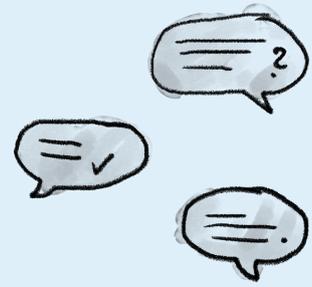


Effective communication with people with disability



Key considerations

Everyone in the criminal justice system has a right to understand and exercise their rights.

Effective communication with people with disability is critical to:

- ensuring they feel recognised, respected and supported
- building trust and rapport
- uncovering and identifying their support needs
- protecting a person's right to a fair hearing.

Effective communication gives people an understanding of their legal options so they can make informed decisions about how to proceed.

Better communication throughout court processes may also result in less restrictive sentencing options and reduced likelihood of recidivism.

If a person understands and is an active participant in the justice process, **research**¹ suggests that they will see the process as fair, and be more likely to comply with court orders and the law. Lawyers, judicial officers and other court professionals have an obligation to adjust their practices to ensure proceedings are fair and accessible for people with a disability.

What to do

1. **Ask** the person how they would like to receive your communication and communicate with you. A person may want you to write down what you are saying, use **Easy English**² communication styles or have another person sit in at meetings or at court.
2. **Listen**, speak to and make eye contact with the person with disability – not another person in the room. Make reasonable adjustments to the way you work. Explain why you can't make adjustments if they're not possible.
3. **Check** regularly that the person can understand what you are communicating. Make sure people are familiar with the terms and concepts you're using by asking them to explain concepts back to you in their own words.
4. **Respond** with alternative ways of communicating if you are not being understood. Avoid using long sentences, double-negatives and conflating concepts and questions. Be clear, concise and use straightforward language. Consider using visual tools to supplement your communication, such as drawing abstract concepts or procedures.
5. **Respect** the individual and their experience by using **disability rights language**³. People with disability do not *suffer* from their condition, they live with it. People with disability are not *courageous* for living with their disability, they have a right to access services and live their lives in the community.

What to avoid

1. **Assuming** you know what a person with disability is experiencing, needs or wants. Every person is different and will have different support needs. Offer support, but be prepared for it to be refused.
2. **Using jargon**. The criminal justice system is filled with jargon and some of it is unavoidable. Adjournment, undertaking, order, bail, evidence – these are terms that many people do not readily understand. Avoid using jargon and always explain terms if they are going to be used in court, even if the person has been through the justice system before.
3. **Rushing**. Court is a stressful and time-pressured place for everyone. If there is not enough time to have a respectful interaction, find a time and space where you can. Accept that it may take longer to communicate complex concepts, but this does not mean that they cannot be communicated to and understood by a person with disability.
4. **Patronising** a person with disability or talking down to them. Use a normal tone of voice. If you don't understand what someone has said to you, don't pretend to understand – respectfully ask the person to repeat or rephrase.
5. **Interrogating**. Avoid asking unnecessary personal questions about someone's disability or impairment. It can be embarrassing for people to have their symptoms and experiences broadcast

in court. Be mindful that some of the information that needs to be communicated about a person is sensitive. If you need to know, explain why and how you will use that information to better support the person with disability.

Other things to consider

Be trauma informed. Many people in the criminal justice system have experienced trauma and people with disability are at greater risk.

More information on trauma-informed practice can be found on the **NSW Mental Health Coordinating Council (MHCC)**⁴ website and the **Blue Knot Foundation**⁵ who have produced a guide for applying trauma-informed practice in legal contexts.

Further guidance:

Effective communication with people with disability: supportingjustice.net/effective-communication

This guide has been specially designed to help legal and court professionals communicate better with people with disability.

References

1. Procedural Justice, **Centre for Court Innovation** (<https://www.courtinnovation.org/areas-of-focus/procedural-justice>)
2. Accessible information—Easy English and plain language, **Scope Australia** (<https://www.scopeaust.org.au/services-for-organisations/access-and-inclusion-for-businesses/accessible-information/>)
3. How we talk about disability matters! (PDF), **Disability Advocacy Resource Unit**, (<https://www.daru.org.au/wp/wp-content/uploads/2019/03/Human-rights-info-sheet-for-website.pdf>)
4. Trauma-informed care and practice, **The Mental Health Co-ordinating Council**, (<https://www.mhcc.org.au/project/trauma-informed-care-and-practice-ticp/>)
5. Trauma and the Law: Applying Trauma-Informed Practice to Legal and Judicial Contexts, **Blue Knot Foundation**, (<https://www.blueknot.org.au/Resources/Publications/Trauma-law>)

Notes



Effective communication example 1: Giving advice on options

Who: Duty lawyer and a person with disability

Scenario	Analysis
<p>What might be said:</p> <p>The options today are that I can adjourn your matter or you can plead guilty.</p> <p>If you just want to finalise it today, we can go ahead with a plea.</p> <p>Looking at your priors it's likely that if you plead guilty today you would be sentenced to another community corrections order.</p> <p>Do you want to go ahead and finalise today?</p>	<p>X Uses jargon – 'adjourn', 'plea', 'priors' and 'sentence'</p> <p>X Binary yes/no options do not confirm the person has understood.</p>
<p>Communicating the same things more effectively:</p> <p>We can put off this off to another day.</p> <p>Or, if you want to finish up today, you will need to accept responsibility for what the police are saying you did.</p> <p>I can see that last time you came to court, the Magistrate gave you a community corrections order.</p> <p>If we finish your matter today, I think it's likely the Magistrate will give you another community corrections order.</p> <p>Do you want to put it off to another day or accept what the police are saying?</p>	<p>✓ Explains jargon terms in plain language</p> <p>✓ Relates to shared understanding already established</p>

Further guidance:

Effective communication with people with disability
supportingjustice.net/effective-communication

This guide has been specially designed to help legal and court professionals have better communications with people with disability.

Effective communication Example 2: Plea in mitigation

Who: Lawyer speaking to the magistrate

Scenario	Analysis
<p>What might be said:</p> <p>Tom suffers from autism spectrum disorder. His impairment means that he struggles to engage with services which speaks to his prior history of failed community corrections orders.</p>	<ul style="list-style-type: none">✗ Does not use disability rights language✗ Suggests that the problem is the disability and not the service provider✗ Assumes continued non-compliance
<p>Communicating the same things more effectively:</p> <p>Tom has autism spectrum disorder.</p> <p>Community corrections have previously failed to engage effectively with him or respond to his disability needs.</p>	<ul style="list-style-type: none">✓ Person-first language✓ Indicates capacity to engage when reasonable adjustments are made

Further guidance:

Effective communication with people with disability
supportingjustice.net/effective-communication

This guide has been specially designed to help legal and court professionals have better communications with people with disability.

Example 3: Explaining an order

Who: Magistrate to the defendant

Scenario	Analysis
<p>What might be said:</p> <p>Today I'm sentencing you to an adjourned undertaking of 12 months.</p> <p>This undertaking has the following conditions:</p> <ul style="list-style-type: none">• Firstly, you agree to be of good behaviour for the next 12 months.• Secondly, you agree to continue to engage with your GP Dr Lee and provide a letter confirming your engagement to the court. <p>If you agree with these conditions you will need to sign the paperwork before you leave the courtroom.</p>	<ul style="list-style-type: none">✗ Uses jargon – 'adjourned undertaking'✗ Rushes complex concepts✗ Does not engage with the person
<p>Communicating the same things more effectively:</p> <p>Today I am going to give you an adjourned undertaking. An adjourned undertaking is a promise to the court.</p> <p>I am asking you to promise to do two things:</p> <ul style="list-style-type: none">• The first thing is to stay out of trouble for the next year.• The second thing is to keep on attending appointments with Dr Lee and follow their advice. <p>Can you tell me what I'm asking you to promise?</p> <p>If you agree to stay out of trouble and keep going to Dr Lee you will need to sign a piece of paper. The court will have a copy and you will have a copy. I want you to show your copy to Dr Lee.</p> <p>I want Dr Lee to provide a letter to me to confirm you are attending your appointments. You need to show that piece of paper to Dr Lee.</p> <p>Do you promise to stay out of trouble and keep going to Dr Lee?</p>	<ul style="list-style-type: none">✓ Explains jargon in plain language✓ Checks understanding and slows down the delivery of information✓ Explains clearly what person will need to do next

Further guidance:

Effective communication with people with disability
supportingjustice.net/effective-communication

This guide has been specially designed to help legal and court professionals have better communications with people with disability.