

Communication and engagement

Key points to remember about communicating and engaging effectively with children in the youth justice system are:

- Child witnesses and defendants experience much higher levels of communication difficulty in the justice system than was previously recognised.
- Any child in the youth justice system is vulnerable. This is reflected by the statutory regime for special measures in criminal cases, which defines all witnesses who are under 18 as vulnerable witnesses.
- Make sure you are aware of their background and needs.
- Identify if they have any additional vulnerabilities or needs as early as possible. Our advocacy resources include information to help you identify vulnerability [<https://www.sra.org.uk/solicitors/resources/advocacy/meeting-needs-vulnerable-people/>].
- Adapt your services to their specific vulnerabilities, needs, background, age and maturity. Our advocacy resources include information to help vulnerable people use your services.
[<https://www.sra.org.uk/solicitors/resources/advocacy/meeting-needs-vulnerable-people/>]
- Help them participate in proceedings, for example, by preparing them for court and arranging for adjustments to accommodate their needs. Our advocacy resources include information to help vulnerable people participate in proceedings.
[<https://www.sra.org.uk/solicitors/resources/advocacy/meeting-needs-vulnerable-people/>]
- Recognise signs of distrust and take reasonable steps to address them. Our advocacy resources include information to help you build trust with your clients [<https://www.sra.org.uk/solicitors/resources/advocacy/building-trust-clients/>].
- Talk slowly and clearly.
- Use plain English.
- Avoid complex language and technical terms.
- Check if they understand something you have said, for example, by asking them to explain it in their own words.
- Recognise when you might need to repeat something you have said, break it down into smaller chunks of information or express it in a different way.
- Our resources on building trust with your clients include information on active listening. [<https://www.sra.org.uk/solicitors/resources/advocacy/building-trust-clients/>]

- Adapt your style of questioning, including the length, tone and wording of your questions. Our advocacy resources include information to help you question vulnerable people.
[<https://www.sra.org.uk/solicitors/resources/advocacy/meeting-needs-vulnerable-people/>]
- Respect their confidentiality. We have guidance about the confidentiality of client information. [<https://www.sra.org.uk/solicitors/guidance/confidentiality-client-information/>]
- Where appropriate, work with other people or agencies (eg parents, carers, social workers and youth offending team managers).

Why effective communication and engagement is essential

As stated, child witnesses and defendants have been shown to experience much higher levels of communication difficulty in the justice system than was previously recognised. Any child in the youth justice system is also vulnerable. This is reflected by the statutory regime for special measures in criminal cases, which defines all witnesses who are under 18 as vulnerable witnesses.

A wide range of background factors, additional vulnerabilities and specific needs can affect children in the youth justice system. The Youth Justice Board and Ministry of Justice looked at children who were sentenced in 2018/19

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887644/assessing-needs-of-sentenced-children-youth-justice-system.pdf] and found that:

- 71% had speech, language and communication concerns
- 65% had learning concerns
- 71% had mental health concerns
- 47% had physical health concerns
- 75% had substance misuse concerns
- 45% had a care history.

The Equal Treatment Bench Book [<https://www.judiciary.uk/about-the-judiciary/diversity/equal-treatment-bench-book/>] further highlights that:

- 'Looked after' children and Black, Asian and Minority Ethnic children are overrepresented in the youth justice system.
- Children may have distressing experiences at court due to a build up of procedural failures in the wider criminal justice system and the way they are questioned.

These factors (and others) can affect the communication and engagement needs of children in the youth justice system. Some examples include:

- Any child needing adaptations to help them use your services and participate effectively in proceedings.
- Children with learning concerns or speech, language and communication concerns finding it hard to understand legal proceedings and what you say to them.
- Children with physical or mental health conditions requiring additional, specific adjustments to help them use your services and participate effectively in proceedings.
- Children not trusting you or the court process, because of distressing experiences in the care system or youth justice system.
- Children with some conditions, such as learning difficulties, not knowing they have them or trying to conceal them.

Communicating and engaging effectively with children in the youth justice system is key to helping them:

- Trust you and the wider youth justice system.
- Participate effectively in proceedings.
- Understand their rights and options.
- Articulate their needs and concerns, which may or may not result from a diagnosed condition.
- Understand the youth justice process.
- Understand the things you say to them, your advice and the consequences of following or not following it.
- Give clear and well informed instructions.
- Feel confident to say they don't understand something, need a break or need help, for example.
- Get a better outcome in their case.

Awareness of background and needs

Our good practice guide [<https://www.sra.org.uk/solicitors/resources/continuing-competence/cpd/youth-court-advocacy/good-practice-guide/>] reflects that solicitors practising in the youth justice system should be aware of the background and needs of the children they deal with. This is essential to understanding and adapting to their communication needs, which can be sensitive and complex.

You can reflect on the questions below to help identify if you have adequate awareness of a child's background and needs.

- Have you carefully read the documents relating to their case?
- Do you understand their background and needs after reading the documents relating to their case? These might show, for example, that they are in the care system or that they have a disability or condition.
- Have you taken active steps to find out whether they have any developmental, communication, cognitive, emotional, medical, neurodiverse and/or mental health needs?
- Have you taken active steps to understand their behaviour in the context of their personal circumstances and background, including their cultural background?
- Have you considered if appropriate steps have been taken or should be taken to divert them away from the criminal justice system?
- Have you identified if they have any additional vulnerabilities or communication needs? Read our Meeting the needs of vulnerable people resources [<https://www.sra.org.uk/solicitors/resources/advocacy/meeting-needs-vulnerable-people/>] .
- Have you identified if any important information missing about their background and needs?
- If any information is missing have you thought about how you can access it? The working with other organisations [<https://www.sra.org.uk/solicitors/resources/continuing-competence/cpd/youth-court-advocacy/other-organisations/>] section can help you do this.
- Have you identified if there is a need for an intermediary assessment and applied for intermediary support if it's needed?
- Have you identified if you need to adapt your style of communication and engagement to their background, needs and any additional vulnerabilities? Our Meeting the needs of vulnerable people resources [<https://www.sra.org.uk/solicitors/resources/advocacy/meeting-needs-vulnerable-people/>] can help you do this.
- If you do need to adapt your style of communication and engagement, do you have the knowledge and skills to do this effectively? You might need to refresh your knowledge and skills through training or self-study.
- Have you thought about how you might work with other individuals or organisations (eg parents or carers, support workers and youth offending teams)?
- If appropriate, have you shared information with other organisations (eg the other side and the police) to help safeguard them and meet their needs?



How to communicate effectively

The tips and questions below can help you communicate and engage effectively with children in the youth justice system.

Planning

- Have you taken active steps to make sure you understand their background and needs?
- Have you planned what you need to tell them about, what questions you need to ask them and how you will do this?
- Have you thought carefully about how you need to adapt your style of communication, engagement and questioning to their background and needs?
- Are there any gaps in your knowledge and skills for communicating and engaging effectively with them? If there are, have you addressed them, for example, through self-study, training or working with other organisations?

Speaking and explaining

- Do you adapt what you say to their background, needs, vulnerabilities, age and maturity?
- Do you show empathy and that you understand their background, situation and concerns?
- Do you speak at a pace they can understand, especially when you are sharing difficult information?
- Do you break information down into smaller, manageable chunks?
- Do you speak clearly and use plain English?
- Do you avoid technical terms and explain them when you can't avoid them?
- Do you ask one question at a time?
- Do you ask short and simple questions?
- Do you use eye contact and body language to make them feel comfortable and understood?
- Do you make them aware of the really important points they need to listen to?
- Do you make sure they understand the youth justice process even if they have been to the youth court before?
- Do you explain their options and how each one might affect them in a way they can understand?
- Do you use communication aids if this would help them understand what you are saying or answer your questions?



- Do you share information that might be distressing or upsetting in a careful and sympathetic way?
- If needed, do you speak to them with support from another individual or organisation (eg a parent or carer, a support worker, a translator or a youth offending team)?

Checking their understanding

A child was asked in court if he 'felt remorse' and replied 'no'. After court, he asked his lawyer the meaning of 'remorse' [Carlile Inquiry, 2014, page 4]

- Have you told them what you will do for them in a way they can understand? Our leaflet for children in the youth justice system [<https://www.sra.org.uk/globalassets/documents/solicitors/youth-court-leaflet.pdf?version=492abc>] can help you do this.
- Do you ask them if there is anything you can do to help them understand things?
- Do you ask them to tell you if they don't understand something or need a break, and reassure them that this is ok?
- Are you alert to signs that they don't understand you, have lost interest, are upset or need a break?
- Do you check they understand the things you have said, for example, by asking them to repeat it in their own words?
- Do you recognise when you could have explained something more clearly and offer to repeat it in a different way?

Listening

- Do you give them opportunities to share their thoughts, feedback, feelings and concerns with you?
- Do you listen to what they say?
- Do you use active listening skills, for example, by repeating something they have said to you to show you care and understand? Our resources to help you build trust with your clients [<https://www.sra.org.uk/solicitors/resources/advocacy/building-trust-clients/>] include information on active listening.
- Do you use body language and non-verbal cues (eg eye contact and nodding) to show you are engaged with them?

Questioning children and helping them participate

You can use our Meeting the needs of vulnerable people resources

[<https://www.sra.org.uk/solicitors/resources/advocacy/meeting-needs-vulnerable-people/>] to



help:

- Question children and other vulnerable people in an effective way
- Children and other vulnerable people participate effectively in proceedings.

Questioning children and other vulnerable witnesses is a specialist and technical skill. You should carefully consider expert guidance and if you need to complete a training course. We have listed some useful resources below.

Useful resources

You can use the resources listed below to help communicate and engage effectively with children in the youth justice system. The list is not exhaustive and links were valid at the time of publication.

- Our resources on Meeting the needs of vulnerable people [<https://www.sra.org.uk/solicitors/resources/advocacy/meeting-needs-vulnerable-people/>] and building trust [<https://www.sra.org.uk/solicitors/resources/advocacy/building-trust-clients/>] .
- The Youth Court Bench Book [<https://www.sentencingcouncil.org.uk/wp-content/uploads/Youth-Court-Bench-Book-June-2020.pdf>] by the Sentencing Council.
- The Equal Treatment Bench Book [<https://www.judiciary.uk/about-the-judiciary/diversity/equal-treatment-bench-book/>] (The second chapter deals with children, young people and vulnerable adults).
- 'The Witness Charter – Standards of care for witnesses in the criminal justice system' [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/264627/witness-charter-nov13.pdf] by the Ministry of Justice.
- 'Achieving Best Evidence in Criminal Proceedings' [<https://www.gov.uk/government/publications/achieving-best-evidence-in-criminal-proceedings>] by the Ministry of Justice
- 'Care and support statutory guidance' [<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>] by the Department of Health & Social Care.
- The Advocacy and the Vulnerable training course [<https://www.icca.ac.uk/post-qualification-training/cpd/advocacy-training/advocacy-the-vulnerable-crime/>] , which is run by the Inns of Court College of Advocacy and facilitated by organisations including The Law Society [<https://www.lawsociety.org.uk/topics/advocacy/advocacy-and-the-vulnerable-training>] .
- 'Raising the Bar: The handling of vulnerable witnesses, victims and defendants in court' [<https://www.icca.ac.uk/wp-content/uploads/2019/07/Raising-the-Bar.pdf>] by the Inns of Court College of Advocacy.



- The Advocate's Gateway toolkit on identifying vulnerability in witnesses
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_bc65d21318414ba8a622a99723fdb2a0.pdf]
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- The Advocate's Gateway toolkit on ground rules hearings
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_846f9ab1f1e94dd7bd58bcc62f76ddb8.pdf]
and checklist for ground rules hearings.
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_395da62674464adbabfcc9e2fa43827.pdf]
- The Advocate's Gateway toolkits on planning to question a child or young person
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_57e3427cfbaa4635abedb100c9d4ae02.pdf]
and the effective participation of young defendants
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_b87562b108fc47eca7cebb6b73843b7c.pdf]
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- The Advocate's Gateway toolkits on questioning someone via a remote link
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_311bbdac0f414f2ba73f9b3abbe8e14e.pdf]
, using communication aids
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_f5d07af401574f289401e2c0df981c4d.pdf]
and working with intermediaries
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_5ceb5d236c6b488e97d2cbbfbdd3cf06.pdf]
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- The Advocate's Gateway toolkits on planning to question people with autism
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_5aeb50cd277f4f5094bbe5b8a989b3bc.pdf]
and learning disabilities
[https://www.theadvocatesgateway.org/_files/ugd/1074f0_f2452243bb7c419b9e5e0b47edce378e.pdf]
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- The 'Code of Practice for Victims of Crime
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/936239/victims-code-2020.pdf] ' by the Ministry of Justice, which includes guidance on using special measures.
- 'Assessing the needs of sentenced children in the youth justice system 2018/19'
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887644/assessing-needs-of-sentenced-children-youth-justice-system.pdf] by the Youth Justice Board and the Ministry of Justice.
- 'Practice advice: speech, language and communication needs (SLCN) in the youth justice system' [<https://www.gov.uk/government/publications/speech-language-and-communication-needs-in-the-youth-justice-system/practice-advice-speech-language-and-communication-needs-slcg-in-the-youth-justice-system>] by the Youth Justice Board.
- 'Falling Short? A Snapshot of young witness policy and practice
[<https://learning.nspcc.org.uk/media/1672/falling-short-snapshot-young-witness-policy-practice-full-report.pdf>] ' by the NSPCC.



- 'Communication matters in the legal system'
[<https://www.disabilitymatters.org.uk/Component/Details/469976>] by Disability Matters.
- 'Communicating with children and young people that have a diagnosable difficulty' [<https://www.sra.org.uk/globalassets/documents/solicitors/cpd/communicating-young-people.pdf?version=4926ff>] ' by the Northamptonshire Youth Offending Service.
- 'Pre-Trial Therapy' [<https://www.cps.gov.uk/legal-guidance/pre-trial-therapy>] ' guidance by the Crown Prosecution Service (CPS).
- 'Joint Inspection report on the experience of young victims and witnesses in the Criminal Justice System' [<http://www.pc.rhul.ac.uk/sites/rheg/wp-content/uploads/2012/02/HMIC-CPS-Young-Witnesses-report-2012.pdf>] ' by the HMCPSI and HMIC.
- A Joint Inspection of the Treatment of Offenders with Learning Disabilities within the Criminal Justice System
[<http://webarchive.nationalarchives.gov.uk/20140204185858/http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmiprobation/learning-disabilities-thematic-report.pdf>] ' by the HM Inspectorate of Probation.
- 'The Lammy Review' [<https://www.gov.uk/government/publications/lammy-review-final-report>] ' by David Lammy.
- Registered Intermediary Procedural Guidance
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/955316/registered-intermediary-procedural-guidance-manual.pdf] by the Ministry of Justice.
- 'Mental Health: Suspects and Defendants with Mental Health Conditions or Disorders' [<https://www.cps.gov.uk/legal-guidance/mental-health-suspects-and-defendants-mental-health-conditions-or-disorders>] ' by the Crown Prosecution Service.