

Access to Justice

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Dealing with the justice system is especially challenging for people with dyslexia.

Problem areas include maintaining concentration, expressing themselves concisely, processing information efficiently – especially when obliged to respond to questioning. Often there is information overload and the working memory cannot cope. Failing to recall facts, dates and other details accurately, mis-sequencing a succession of events – or being inconsistent in different accounts – will indicate unreliability at best and guilt at worst. Misunderstandings or missing the implications of a searching question could also have serious consequences.

When stress is added on top of these sorts of dyslexic difficulties the individual becomes more disabled. It is always worth considering the issue of disability because this may be the gateway to support and entitlements. The definition, established by the 1995 Disability Discrimination Act and retained in the 2010 Equality Act, is as follows:

a person has a disability if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day to day activities.

As a person with a 'protected characteristic' ('disability' is one of nine listed in the Equality Act) reasonable adjustments are appropriate. What might these look like for court-users with dyslexia? A typical adjustment would be regular breaks to restore concentration. Assistance from a helper or support worker could be 'reasonable', in order to locate necessary information in the court bundle, to help check understanding. An assistant might be needed to facilitate notes to counsel during the proceedings.

Her Majesty's Courts and Tribunals Service (HMCTS) have Reasonable Adjustments Guidance, updated in 2013 to cover all Specific Learning Difficulties. HMCTS states that court-users should contact the court if they have a disability resulting in needs and/or adjustments.

Details of all courts and tribunals can be found on the following websites

www.gov.uk/find-court-tribunal and <https://courtribunalfinder.service.gov.uk/>

But the issue of reasonable adjustments should, in the first instance, be discussed with the solicitor and, once agreed, be submitted to the court in good time. This may give rise to a case management hearing in order to determine what provisions will be available on the day.

Do not expect solicitors to be clued up about dyslexia and its impact. There is useful information in ***Good Practice Guide for Justice Professionals. Guidelines for supporting users of the Justice System who have Dyslexia /SpLDs*** M Jameson & the British Dyslexia Association www.dyslexia-malvern.co.uk/docs/justice/Justice_guide_to_SpLDs.pdf This is more helpful when customised to reflect personal difficulties. The solicitor may also be unaware that the various SpLDs are included in the judicial Equal Treatment Bench Book, both in the SpLD section (which follows Mental disabilities) and listed in the glossary at the end of the chapter on Physical disabilities – this chapter also contains a wealth of useful information on vulnerable people in court. Unfortunately the judges/magistrates/tribunal chairs will not always be aware of this guidance. See www.judiciary.gov.uk/publications/equal-treatment-bench-book/

What other assistance is possible?

In criminal cases, the court might appoint a registered **Intermediary** to assist with severe communication problems– ideally this need should have been recognised at an earlier stage during police interviewing.

People with dyslexia are advised not to try and present their case themselves but if they are unable to secure legal aid in civil or family courts there may be help available from **McKenzie Friends**, who are trained volunteers. See www.mckenzie-friend.org.uk/

There are a number of 'access to justice' issues in **Employment Tribunals**. Legal aid is not usually available; however one way of financing legal support if you cannot afford to employ a lawyer is taking out extra cover for legal and employment disputes through (some) household insurance. A lesser known route is through www.gov.uk/civil-legal-advice, whereby the applicant is taken through a list of questions over the phone including on earnings and savings. If this means-tested element is within the required criteria, a form is dispatched to sign and return. A decision is then made about eligibility. If successful, the applicant's details are forwarded to one of the two law firms with a contract to deliver this service.

Be aware that in cases of disability discrimination it is the Tribunal Judge who establishes disability, despite the claimant having received disability supports such as the Disabled Students Allowances or Access to Work. There is a mandatory involvement of ACAS earlier down the line to try and affect reconciliation. Trade Union members should always seek support from their Union at the earliest stage. It may also be helpful to acquire an assessment with the context of the workplace rather than relying on earlier reports focusing on education issues. In more complex situations, across all types of court and tribunal hearing, some people with dyslexia decide to obtain a document outlining the impact of their dyslexia and the reasonable adjustments they seek in court. A template **Accommodating SpLDs in Hearings**, to be adapted by dyslexia specialists to individual circumstances, can be downloaded from www.dyslexia-malvern.co.uk/goodpractice

PLEASE NOTE

Fees are no longer payable to enter a claim and proceed to a hearing in Employment Tribunals and Employment Appeal Tribunals. This was declared unlawful in July 2017.

All these issues are dealt with in detail in ***Coping with Courts & Tribunals: A Guide for People with Specific Learning Differences***, revised 2014, freely available from [www.dyslexia-malvern.co.uk/docs/justice/Coping With Courts & Tribunals.pdf](http://www.dyslexia-malvern.co.uk/docs/justice/Coping%20With%20Courts%20&%20Tribunals.pdf)

Chapters include police custody, preparations for court / tribunal hearings, legal aid and sources of advice, bankruptcy proceedings, jury service and alternative approaches to resolving disputes.