy. Adapt the setting where possible.



Consider gesture and expression. Some autistic people may find gesture and facial expression helpful in supporting understanding. Others may find extraneous gesture or facial expression distracting or confusing.



Use short sentences and simple, concrete language. Avoid ambiguous or figurative expressions like, "It's in the judge's hands".



Give clear expectations and instructions, it can be helpful to discuss topics in a predetermined order, you could write them down and tick them off as you go along.



Outline 'next steps' clearly in advance. Knowing what to expect, what will happen and who they will speak to can help reduce anxiety. Timetables, calendars and pictures (e.g., of locations or people) may be helpful.



Allow extra time for processing information.



Check your client's understanding with direct comprehension questions. E.g., "What does bad character mean?" and "What will happen next in court?".



Use visual resources (if this is a strategy your client finds helpful). Many autistic people find visual resources, like diagrams, helpful when processing information. Your client may prefer to use these types of resources discreetly, so be sensitive to this wish. If your client has the required level of literacy, diaries, phone calendars, reminders and post it notes may also prove helpful. Ask your client which tools they use in everyday life. Read our [guide to using visual aids](#).

Facts & statistics

1%

of people in the UK are autistic (*National Autistic Society, 2022*)

5-7%

of people referred to liaison and diversion services by the courts are autistic (*Criminal Justice Joint Inspection, 2021*)

19%

of people in UK prisons have autistic 'indicators' (*Criminal Justice Joint Inspection, 2021*)

Sources

National Autistic Society [Website] www.autism.org.uk/advice-and-guidance/what-is-autism, Accessed: September 2022

Criminal Justice Joint Inspection (2021) [Neurodiversity in the criminal justice system: A review of evidence](#), Accessed [online]: September 2022

Further reading

- The Advocate's Gateway - [Toolkit 15: Witnesses & Defendants with Autism](#)
- National Autistic Society (NAS) - [Criminal Justice: a guide for police officers and professionals](#)
- [Autism and the criminal justice system](#): An analysis of 93 cases (Slavny-Cross et al, 2022)
- ['Our normal is different'](#): autistic adults' experiences of the family courts (George et al, 2020)

From The Access Brief

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

About Resources for Autism

Resources for Autism is a registered charity, providing practical services for children and adults with a diagnosis of autism and for those who love and care for them.



The charity has a team of trained, enthusiastic and kind staff and volunteers offering a wide range of support. All staff are autism specialists who understand communication and sensory needs.

Explore the Resources for Autism website to [access their training](#), to find [anxiety management resources](#) for autistic adults, to learn more about [their services](#) and to [donate](#) to their important work.

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.