



The Advocate's Gateway

The Inns of Court College of Advocacy

Using communication aids in the criminal justice system

Toolkit 14

27 February 2015

These are copyrighted materials. Please refer to the copyright notice overleaf.



The Advocate's Gateway toolkits aim to support the early identification of vulnerability in witnesses and defendants and the making of reasonable adjustments so that the justice system is fair. Effective communication is essential in the legal process. The handling and questioning of vulnerable witnesses and defendants is a specialist skill (*[Raising the Bar: The Handling of Vulnerable Witnesses, Victims and Defendants in Court](#)*, 2011). Advocates must ensure that they are suitably trained and that they adhere to their professional conduct rules.

Courts are expected to make reasonable adjustments to remove barriers for people with disabilities giving effect to the Equality Act 2010.

These toolkits draw on the expertise of a wide range of professionals and represent best practice guidance; they are not legal advice and should not be construed as such.

Copyright notice

- The Council of the Inns of Court (COIC) is the owner or the licensee of all copyright in this toolkit. All rights reserved.
- You may read, print one copy or download this toolkit for your own personal use.
- You may not make commercial use of this toolkit, adapt or copy it without our permission.
- Every effort has been made to acknowledge and obtain permission to use any content that may be the material of third parties. COIC will be glad to rectify any omissions at the earliest opportunity.
- Use of this toolkit is subject to [our terms of use](#).

CONTENTS

This toolkit brings together policy, research and guidance relating to:

1. COMMUNICATION AIDS: PURPOSE, DEFINITION, PLANNING AND GUIDANCE	6
2. TYPES OF COMMUNICATION AIDS AND HOW THEY CAN BE USED	9
3. AUGMENTATIVE AND ALTERNATIVE COMMUNICATION (AAC).....	20
4. PEOPLE WHO MAY REQUIRE AIDS TO COMMUNICATION.....	29
ACKNOWLEDGEMENTS AND REFERENCES.....	31

Introduction

This toolkit summarises:

1. communication aids: definition, function, cautions and safeguards;
2. types of communication aids and how they can be used, including:
 - aids and props that can directly enable evidence to be gathered, clarified or tested;
 - aids that help prepare vulnerable people for interview or trial proceedings;
 - aids and props that support state management and establish communication ‘rules’;
3. augmentative and alternative communication (AAC);
4. people who may require communication aids.

The toolkit contains information about aids to communication within the justice process, and is primarily intended for use by advocates as well as police officers, social workers, solicitors, guardians and judges.

Summary

- This toolkit aims to ensure that advocates are familiar with a range of communication aids. It is not suggested that advocates should devise communication aids of the sort described in this toolkit.
- Information about the individual's communication needs is essential and if not supplied must be requested.
- Advocates should always seek appropriate advice, for example, from an intermediary, if they think that a witness or defendant needs a communication aid.
- This toolkit will assist advocates to plan to use a communication aid when it is recommended and supplied by someone else, such as an intermediary.
- The purpose of a communication aid is to support and facilitate communication.
- There is no single definition of what constitutes an aid to communication.
- The key to effective use of communication aids, whether during a police Achieving Best Evidence interview or during questioning by advocates, is careful planning.
- The Youth Justice and Criminal Evidence Act 1999 (section 30) makes available the use of aids to communication and states:

'... a special measures direction may provide for the witness, while giving evidence (whether by testimony in court or otherwise), to be provided with such device as the court considers appropriate with a view to enabling questions or answers to be communicated to or by the witness despite any disability or disorder or other impairment which the witness has or suffers from.'
- Some witnesses, suspects and defendants will already use communication aids, but these may need to be extended or adapted for use in the justice process (see, for example, [R v Watts](#) (2010) EWCA Crim 1824).
- New communication aids may be needed by those already using aids, and also by those who do not normally require them. Similarly, some people with communication difficulties will often make use of a combination of approaches, including natural gesture, facial expression, body language, signs, symbols, photos, or electronic aids, as needed. During the giving of evidence, attention should be given to all forms of communication (verbal and non-verbal), to ensure that vital evidence is not missed.

- The communication aids described in this toolkit cover a wide spectrum, but should not be considered to be an exhaustive list.
- This toolkit contains general guidance and is not a replacement for an intermediary's assessment, which will provide advice specific to the individual. An intermediary assessment should be considered if the person is unlikely to be able to recognise when they do not understand something, or to tell the questioner that they have not understood, or has some other communication difficulty – even if no intermediary was used at the investigative interview.
- Communication aids should only be used on advice and after careful planning.

1. COMMUNICATION AIDS: PURPOSE, DEFINITION, PLANNING AND GUIDANCE

- 1.1** The **purpose** of a communication aid is to support and facilitate communication. Most people benefit from the use of communication aids in some situations. For example, barristers frequently refer to notes (and a list of questions) when speaking in court; many live link rooms now have ‘break cards’. In order to achieve best evidence, communication should be accurate, complete and coherent. When appropriately used and combined with appropriate questioning, communication aids can assist with this process. However, inappropriately used, aids can confuse or hinder communication.
- 1.2** There is **no single definition** of what constitutes an aid to communication, but it may include:
- an aid or prop that allows evidence to be gathered, clarified or tested (e.g. dolls, figures, drawings);
 - an aid that assists with state management (e.g. reducing anxiety) and/or helps to establish communication ‘rules’ (e.g. prompt cards, emotion scales, calming objects, break cards);
 - an aid that prepares witnesses and defendants to give evidence (e.g. as a visual timetable or social story);
 - augmentative and alternative communication (AAC). AAC may be a person’s usual form of communication and, if so, should be used as such. AAC covers a huge range of techniques that supplement or replace spoken communication. AAC includes gesture, signing, symbols, communication boards and books, alphabet charts, as well as voice output communication aids (VOCAs). (For more detailed guidance on AAC see section 3 below.)
- 1.3** Communication aids should only be used after **careful planning** and the following factors must be considered.

Why is it necessary to use communication aids in this particular case?

It is vital to be clear about this at the planning stage and to document a clear rationale for using such aids, even where it seems obvious. It is essential that the witness or defendant is able to use his or her existing communication system (such as AAC), as well as any additional communication strategy or prop prior to giving

evidence during interview and/or trial. An intermediary can assess and advise the police and court.

When are communication aids to be used?

When communication aids are used has bearing on how (and sometimes if) they are used. Are aids going to be used:

- throughout the whole process?
- during the investigative interview (i.e. to initiate an account; to support an account; during questioning to clarify an account)?
- during trial proceedings (i.e. pre-trial to aid preparation; before and/or during cross-examination)?

How will communication aids be used?

This involves developing and documenting a protocol for their introduction and use. No two vulnerable people have the same profile of communication strengths and weaknesses. Equally, some people may need multiple communication aids, strategies and props in order to give their best evidence (e.g. the case of *R v Watts (2010)*). An intermediary's assessment report will advise about the most effective means of communication. These reports are tailored to the individual's needs and the vocabulary required by the case. Prior to trial, an intermediary can assist in identifying appropriate, neutral aids and help the witness or defendant to create aids that support their communication. People who use AAC should have access to an intermediary who has the necessary skills and knowledge of a range of AAC systems, strategies and tools used by the individual.

1.4 *Achieving Best Evidence* (Ministry of Justice 2011) provides the following guidance on effective use of communication aids:

- Although communication aids can support a person's communication, they should be used with caution and never combined with leading or suggestive questions.
- Communication aids should not prevent the person from gesturing.
- Verbal attention should be drawn to the person's unspoken communication – comment to the child without offering an interpretation, e.g. 'you're pointing'.
- If the vulnerable person uses low-tech and/or high-tech communication aids, it is essential that checks for potential gaps in vocabulary are made prior to testimony.

- If the person has idiosyncratic speech sounds or an unusual communication pattern, vocabulary should be established and explained to the court prior to testimony. Importantly, signs for ‘yes’, ‘no’, ‘don’t know’ and ‘don’t understand’ should be identified.

In addition, the following **guidance** will assist when using communication **aids via camera/live link or in the witness box**.

- The visibility of the communication aid(s) is essential and should be checked prior to the giving of evidence. This may mean having an additional camera.
- A table should be set at appropriate height so that the vulnerable person can use the communication aids.
- When using drawings, maps and writing, ensure that the colour of the pen and paper can be seen clearly on the screen.
- When using figures, ensure that they are visible on the screen (wooden figures are often hard to see when used on a wooden table – check that a suitably coloured tablecloth is used to provide a contrasting background).
- When using an electronic device, such as a VOCA or computer screen, ensure that the court can see the screen.
- When working with a person who uses AAC:
 - always use the communication system the individual currently has and add to this with appropriate communication props and tools (as described above) if/when necessary – it is perfectly acceptable to use a mixture of tools and strategies when supporting vulnerable people;
 - allow additional time for the person to find and communicate the words that they want to use;
 - rephrase the utterance given by the vulnerable witness to make sure you have understood what they have said;
 - because the pace of interaction is slower with AAC, only introduce one topic of conversation at a time;
 - be clear when you are changing the topic – the user may lose subtle clues from your face as they look down at their system.

2. TYPES OF COMMUNICATION AIDS AND HOW THEY CAN BE USED

2.1 Aids and props that can directly enable evidence to be gathered, clarified or tested

The aids and props described in this section should only be used after very careful planning (Ministry of Justice 2011; Marchant 2013; Poole and Dickinson 2011). It is vital to check that the aids and props to be used have a stable identity in the person's mind. This can be done by making a deliberate naming error of a person in a child's drawings of people to see if the child will correct you (Marchant, 2013), e.g. 'So is this mummy?' when pointing to child's drawing of their father. Aids and props should never be used in conjunction with leading or suggestive questioning because of the increased risk of eliciting inaccurate information. Further, props should not be presented as objects of play (Lamb et al 2011).

When used correctly and **combined with appropriate, non-leading questioning**, these aids can:

- enable or support recall of events;
- scaffold communication and enable vulnerable people to 'show' as well as 'tell', or 'show' instead of 'tell'.

a. Dolls, models and figures

Dolls, models and figures can be used to assist communication and/or demonstration of what happened. They can be useful in establishing vocabulary for body parts and actions, without asking the person to demonstrate on their own body.

Examples include:

- dolls and figures used to represent people and actions (see Figure 1);
- pipe-cleaner figures in different colours and sizes, with polystyrene heads that can be drawn on to represent different individuals;
- scale models and lego/dolls' house furniture can be used to help somebody describe the environment/setting in which an event took place.



Figure 1. Wooden dolls used to represent people and actions

GOOD PRACTICE EXAMPLES

- A deaf defendant was able to very successfully act out an action scene during his evidence/testimony. He used three wooden artist-type figures that are multi-jointed and a miniature bottle. He had initially attempted to describe the incident using sign language, but was unable to do so. The use of the figures enabled him to be animated and exact.
- A model of a court with a separate live link room (see Figure 2) has been very helpful for young children and some adults with learning disability. The miniature figures of barristers have been popular and one four-year-old enjoyed playing 'spot the barrister' at Isleworth court when she took the figures out into the corridors and matched them to the real thing.



Figure 2. A model courtroom with separate live link room

b. Drawings and writing

Asking a person to produce a drawing or a map whilst giving evidence can aid communication of events and, if used in conjunction with spoken language, drawings and maps can supplement a witness's/defendant's narrative. They can be used to show and explain a series of events as well as the order in which these events took place. Drawing can be used to represent people or actions, as well as to describe the environment/setting in which an event took place: *'The symbolic nature of drawing is more easily understood by young children than dolls and models.'* (Ministry of Justice 2011, 3.114, p 91)

Research has found that children who 'draw what happened', when asked appropriate and non-leading questions, report more details without compromising accuracy (Salmon 2001). Further, drawing has been found to significantly increase recall accuracy when used with children who have autism (Mattison et al 2014). Overall, drawing can help people to focus, retrieve more information and reduce anxiety (Katz and Hershkowitz 2009; Ministry of Justice 2011; Poole and Dickinson 2013).

'Human figure drawings can help vulnerable people to provide clearer information about body parts, but not necessarily about touch-related actions.' (Achieving Best Evidence 2011, 3.118, p 91; see also Yang et al 2009) Paper cut-out figures and gender-neutral 'gingerbread' figures can help to clarify body parts/locations. This externalisation on to a drawing is particularly important so as to avoid re-traumatising the witness.

Some vulnerable people may have idiosyncratic speech sounds or unusual speech patterns. If so, consideration should be given as to whether or not the witness/defendant can write the word(s) (see Figure 3). This is dependent upon the literacy skills of the witness/defendant and should be assessed by an intermediary prior to interview or trial and discussed as necessary during the plea and case management hearing and ground rules hearing. If directed at the ground rules hearing, the intermediary can read out written responses from the witness and/or hold them up to show the court.

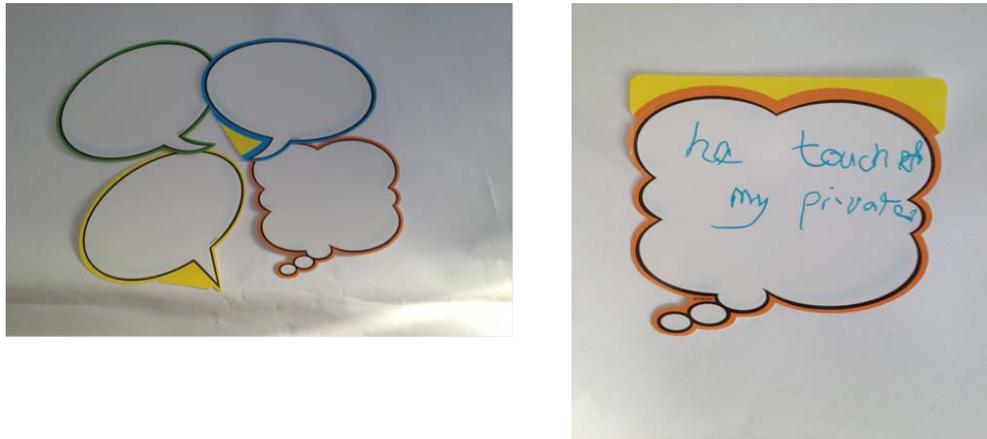


Figure 3. Examples of written testimony

GOOD PRACTICE EXAMPLES

- In a case involving a young person who was a selective talker and unable to respond to questions asked by the interviewing officer, the young witness wrote in sentences on a piece of paper and the intermediary then read out her sentences, holding up the page for the camera to focus on. The case did not go to court but the alleged defendant was cautioned.
- Writing and drawing was used when working with an adult witness who had suffered a stroke, which had caused expressive difficulties/dysarthria (difficulty speaking caused by problems controlling the muscles used in speech). She was supported when giving her evidence by being able to write the words down. During the assessment it was important to assess her ability to accurately read and write words and sentences. She used her non-dominant hand to write, i.e. her left hand, as the stroke had caused a right-sided hemiplegia (paralysis). Her words were then read aloud by the intermediary who then checked with the witness that it was actually what she had wanted to say.

c. Body diagrams and maps

Body diagrams and maps can aid a person's communication, but empirical evidence on their effectiveness is limited. As with all communication aids, it is

advised that these are used only with non-leading questioning techniques to ensure that best evidence is achieved.

Examples include:

- body diagrams or maps (see Figure 4) or animated pictures of a child/person with removable magnetic or velcro clothes (see www.triangle.org.uk) can be used to clarify names of body parts, without asking the vulnerable person to indicate locations on their own body;
- in particular, in a trial of a sexual offence, ‘body maps’ should be provided for the witness’s use. If the witness needs to indicate a part of the body, the advocate should ask the witness to point to the relevant part on the body map. In sex cases, judges should not permit advocates to ask the witness to point to a part of the witness’s own body. Similarly, photographs of the witness’s body should not be shown around the court while the witness is giving evidence (Criminal Practice Directions 3E.6).

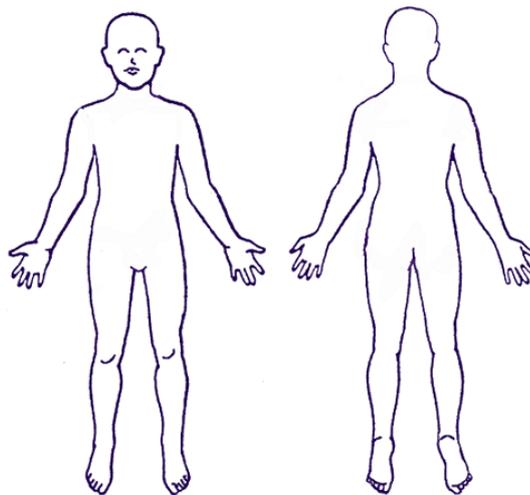


Figure 4. Body diagram/map

d. Post-it notes and visual timelines

Post-it notes and visual timelines can be used to support questions about categories of information, such as event locations, dates and times. They are particularly useful if somebody has difficulty responding to temporal questions – for example, sequencing events and details in order – or helping thoughts to become less ‘scrambled’. Post-it notes and timelines can help a vulnerable person

to narrate events chronologically and establish whether an event took place before or after another. They are especially effective in the case of multiple events.

GOOD PRACTICE EXAMPLES

- Where the alleged offence involved several incidents in different locations, the intermediary prepared cards representing locations, each with a photo and symbol.
- When working with a witness who offered comments describing events about an offence, the intermediary assisted the witness to create line drawings on post-it notes, representing each of the comments made. The witness then moved the post-its around so that she was able to retell the offence. Using this form of visual support in her narrative enabled the witness to focus on the order of events.
- A young defendant became very confused during cross-examination when he was questioned about events over two school years. Different colour pens and post-it notes were used to pinpoint and support the verbal questions about 'which' summer holiday, 'which' school year, and 'which' place he had gone to (see Figure 5).
- A defendant was supported by a timeline which was made using the chronology of events already stated, such as attendance at various primary schools, houses/moves, particular friends at certain times etc. The timeline was produced during the pre-trial meetings and brought to the ground rules hearing. The judge and counsel agreed to its use.



Figure 5. Visual timeline with post-it notes

2.2 Aids and props that support state management and establish communication 'rules'

The aids and props described in this section can provide emotional and anxiety state management and/or can help to establish communication 'rules'.

These aids can:

- maintain or direct attention to the topic in question;
- keep a person calm and settled by reducing social and emotional demands;
- establish communication 'rules'.

a. Symbol cards to support rules/serve as prompts

Prompt, rule and symbol cards can be used to establish and reinforce communication 'rules'. Further, they may help to lower anxiety by reducing cognitive load and/or transferring control to the vulnerable person. Some visual representations are designed to help vulnerable people learn and remember the 'rules'. For example, symbols and/or text are introduced on small cards (see Figure 6 and Figure 7) during an intermediary assessment and made available at interview and/or cross-examination to help the person remember the 'rules'. It is essential that the 'rules', their wording and their presentation are adapted to the needs of the vulnerable person (Marchant 2013).

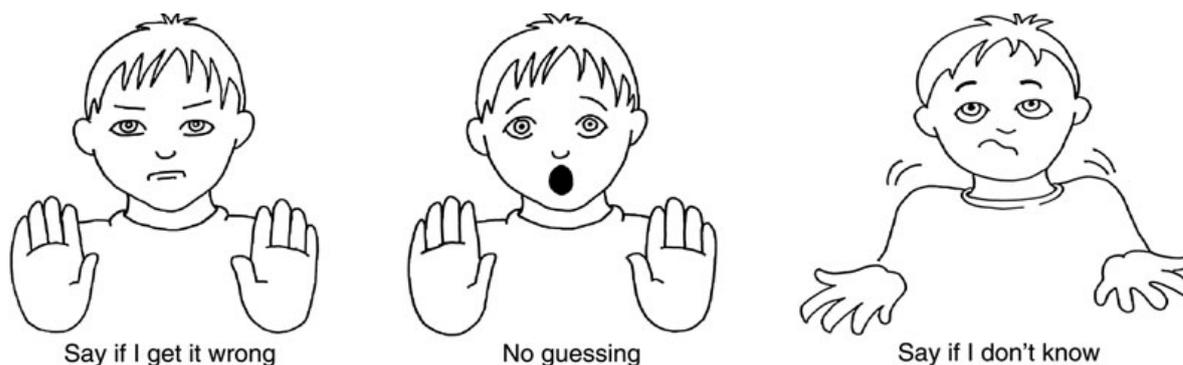


Figure 6. Rule cards with symbols

Yes	I don't know	I don't understand	What do you mean? Please explain	Please ask that question again	No
-----	--------------	--------------------	-------------------------------------	--------------------------------	----

Figure 7. Rules presented in text format

GOOD PRACTICE EXAMPLES

- A 'stop' card was used by the witness to indicate when he/she needed to stop for a break. This may be represented by text and/or symbols and/or colours (e.g. red for stop). The example above was used by a semi-literate witness. Later this was extended to include the names of the defendants to remove the need for the witness to constantly finger spell the names. This was at the request of the defence counsel.
- Before trial a four-year-old was introduced to simple communication 'rules' with symbols. At trial she had them in front of her to help her remember the 'rules'.

b. Anxiety and emotions scales

An anxiety/emotions scale can be used to monitor stress and anxiety, factors that can cause a severe breakdown in communication. It is good practice for the scale to be in front of the person, so that they can communicate where they are on the scale at regular intervals. An intermediary can facilitate and monitor this, and if the person reaches a certain point on the scale, a break should be considered. Scales should be tailor-made during an intermediary's assessment of a vulnerable person to ensure that they have subjective meaning. Figure 8 and Figure 9 display two examples of anxiety and emotions scales used in previous cases.

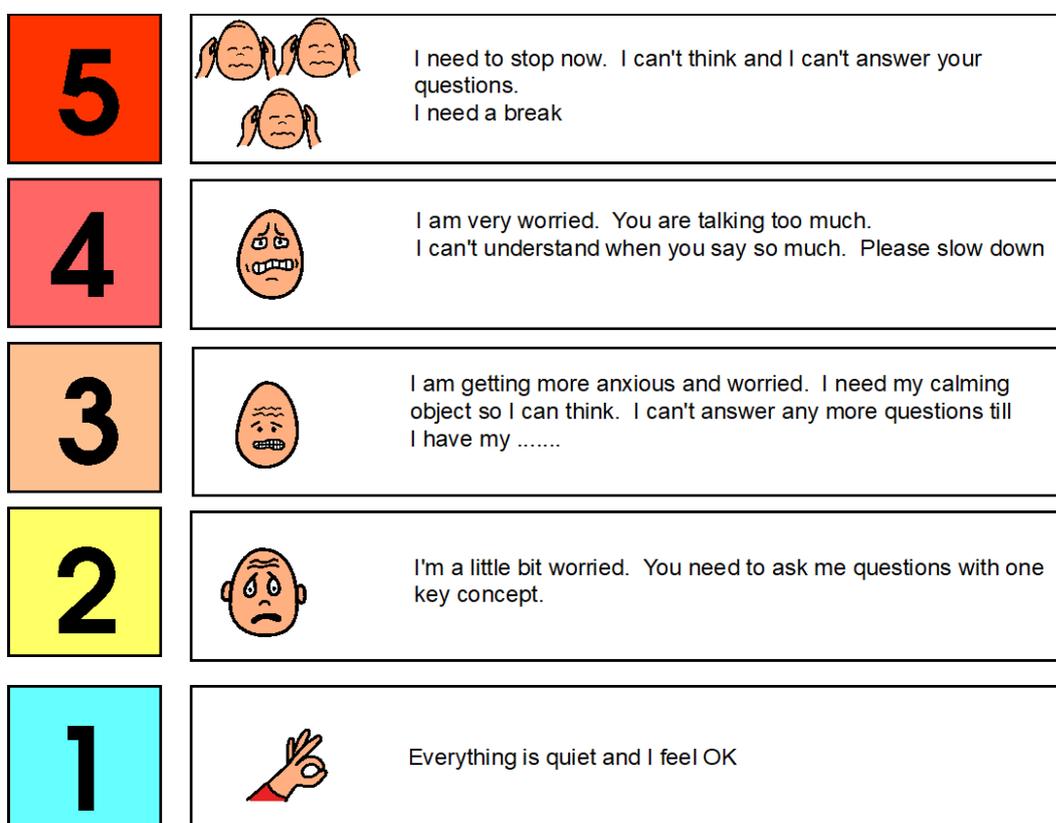


Figure 8. The 'Incredible 5-Point Rating Scale': anxiety scale
(1=calm – 5=highly anxious)

3	I need to stop for a break now so you need to stop for a little while.
2	It's getting hard to think and concentrate. Please slow down.
1	I'm OK and can carry on.

Figure 9. Text format anxiety scale

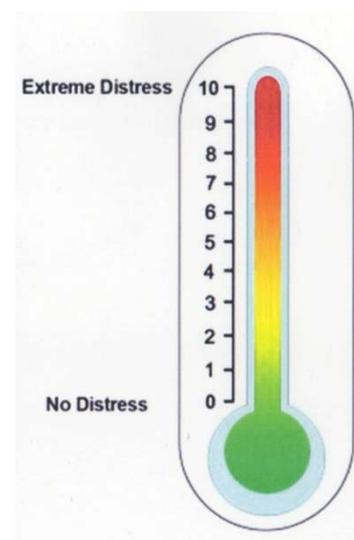


Figure 10. Emotions thermometer

GOOD PRACTICE EXAMPLES

- A defendant with autism was helped by a routine in which he expressed his emotions by using an ‘emotions thermometer’ (see Figure 10). The thermometer had a gauge with calm/relax at the bottom and worried/rage/frustrated at the top. A central column (made of red card) was movable and the defendant was able to express his emotions using this while in the dock and in the witness box. This simple routine enabled him to externalise his feelings and assisted his emotional containment.
- Emotion scales have also been used to represent stages from ‘calm ✶ fear’ as well as ‘calm ✶ very angry’ in an interview in order to support the witness in expressing how he felt during the event, as well as how he was feeling during interview. Describing the former enabled the interviewing officer to elicit accurate information in interview. Describing current emotional states enabled the intermediary to monitor the witness in order to allow the interview to proceed more smoothly. The witness was able to describe rising levels of anxiety, thus, breaks were implemented before the witness’s distress inhibited communication. Care was taken to ensure that the witness had already expressed the range of emotions that he had felt/was feeling before he was prompted to use this tool.
- A simple and effective ‘understanding scale’ was used with a vulnerable defendant with learning difficulties. It was a scale upon which he indicated how well he understood what was being said. This made it easy for him to communicate difficulties in conference with the advocate without having to say he didn’t understand, which he found difficult. For example, when counsel was trying to explain bad character evidence to him, it became

clear that he did not comprehend the concept. Until the scale was used he had given the appearance of following the issue.

c. Calming objects

Quiet, calming objects that can be ‘fiddled’ with (e.g. blu-tack and stress balls) are an effective prop that can help to manage stress and anxiety, whilst also maintaining concentration during interviews, cross-examination or trial proceedings. It is important that a balance is struck between using calming objects to manage anxiety and maintain concentration, and not allowing them to distract the witness.

2.3 Aids that help prepare vulnerable people for interview or trial proceedings

The purpose of these aids is to enable a vulnerable person to predict *what* will happen and *when*, helping to minimise anxiety.

a. Visual timetables

A visual timetable (see Figure 11) is a pictorial representation of a series of events in time. Visual timetables can help prepare vulnerable people to anticipate *what* will happen and *when*, thus assisting with anxiety/emotional state management.

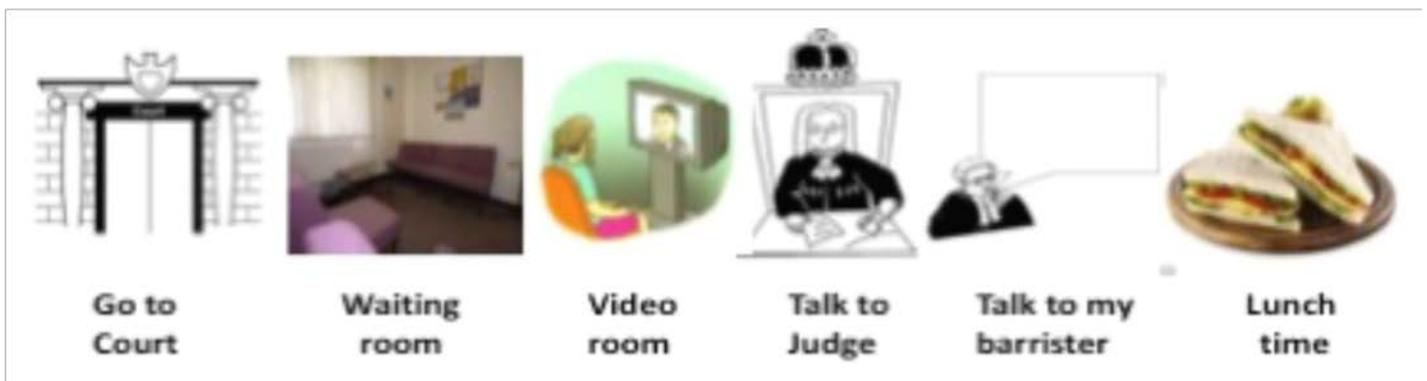


Figure 11. Visual timetable to show order of events in court

GOOD PRACTICE EXAMPLE

A defendant with autism was greatly helped by knowing exactly where he was in the trial. A pictorial and written order of the trial was made with simple explanations of each phase, i.e. jury swearing in opening speech evidence in chief cross-examination etc. He was able to tick off on a side column when each stage had finished. The intermediary liaised with the barristers in order to keep the timetable accurate.

b. Social stories

Social stories (developed by Carol Gray) can help witnesses/defendants manage emotional states by making implied rules more explicit (see Figure 12). Social stories are structured in a specific manner and tailored to the individuals' specific needs. They generally need to be written using positive wording (e.g. what the person needs to do) rather than negative wording (i.e. what the witness should NOT do). Social stories should be descriptive (e.g. explain the situation); offer a perspective (e.g. explain a feeling, belief or idea); explain the rule; state what the young person will need to do (see www.autism.org.uk/socialstories for more information on their use).

Free legal advice



The police will ask if you want legal advice from a solicitor. It's free.



A solicitor will tell you about the law.



You can speak to the solicitor in private about why you have been detained before the police ask you questions.

Figure 12. Example of a social story used with a vulnerable suspect

3. AUGMENTATIVE AND ALTERNATIVE COMMUNICATION (AAC)

- 3.1 AAC refers to communication methods that supplement or replace speech. AAC is often used as a person's primary form of communication. Sometimes people use a mixture of AAC and spoken communication. People who use AAC may have a 'communication passport' – a resource document that describes the person's most effective means of communication and how others can best communicate with and support the person (see www.communicationpassports.org.uk for further information).
- 3.2 It is important that vulnerable witnesses and defendants are supported to use their usual form of communication when giving evidence both during interview and at trial. Communication may be further supported and/or adapted with the use of other props and aids as described above (if required).
- 3.3 There are two primary types of AAC: unaided AAC and aided AAC (with 'aided' referring specifically to 'equipment' in this context).
- **Unaided AAC** includes communication methods that **do not require** additional equipment. Examples of unaided AAC are:
 - signing systems (often used in conjunction with aided AAC);
 - body language;
 - facial expressions;
 - pointing;
 - vocalisations.
 - **Aided AAC** includes communication methods that **do require** additional equipment. Additional equipment includes 'low-tech' and 'high tech' communication devices. High-tech systems involve devices that are battery operated. Aided AAC includes:
 - symbol sets and systems (often used in conjunction with signing systems and/or incorporated into communication books, charts and passports);
 - alphabet charts;
 - picture exchange communication system (PECS);

- Talking Mats;
- VOCAs.

3.4 Commonly used AAC systems

a. Signing systems

Signing involves manipulating and interpreting hand shapes and positions to gain/communicate meaning (i.e. kinesthetic and visual interpretation). Some signing systems (e.g. Makaton and Signalong) also have visual symbol sets and systems which work in conjunction.

The most commonly used signing systems in the UK are:

- **British Sign Language (BSL):** a language in its own right, used by the deaf community (see [Toolkit 11 - Planning to question someone who is deaf](#));
- **Makaton:** using **both signs and symbols** to help people to communicate. Makaton is designed to support spoken language and the signs and symbols are used with speech in spoken word order. Makaton is commonly used by people with a learning difficulty who may or may not be deaf or partially deaf (www.makaton.org);
- **Signalong:** is based upon BSL and is designed to provide sign-supported communication for people with learning difficulties (www.signalong.org.uk).

b. Symbol sets and systems

Symbol sets and systems are pictorial representations of words and phrases. There are a number of symbol sets and systems in use in the UK. Both Makaton vocabulary and Signalong signing systems (described above) have matching visual symbols. Examples of commonly used symbol systems are shown in Figure 13.

Other symbol sets and systems used in the UK include:

- photographs/pictures/line drawings;
- picture communication symbols (PCS);
- Widgit;
- rebus literacy symbols;
- Blissymbols;
- Symbol Stiks;
- Minspeak;
- Picture Exchange Communication System (PECS).

Communication Matters provides extensive descriptions of symbol sets and systems and how they are used.

GOOD PRACTICE EXAMPLE

A woman with severe learning difficulties and marked speech problems was able to give evidence at trial using a combination of approaches. She spoke and signed the first letter of some words using the deaf alphabet, she made use of a few Makaton signs and natural gestures, and she used some Makaton symbols clearly displayed on a board to indicate 'yes', 'no', 'I don't know' and 'I don't understand'. She had A5-size line drawings to help the questioner to signpost to each of the three events referred to in the evidence. The intermediary was able to point to the picture to help maintain the witness's attention and understanding and was also able to repeat what the witness said to the court when the court was unable to understand.

	Picture Communication Symbols	Widgit Literacy Symbols	Makaton Vocabulary	Blissymbols
Home				
To go, advance				
To want				
To tease				
Tired				
Noisy				
Because				
but	 or			

Figure 13. Example of commonly used symbol systems

3.5 Ways in which symbol sets and systems are used to assist communication

Symbols are selected for an individual depending on a number of criteria, including the level of symbolic understanding and cognitive ability. Typically, symbols are presented with the word or phrase they stand for. Further, symbols and words may be presented in the form of a communication book or chart.

Communication books and charts have symbols in them; the user points to various pictures to convey their message. Spelling is not a necessary skill; the user looks at the symbols/pictures and gains meaning from them without necessarily reading the written word. These symbols are arranged in a structured, set manner in order to enable the user to communicate efficiently.

GOOD PRACTICE EXAMPLE

A person with cerebral palsy was able to report a crime to the police through the use of finger spelling, gestures and using his Blissymbol communication book. He gave evidence in court through the same means with a family member as interpreter and an intermediary. The court accepted the family member as interpreter because the vulnerable witness used several idiosyncratic gestures and signs that the intermediary may not have picked up on. In addition he had an additional communication tool introduced by the intermediary to enable him to request a break, indicate 'yes' and 'no' clearly for the jury, to ask for questions to be rephrased and to ask for questions to be repeated.

3.6 Other commonly used high-tech and low-tech AAC methods include:

- alphabet charts;
- Talking Mats;
- VOCAs.

Alphabet charts involve indicating or pointing to letters on a board to spell out a word and thereby convey a message (see Figure 14 and Figure 15). The user therefore needs to have a fairly good idea of how words are spelt, otherwise this system may result in miscommunication and frustration.

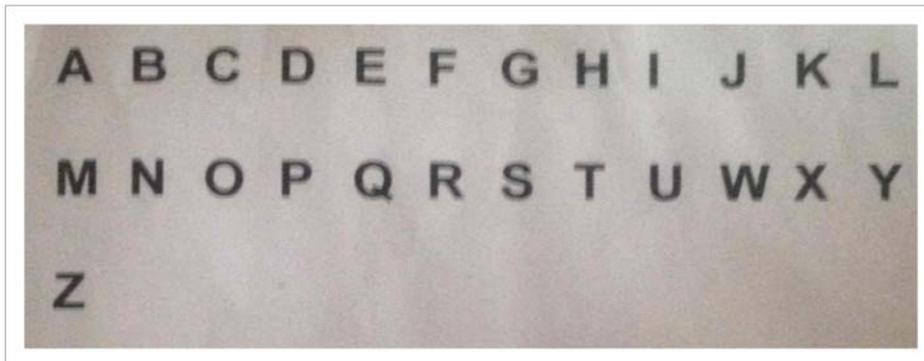


Figure 14: Example 1 of an alphabet chart used by an AAC speaker.

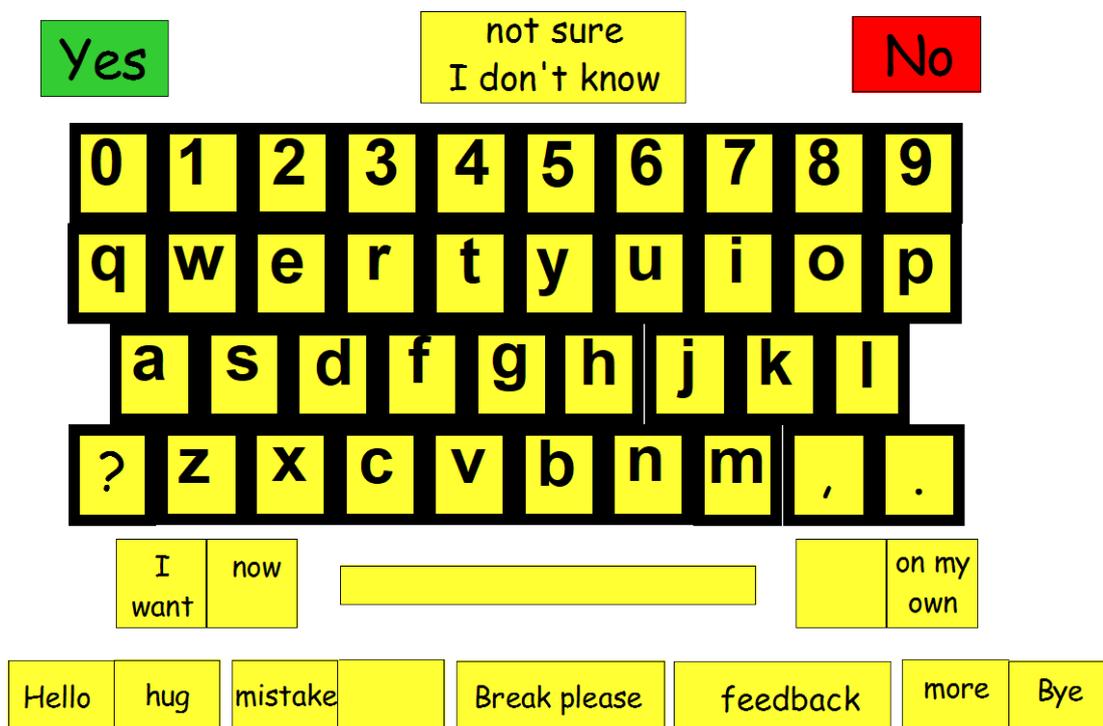


Figure 15. Example 2 of an alphabet chart used by an AAC speaker

A Talking Mat (www.talkingmats.com) is an interactive communication resource that typically displays three categories of information: topics, options and a visual scale. A Talking Mat can either be a physical, textured mat, or a digital space, for example, a tablet, smartboard or computer screen.

A Talking Mat enables a person with verbal communication or emotional difficulties to communicate effectively. At the top of the Talking Mat, a scale or rating system is created which the person can use to indicate their feelings about a question or event.

The type of visual scale used can be adapted to suit the topic you are asking the person about. For example:

- yes/no/not sure;
- important/not important/don't know;
- give evidence/not give evidence/don't know;
- also for ascertaining sexual acts/use of condom etc.

Questions are asked one at a time and symbols/pictures are offered. The user is asked to place the symbol under the appropriate visual scale, or yes/no, or symbol to indicate what they feel, or what happened, or to give details. The person is given many possibilities which avoids leading and provides plenty of opportunity to refute. This opportunity to refute and to show that symbols can be rejected is vital to avoid the process becoming leading. Suggestibility issues must be considered. Careful assessment and planning is the key to the safe use of this type of communication aid.

GOOD PRACTICE EXAMPLES

- A Talking Mat structure was used with a defendant with autism when he was making a decision to give evidence or not and, if giving evidence, whether to use the live link room or the witness box. A mat with sections for: *'Give evidence/Not give evidence/Not sure'* was set up. Picture symbols were presented to him one by one, for example: *'Jury can hear me, I might not be able to say what I want/I am frightened.'*
- The defendant decided to give evidence. Another mat was set up with sections for *'Live link/Witness box/Not sure'*. One by one he was given symbols of a large variety of possible fears, thoughts and practicalities. He placed these symbols under the headings/sections. For example: *'I can see my barrister', 'I don't want to look at the jury', 'The jury are in front of me', 'I am near the judge'* (see Figure 16). The examples and symbols used were all things that the defendant had expressed in discussion. The ability to sort out these thoughts in a tangible way helped his level of anxiety. He created a visual mat that he was able to look at and separate from the muddled fearful confusion in his head.
- A Talking Mat was extremely helpful in the case of a witness who had been severely stabbed and suffered a severe head injury that resulted in 'locked in' syndrome. It was confirmed that he had a 'yes' and 'no' response, thus a Talking Mat and an iPad with a

yes/no-voice touch-activated app were used. These were used jointly with the police in five interviews. This enabled evidence to be gathered in terms of the weapon used, the number of people present and the possible reasons for the assault.

- Using Talking Mats, a young woman with learning difficulties was able to categorise careworkers into 'like/don't like' and 'don't know' categories. She was able to show the activities that she had taken part in and categorised a trip to a large department store in the 'don't like' category. When asked about what she did not like about the trip she said that you should not steal in shops and went on to describe what she saw.

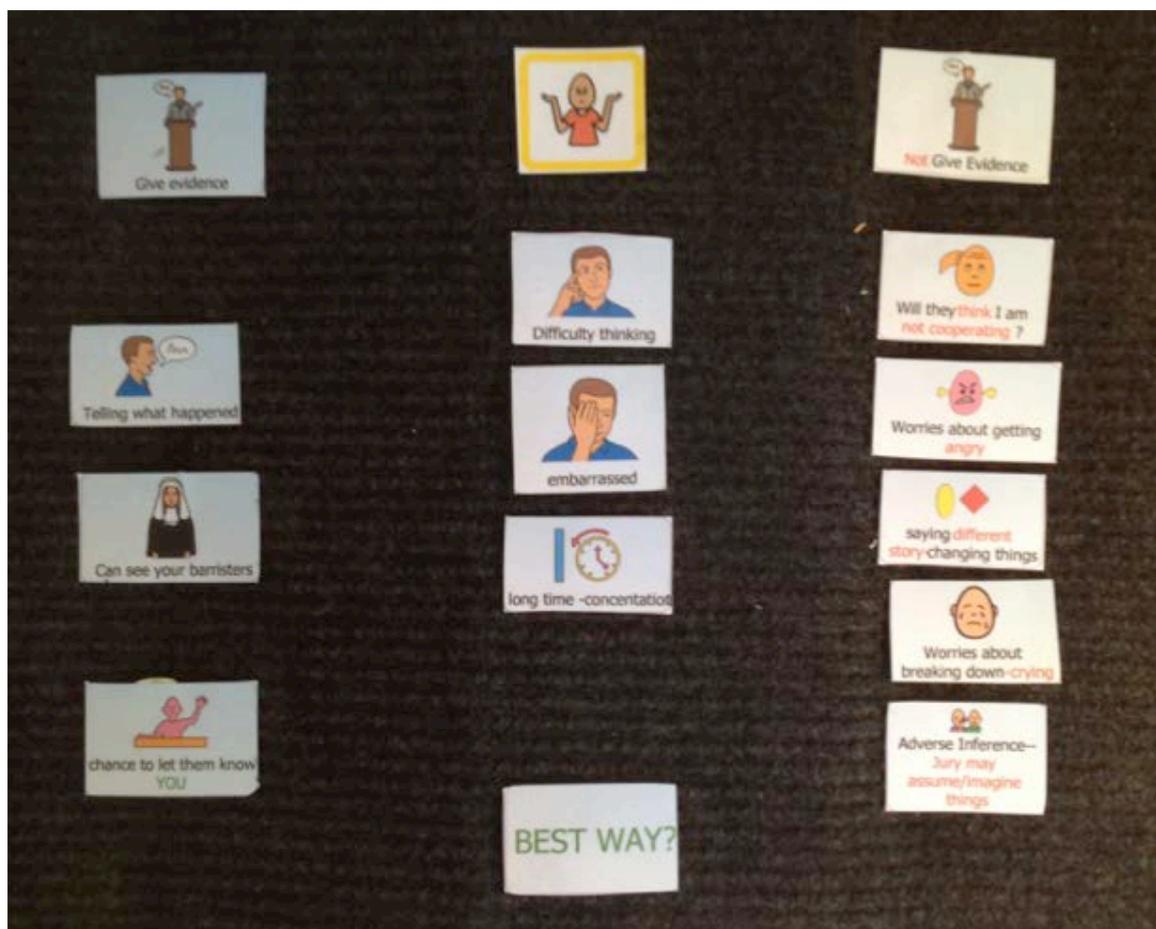


Figure 16: Talking Mat used to assist vulnerable person in making a decision about giving evidence

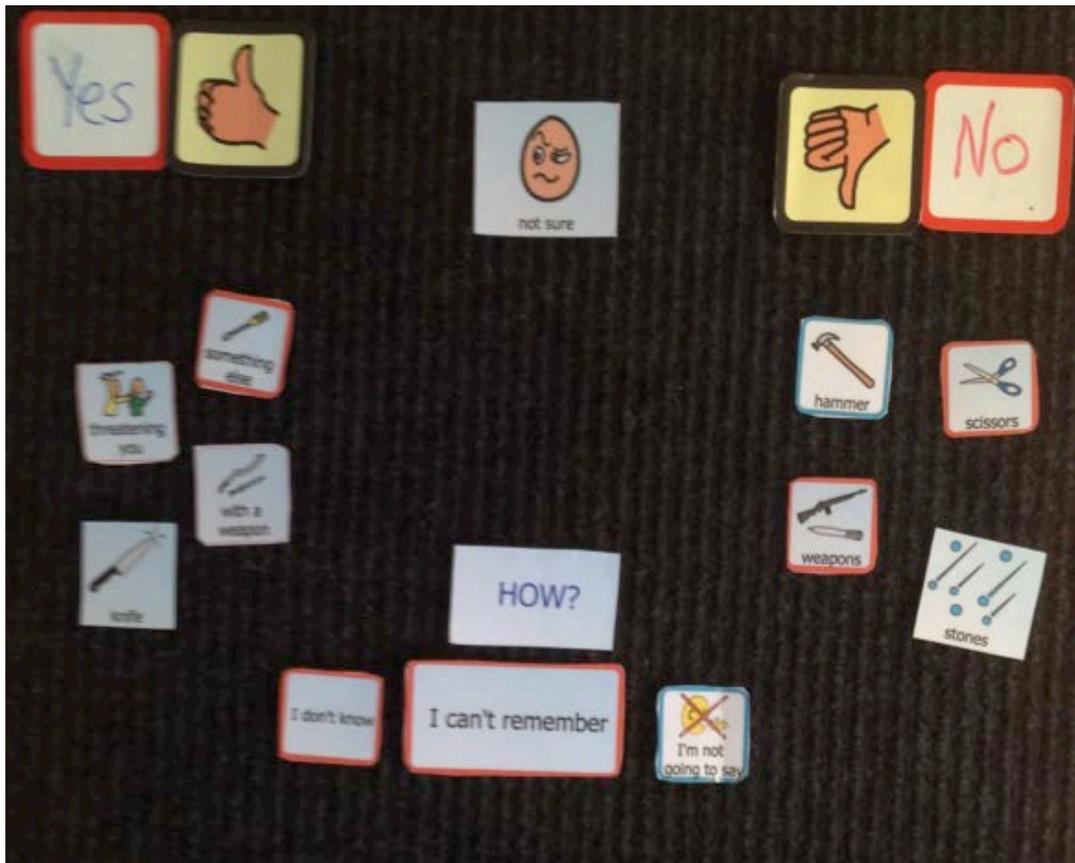


Figure 17: Talking mat used to assist vulnerable defendant in making a decision about where to give evidence

3.7 A VOCA is a voice output communication aid, operated by a computer system. A VOCA is accessed by hand or through switches or eye-gaze and there are a wide range of VOCAs available. A combination of AAC may also be used with a VOCA, for example: a Blissymbols communication book; spelling (text and manual signing); and a text-to-speech programme on an iPad.

Importantly, just because a vulnerable person has a VOCA, it is vital to note that:

- they may not have or know where all the vocabulary is that they need;
- they may need to navigate between pages and therefore this process may slow them down;
- they may not be able to access the equipment reliably due to being in a highly stressful situation;

- they may have learned language idiosyncratically and therefore their word order (syntax) may be different to what is the norm.

3.8 All of these factors will affect the individual's ability to reliably access the technology. Adaption, if necessary, should be made prior to interview or trial. During questioning, additional time should be given for the person to respond.

4. PEOPLE WHO MAY REQUIRE AIDS TO COMMUNICATION

4.1 It is important to know that each person's form of communication is unique. All witnesses and defendants who are deemed to be vulnerable may benefit from the use of a communication aid(s) to enable them to give their best evidence. Other vulnerable witnesses may already use a communication aid to assist their usual form of communication. Some vulnerable people do not use speech to communicate. Instead, they may use an alternative form of communication. Getting expert advice from a communication specialist or an intermediary with expertise in the vulnerable person's communication needs is essential. It is also essential that questioners adapt the way that they communicate in a manner that matches the witness's/defendant's preferred communication.

4.2 A number of groups of vulnerable people will particularly benefit from the use of communication aids.

Children and young people:

- some children, even if they use speech, may be more competent (or simply find it easier) to demonstrate what happened (with dolls, figures, drawings), rather than explain in words (Marchant 2013);
- communication aids can scaffold (support, provide a framework for) communication. They may enable children to provide clearer accounts, compared with purely verbal approaches (Ministry of Justice 2011; Marchant 2013).

People with a learning disability and/or a developmental disorder:

- may use speech to communicate, but may be more competent (and find it easier) to demonstrate what happened (with dolls, figures, drawings), rather than explain in words;
- may communicate by using a combination of speech, gestures and AAC (e.g. signs, symbols and VOCAs);
- may use AAC to communicate because they do not have sufficient speech.

People with a physical disability or neurological condition, and people who are deaf:

- may have limited speech and communicate using a combination of speech, gestures and AAC (e.g. signs, symbols, communication boards and charts, and VOCAs);
- may not use speech at all to communicate. Instead, communication may be in the form of AAC (e.g. signs, symbols communication boards and charts, and VOCAs).

ACKNOWLEDGEMENTS AND REFERENCES

This toolkit was developed for The Advocate’s Gateway and was funded by The Advocacy Training Council and the Legal Education Foundation.

AUTHOR:

- Michelle Mattison, Lecturer in Psychology at the University of Chester and Registered Intermediary

CONTRIBUTORS:

- Professor Penny Cooper
- Rochelle Cowan
- Gillian Hazel
- Christine Laing QC
- Kate Lumsdon
- Ruth Marchant
- Catherine O’Neill
- Tina Pereira
- Angela Rafferty QC
- Dr Kevin Smith

The toolkit summarises key points from law, policy, research and guidance including:

- *Bull, R, ‘The investigative interviewing of children and other vulnerable witnesses: Psychological research and working/professional practice’ (2010)*
Legal and Criminological Psychology 15:5–23
- *Communication Matters*
- *Criminal Practice Directions [2013] EWCA Crim 1631*
- *Criminal Procedure Rules (2013)*
- *Dunn Barton, K and Curtis, M, Incredible 5 Point Rating Scale (2004) available at www.5pointscale.com/other_projects_article_5-point_scale.htm*
- *Glennen, S and Decoste, D C, Handbook of Augmentative and Alternative Communication (1997)*
San Diego: Singular Publishing Group

- *Katz, C and Hershkowitz, I, 'The effects of drawing on children's accounts of sexual abuse' (2011), Child Maltreatment 15(2):171–9*
- *Lamb, M E, La Rooy, D J, Malloy, L C and Katz, C, Children's Testimony: A Handbook of Psychological Research and Forensic Practice (2011), Wiley, London*
- *Marchant, R, 'How young is too young? The evidence of children under 5 in the English Criminal Justice System' (2013), Child Abuse Review 22(6):432–45*
- *Mattison, M L, Dando, C J and Ormerod, T C, 'Sketching to remember: episodic free recall task support for child witnesses and victims with autism spectrum disorder' (2014), Journal of Autism and Developmental Disorders*
- *Ministry of Justice, Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and Guidance on using Special Measures (2011), Crown Copyright, London*
- *Poole, D A and Dickinson, J, 'Comfort drawing during investigative interviews: evidence of the safety of a popular practice' (2013), Child Abuse and Neglect 38(2):192–201*
- *Salmon, K, 'Remembering and reporting by children: the influence of cues and props' (2001), Clinical Psychology Review 21:267–300*
- *[Talking Mats](#)*

The Advocate's Gateway

9 Gray's Inn Square,
London
WC1R 5JD

T: 020 7822 0763
E: info@icca.ac.uk

The Council of the Inns of Court. Limited by Guarantee
Company Number: 8804708
Charity Number: 1155640

Registered Office:
9 Gray's Inn Square, London WC1R 5JD