

## Equal Access to Justice for People with learning disabilities

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### **Background:**

Many people with a learning disability are very sensitive about this label.

Make sure you see the person first - not their disability.

This means approaching a person with a learning disability as you would any other person. (Relax, and be yourself).

There are many different types of learning disability. Some are more familiar e.g. autism and Down's Syndrome, but most are unidentifiable and don't have a name.

Each person is affected individually. There is considerable variation - even amongst those who share a particular kind of learning disability. (Downs Syndrome for example, has a very wide spectrum: some people are mildly affected and able to lead very full lives, while others are unable to talk or to feed themselves).

People with learning disabilities do not have the same control over their own lives as the rest of us. Decisions are often made for them - by staff, parents and bureaucracies. This dependency on others, and need for their approval, often results in ***a strong need to please - and a tendency to tell you what they think you want to hear.***

It can actually be very difficult for people with learning disabilities to identify, and express their own feelings. This isn't always due to their disability. Often it's because they haven't been encouraged to think about their own needs, or been supported to develop these skills.

### **The Criminal Justice System:**

People with learning disabilities face widespread and institutionalised discrimination. Many have a deep mistrust of the legal system, because it has consistently failed them.

This is illustrated most clearly by the disproportionately high number of people with learning disabilities in prison. Just 2% of the UK population has a learning disability, yet this increases to a staggering 10% amongst prisoners.

The barriers to justice faced by people with learning disabilities are considerable:

- At the police station they are not believed or considered credible

- If they actually get to court they will struggle to understand the process and much of the language used
- In the witness box they may be subject to hostile cross examination which seeks to confuse them and undermine their credibility
- Judges, juries and barristers often have a prejudiced and distorted view of people with learning disabilities
- Sentences are often far too low

**For people with learning disabilities to receive equal access to justice, the Criminal Justice System *needs to adapt itself to meet their needs.***

This may require you to:

- Adjust the way that you communicate, by using clear simple language and making written information accessible. (Many people with learning disabilities do not read or write, or only to a limited degree - so written information maybe of no use whatsoever).
- Give people with learning disabilities more time to understand what you are saying, and to answer questions.
- Consider that some people with learning disabilities may be unable to grasp legal concepts or to understand the consequences of actions in the way that you or I can. People with autism can find this particularly difficult.

This last point has far-reaching implications for the legal system. Can we ensure access to justice for defendants or witnesses *who will never be able to understand or fully engage with the legal process as it stands?*

There are also problems with the legal concept of 'vulnerability', and the way that it is interpreted. There is a view that 'vulnerability invites abuse'. Or, to put it bluntly, that disabled people are 'asking for it'.

This needs to be challenged. Disabled people have the same right to a life free from molestation as any other citizen.

The SCOPE Report 'Getting Away with Murder' makes this point eloquently:

"The view that crimes against disabled people are inevitable has striking parallels with crimes against women. Both groups are given the message that they are innately vulnerable and that they should modify what they do and where they go in order to protect themselves. ... ***It is not women or disabled people who should have their freedom of movement or association restricted, it is those that wish them harm***".