DEDICATION

This Guide is dedicated to Mary Colley, Founder and Co-ordinator of DANDA, in recognition of her tireless commitment to adults with Specific Learning Differences 1952-2010

DANDA (The Developmental Adult Neuro-Diversity Association) no longer operates as a national organisation following the death of Mary Colley, but its important legacy lives on. The largest regional group, the London Social Group, is open to everyone.

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Having worked with Mary Colley from before the founding of DANDA, we know how important this subject was to her. We are grateful Melanie has been able to revise this Guide to help people who are often vulnerable when involved with the law.
We are proud to sponsor this important publication in tribute to Mary.
Jo Todd – Chief Executive

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COPING WITH COURTS & TRIBUNALS
A GUIDE FOR PEOPLE WITH SPECIFIC LEARNING DIFFERENCES [SpLDs]

Please note that although most chapter headings are the same, content has been revised wherever necessary in this 2014 edition

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This Guide is for people with Specific Learning Differences who face Court or Tribunal hearings, and for those who help and support them. Police custody and jury service are also covered.

There is a different publication for professionals working in the justice system: The Good Practice Guide for Justice Professionals: Guidelines for supporting users of the Justice System who have Dyslexia and other SpLDs.

See also: Autism – A Guide for Criminal Justice Professionals.

COPING WITH COURTS & TRIBUNALS 2nd Ed- 2014
Author’s Introduction

This revised edition has drawn on meetings with the President of the Employment Tribunal, senior staff from Her Majesty’s Courts & Tribunals Service (HMCTS) and colleagues who support adults with Specific Learning Differences (SpLDs). Chapters have been sent out for consultation to the police, an international expert on Restorative Justice, lawyers and SpLD advocates. Court users have fed in their experiences. On checking details of sources of support, I have found many have disappeared since 2011.

People without SpLDs find dealings with court or tribunal processes very stressful. It is no wonder, then, that the additional experience of living with Dyspraxia, Dyslexia, Attention Deficit Disorder, or Dyscalculia makes the situation even harder to cope with. Difficulties on the autistic spectrum, such as Asperger Syndrome, present particular challenges.

It has been noted that the skills that seem to be required in hearings are just those that people with SpLDs often lack, namely

- good information processing skills, i.e. absorbing, considering and responding to spoken information ‘on the spot’
- a reliable memory
- sustained concentration and well-developed listening skills
- the ability to respond appropriately to questions and to speak clearly
- the ability to digest documentation and to fill out complex forms

People with SpLDs need to know how to access support in legal processes, what their entitlements are, and how disability legislation can help accommodate their difficulties. However this information is not always easy to come by, hence the need for this Guide.

The Guide is designed to help you in two main areas:
1. describing what help you are entitled to
2. outlining how to obtain this support

This publication does not deal with children’s issues. For information on Special Educational Needs Tribunals, enter this in the search box in www.gov.uk

Note that changes are coming in from September 2014. The British Dyslexia Association is a good source of support; their national helpline is 0333 405 4567.

There will inevitably be some repetition in this Guide, as certain issues arise in more than one situation. We begin with the first stage of the criminal justice process – police custody – and end with another aspect of criminal cases - being a juror. Much of the remainder of the Guide applies equally to civil, family and tribunal hearings.

A number of significant changes have come about since the first edition in January 2011. In that year Courts and Tribunals were merged into one service. In 2013 charges were introduced for bringing a case to an Employment Tribunal, and Acas arbitration is now mandatory. Reduction in Legal Aid and the court closure programme have also changed the landscape, with a few positive outcomes such as a greater use of mediation. The website www.gov.uk is the best source of up-to-date information.
Terminology has also developed over the years. There is now a move away from the long-established term Specific Learning Difficulties to seeing these conditions as a Difference - Specific Learning Differences. However when disability-related entitlements are sought, it is necessary to bring out the impact of the difficulties, so it makes sense to refer to Specific Learning Difficulties. People outside the SpLD community will not be aware of these subtle distinctions. Furthermore, they may be confused by the joint consideration of SpLDs and Learning Disabilities, branded as LDD or LD/D (Learning Differences / Disabilities) which is most unhelpful, but seems to be here to stay, especially in the criminal justice sector.

Some people see themselves as 'neuro-diverse' rather than having an SpLD or Asperger Syndrome, but this term is not generally understood. In the workplace another variation, Specific Performance Difficulties (SPDs), is becoming more common. In the first version of this Guide, I referred to Specific Processing & Learning Differences because the processing of information is such a key area of difference. However I have now reverted to the more common term Specific Learning Differences, with the abbreviation SpLDs.

When this Guide appeared in 2011, it was the most recent in a number of resources designed to provide information on the prevalence and impact of SpLDs in justice settings - such as police custody, legal interviews, courts & tribunals – and flag up disability entitlements. Cases came my way which demonstrated how aspects of SpLDs can create barriers to the attainment of justice. I had found that, in order to minimise misunderstandings and self-incrimination during hearings, precise documentation had to be submitted to the courts in order to flag up the Specific Learning Difference/s, cross-referenced to disability legislation.

My experience is that justice professionals - be they lawyers, police or the judiciary – have historically had little or no knowledge of SpLDs and how adults can be affected. An important milestone occurred in 2008: a commission to draft a section on Specific Learning Difficulties in the judicial Equal Treatment Bench Book along with the opportunity to update the disability glossary so that all SpLDs were included. Last year I contributed to an overall revision of the Bench Book and flagged up certain areas which have been especially problematic (see Chapter 4). The SpLD section is located alongside mental disability and mental capacity. The chapter on physical disabilities ends with an alphabetical disability glossary which includes comprehensive descriptions of SpLDs, Autism and Visual Stress.

Meanwhile awareness is growing throughout the justice system, through ongoing work to provide guidance via the disability lead in the various organisations. In addition, information on the vulnerability of people with SpLDs has recently been circulated to all Magistrates, via their journal (Aug + Sept 2014 edition) and to Probation staff via their SEEDS newsletter. The Guide on SpLDs for justice professionals (written with the British Dyslexia Association) has been revised twice, most recently in 2013. HMCTS has improved its Disability Factsheets and its guidance on reasonable adjustments; both resources now relate to the full range of SpLDs and are illustrated by real-life case studies provided by people with SpLDs who have made contact with me.

But there is always more to do…. I hope you find this revised Guide helpful,

Melanie Jones

October 2014
This chapter looks at the process of being arrested, together with your rights and available support systems. It also covers victims and witnesses.

If you find yourself in police custody you may well be in a stressed state, which could affect your ability to communicate or to think clearly. It is important to try to calm down and take account of what is happening around you.

Rights in custody as a suspect

Police procedure is bound by codes of practice. For example, they must inform you of the suspected offence and why it is necessary to arrest you.

Following the revision of the Police and Criminal Evidence Act (PACE) Codes of Practice in June, 2014, all detainees must be advised of the following rights:

1. Tell the police if you want a solicitor to help you while you are at the police station. This is free.
2. Tell the police if you want someone to be told where you are. This is free.
3. Tell the police if you want to look at their rules (i.e. the Codes of Practice)
4. The police must tell you about the offence they think you have committed and why you have been arrested and are being detained.
5. If you need an interpreter, the police must get you one. You can also have certain documents translated. This is free.
6. Tell the police if you are not British and you want to contact your embassy or consulate or want them to be told them you are detained. This is free.

You should receive a written notice of the Rights (above) and a notice of your Entitlements. Entitlements include regular breaks for food and to access to a toilet.

The custody officer has to go through a computerised Risk Assessment document. These vary somewhat from police force to police force but they are unlikely to pick up SpLDs. However there is usually a question relating to problems with reading and writing, and a question asking if you are on medication (this could flag up medication for Attention Deficit Hyperactivity Disorder, for example). This is the opportunity to mention that you have an SpLD.

Since this term is not generally known, it is advisable to refer to the condition by name e.g. Dyspraxia, Dyslexia etc. It is helpful if you can state briefly how you are affected.

Some people with Autistic Spectrum Condition (ASC) may have a special Attention Card (also known as an Alert Card) which confirms that they have been diagnosed with ASC or Asperger Syndrome. This is the right time to produce this card.
Appropriate Adults

People under 18 have an automatic right to support from a family member or guardian who must be present during police interviews. Adults regarded as **vulnerable** are also entitled to support, dependent on the opinion of the custody officer. His/her request may lead to the involvement of a Healthcare Professional (HCP) formerly known as Force Medical Examiner. These terms refer to doctors or nurses working with the police to decide whether someone in custody is suffering from a medical or mental health condition, a learning disability or some communication or social impairment which calls for certain interventions. It may be decided that the services of an Appropriate Adult are necessary to assist with communication during police interviews.

An Appropriate Adult can be a family member, guardian, friend, trained volunteer or social/health care professional. Their role is to support the young person or vulnerable adult in police custody by facilitating communication between them and the police. Unlike the duty solicitor, they do not give legal advice. The National Appropriate Adult Network provides training on SpLDs, but you cannot assume that all their volunteers will be fully informed.

Coping with Questioning

Whether or not you are provided with an Appropriate Adult, it is generally advisable to ask for a solicitor. Since people with SpLDs often have an unreliable short-term memory, poor listening skills, a short attention span and susceptibility to stress, it is quite possible that you will present a misleading impression, whether or not you are guilty of the offence. An inability to give immediate, appropriate and consistent answers may aggravate the situation and suggest to the investigating officer that you are not being co-operative.

The best policy is to inform the investigating officer of your condition and how you are affected in calm fashion, rather than insisting that account be taken of your difficulties. A possible form of words, which you can adapt as necessary, might be:

“I have (dyspraxia), this is a disability and means that I have difficulty recalling details accurately and remaining focused”.

It is most helpful if you have confirmation of your difficulty, such as the Attention/Alert Card for people with autism / Asperger Syndrome.

At the time of writing I am struggling to ascertain whether the College of Policing (established to replace the National Policing Improvement Agency in 2013) has any guidance or mandatory training on SpLDs. Even if/when such resources are available, we cannot assume that all police officers will be aware of them or be able to access them conveniently when situations arise. Part of the problem used to be that senior police staff seemed to believe that training on Mental Health and Learning Difficulties/Disabilities was sufficient, unknowingly ignoring the large population with Specific Learning Difficulties/Differences. Nowadays, those with responsibility for training and Equality & Diversity recognise the need to gain a broader understanding of the difficulties faced by the people with whom they come into daily contact.
Coping with Reading

You must let the police know if you are unable to check through your statement properly (even if you might find this embarrassing). If someone offers to read it aloud to you, ask them to leave short pauses between sentences, and follow along the line on the typed-up text. You would manage this task better after a short break. Once the statement has been signed it becomes a vital document in your case.

If your reading is impaired by Visual Stress you should explain how you are affected and what adjustments you usually to make to written materials. For checklists and further information see www.dyslexia-malvern.co.uk/visualstress

Police and Court Procedures

Under normal circumstances you cannot be held for more than 24 hours without being charged with a crime; this can be extended to 36 hours for serious offences and to 96 hours on the authority of the courts.

If the police have sufficient evidence they may charge you with a crime, thus formally and legally accusing you of an offence. A charge sheet will be presented containing the details. This will lead to a preliminary hearing in a Magistrates' Court if there is sufficient Crown Prosecution Service evidence.

Generally you will be released on bail until the hearing, unless the offence is very serious, or there are special circumstances such as a possibility that further crimes will be committed or a belief that you should be held for your own protection. There may be conditions attached to the granting of bail, and if these are broken (breached) you will probably be re-arrested.

No defence evidence is heard at the preliminary hearing. The next stage depends on how serious the charge is: less serious cases will stay in the Magistrates' Court, more serious cases are passed on to the Crown Court which has greater powers of punishment.

Early in 2014 the government announced an expansion of liaison and diversion services for people with mental health problems – this is relevant because people with SpLDs may also have mental health needs. The initiative entails increased funding for medical staff to work at police stations and courts with the aim of referral to mental health services at the earliest opportunity. The Centre for Mental Health gives full information. www.centreformentalhealth.org.uk/criminal_justice/diversion.aspx

New legislation has provided incentives for an early guilty plea, and in this way much time and expense is saved. My concern is that some suspects may become mentally exhausted and agree to anything just to get the interview over with. This may appear to achieve the desired result (end of questioning) in the short term, but is clearly most inadvisable if you are not guilty.
Use of Intermediaries

This section applies principally to victims/witnesses, but may also relate to suspects.

If you are judged as having communication problems, the police may request an Intermediary – a trained communications specialist – to assess your difficulties and provide assistance with questioning. Full details of how the Intermediary system operates at the police and court level are given in Chapter 7.

The role of the Intermediary is to advise the police on the best way to conduct interviews in the light of communication difficulties; they must not undertake any questioning themselves. The Intermediary will intervene as necessary to assist communication, and may be able to help you focus on the key issues. In addition, s/he will advise on the need for breaks and any other factors.

The Intermediary’s report is sent to the police officer, the Crown Prosecution Service and the court (including the defence). It records your needs and gives a summary of any reports on you, together with recommendations about the best way for you to give evidence at trial.

Parental Concerns

SpLD charities are often contacted by parents of young people over 18 who have been arrested (either mistakenly or with good cause). The parents are concerned that their son or daughter will further incriminate themselves due to their SpLD and are desperate to provide information on their child’s condition. Sometimes it is possible to supply this. However they will often find themselves effectively excluded from the judicial process as the young person is considered to be an independent adult.

Support is dependent on their son or daughter being regarded as ‘vulnerable’, in which case a responsible person or Appropriate Adult can be called in. The best way forward is to ensure that any solicitor who becomes involved is willing to be informed about SpLDs and their implications in this particular case. The Guide for Justice Professionals is helpful in such cases (hard copies are obtainable from the British Dyslexia Association or the Dyspraxia Foundation); the updated PDF is listed in the Reference Section (B).

Interviews with Witnesses or Victims

If you are questioned as a witness to a crime or victim of a crime, you are advised to mention your Specific Learning Difficulties by name, explaining how you are affected. You can ask to have someone familiar to support you. Support is also available through the Witness Service / Victim Support (see Chapter 7 and the link at the end of this chapter).

Officers from the local Public Protection Unit are trained to work with vulnerable witnesses and may be called in if a communication difficulty arises.
It is important to tell the police if you believe you have been the victim of a **disability hate crime**. A hate crime is defined as *any criminal offence committed against a person or property that is motivated by an offender's prejudice or hatred of someone because of their differences*. Disability hate crime is known to be significantly under-reported to the police. You can expect the matter to be investigated fully and the necessary support provided. Some police services have given this area a special focus, in a drive to increase awareness and reduce incidents.

**Overview**  [www.gov.uk/charged-crime/overview](http://www.gov.uk/charged-crime/overview)


**Appropriate adults**  [www.theappropriateadultservice.org.uk](http://www.theappropriateadultservice.org.uk)

**Victim support**  [www.victimsupport.org.uk](http://www.victimsupport.org.uk)

**Liaison and diversion service**  [www.centreformentalhealth.org.uk/criminal_justice/diversion.aspx](http://www.centreformentalhealth.org.uk/criminal_justice/diversion.aspx)

**Asperger Syndrome**  [www.autismwestmidlands.org.uk/content/675163/community_services/criminal_justice/](http://www.autismwestmidlands.org.uk/content/675163/community_services/criminal_justice/)

**Visual Stress**  [www.dyslexia-malvern.co.uk/visualstress](http://www.dyslexia-malvern.co.uk/visualstress)
We need to be aware of disability legislation and the implications for SpLDs. Foremost is the Equality Act 2010, which provides a definition of disability and underlines the concept of Reasonable Adjustments. Other pieces of legislation can also be applied to Specific Learning Differences but a general ignorance persists amongst professionals, so court-users are advised to clue themselves up.

Changes in legislation

There are a number of useful pieces of legislation for court-users with SpLDs. Many of the provisions relating to disability equality have been absorbed into the Equality Act 2010. The focus of this act is to promote equality for groups that can experience discrimination by removing the barriers that they face.

Circumstances arising before October 2010 continue to be dealt with under the Disability Discrimination Act.

Definition of disability

The definition of a person with a disability established by the Disability Discrimination Act (1995 onwards) has been carried over into the Equality Act. It runs 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.'

The key words are that the disability has to have a substantial, long-term adverse effect on the person’s ability to carry out normal day-to-day activities, not only in a work situation. The implications are that those with very minor problems cannot expect to be covered under the definition of disability. The debilitating effect of stress is often a factor.

The Equality Act, 2010

Under the Equality Act, disability is one of nine ‘protected characteristics’; these include Race, Age, Religion and Sexual orientation.

Direct discrimination arises where someone with a protected characteristic is treated unfavourably without any justification. Indirect discrimination has been described as (unjustifiably) putting in place a rule or procedure which has a worse impact on someone with a protected characteristic.

Looking now at disability, there is a duty to make reasonable adjustments to remove barriers for disabled people; this applies in situations where a disabled person would otherwise be placed at a substantial disadvantage compared with people who are not disabled.
This duty is broken down into three requirements.

**The first requirement** is changing practices, policies and procedures.

Organisations are challenged to consider whether they have rules, whether written or unwritten, that present barriers to disabled people and put them at a disadvantage when accessing their services. It might be *reasonable* for them to stop the practice completely, or to change it so that it no longer acts as a barrier.

**Relevance to SpLDs**

Some aspects of hearings cause disability-related difficulties to people with SpLDs, for example:
- a person with a short attention span being expected to remain ‘on task’ during sessions of several hours
- someone with a poor working memory being expected to cope with complicated questioning.

**The second requirement** relates to overcoming the barriers created by the physical features of premises which are open to the public or a section of the public.

*Reasonable steps* must be taken if disabled people using a service are put at a substantial disadvantage; these are listed as: removing the feature or altering it so that it no longer has that effect; providing a reasonable means of avoiding the feature; providing a reasonable alternative method of making the service available to disabled people.

**Relevance to SpLDs**

Some people with SpLDs are hyper-sensitive to bright or fluorescent lighting. Some may need to sit rather than stand. However, on the whole, SpLD requirements will relate more to how the hearing is conducted than to physical factors.

**The third requirement** involves providing extra aids or equipment and providing additional or alternative services. The law refers to these as *auxiliary aids or auxiliary services* and stipulates that *reasonable steps* must be taken to provide them if they would enable (or make it easier for) disabled people to make use of the services of the organisation.

**Relevance to SpLDs**

Equality & Human Rights Commission guidance comments that ‘sometimes a person offering assistance will be what is needed’. Possible *auxiliary services* are assistance in completing court (but not legal) documentation and help in locating where your hearing is being held within a large court complex.

Failure to comply with the duty to make *reasonable adjustments* can be regarded as discrimination on the part of the authorities.

It is also worth noting that an important aspect of Part IV of the Disability Discrimination Act has become embedded in the Equality Act, namely that the duties are *anticipatory*.
Organisations are advised that they should not wait until a disabled person wants to use their services, but consider in advance what disabled people with a range of impairments might reasonably need. These measures should then be taken in advance. Guidance to the Act gives examples of people with visual, hearing or mobility impairments or a learning disability. As often happens, specific learning difficulties are not mentioned.

The Public Sector Equality Duty, 2011

Section 149 of the Equality Act outlines the Public Sector Equality Duty (PSED). Public bodies are required to have due regard to the need to achieve the following objectives laid out in the Equality Act, namely to
(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

To assist in the performance of this duty, public authorities are required to publish equality objectives, at least every four years. A typical example of objectives from 2012-2016 is being inclusive in our approach to those we work with.

The following link provides official information on the PSED: www.gov.uk/government/publications/public-sector-equality-duty

At the time of writing (2014), it has been suggested that the coalition government is seeking to make this Duty less onerous by requiring organisations to simply make equality data available.

The Equality Act in the context of the Courts

**Summary of the disability provisions of the Equality Act:** public bodies and organisations have a *positive* and *proactive* duty to take steps to remove or prevent obstacles that hinder people with disabilities when using their services. This includes the Courts and Tribunals Service but excludes Court and Tribunal *judgements*.

Her Majesty’s Courts and Tribunals Service (HMCTS) has produced Disability Factsheets and guidance on *reasonable adjustments*. Equality and Diversity Managers have welcomed suggestions for improving these documents, which now cover the range of Specific Learning Differences. Furthermore they have offered to assist where court staff, unaware of SpLDs, do not fulfil their obligations to people with disabilities.

**The rest of this chapter is dedicated to further pieces of legislation which can be relevant to adults with SpLDs**
Police and Criminal Evidence Act, 1984

This allows for the provision of Appropriate Adults for suspects in police custody who are deemed **vulnerable**. Further information is given in the previous chapter. The Codes of Practice for this Act are updated from time to time; an internet search will provide the latest information. The most recent guidance at the time of revision is incorporated into Chapter 1 on Police Custody.

The Human Rights Act, 1998

The Human Rights Act brought a number of rights laid down in the European Convention on Human Rights into UK law. Several of these are particularly relevant:

- the right to a fair trial
- the right not to be punished for something that wasn’t a crime when you did it
- the right to non-discrimination

**Article 14, Prohibition on Discrimination**, relates to infringement of rights referred to in the Convention due to a personal characteristic such as disability, age, sexual orientation. This established the right to a fair trial and flagged up that **special arrangements** may have to be made for some parties. Some legal specialists argue that accommodating disabilities is a human right rather than an equality issue and that more challenges need to be made which will ‘flesh out’ this legislation.

The Youth Justice & Criminal Evidence Act, 1999

This Act allows for **special measures** to be provided for **eligible witnesses**. These measures include giving evidence through a video link, giving evidence from behind a screen, and the use of an Intermediary, who is appointed by the court to facilitate communication.

The eligibility criteria relate to those under 18 (formerly under 17) and those who suffer from a mental disorder or who have a **significant impairment of intelligence or social functioning**. This would seem to cover conditions that come within Mental Health such as Attention Deficit Hyperactivity Disorder and Asperger Syndrome. A case would have to be made for other SpLDs but it is worth knowing that guidance on the Act has now established that it is not necessary that the witness is diagnosed as suffering from a particular condition. **Communication** should be given a wide interpretation.

A number of cases have led to an extension of the use of Intermediaries for vulnerable **defendants** as well as witnesses.

More information about Registered and Non-registered Intermediaries in Chapter 7.

The UN Convention on the Rights of People with Disabilities, 2013

This Convention is a new international human rights agreement that establishes that disabled people have the same rights as everyone else to freedom, respect, equality and dignity AND brings basic human rights entitlements together under one heading.
It requires governments to take action to ensure these rights are respected and to remove barriers.


Sections cover the following issues:
- What your human rights are and how they are protected.
- What difference the Convention could make to your life.
- How you can be involved in putting the Convention into practice.
- How you can use the Convention to challenge injustice and improve services.

Conclusions

In the course of training delivered to solicitors, Crown Prosecution staff and judges, I have found that none of these groups knows much about disability legislation unless they have chosen to specialise in it (such as Special Educational Needs Tribunal Judges). It appears to be up to the court-user or advocate to suggest that certain aspects of legislation could be appropriate, where there is a disability issue and to ‘clue up the professionals’ – this is the topic of Chapter 4.

The Public Sector Equality Duty

The Equality & Human Rights Commission
www.equalityhumanrights.com
Tel  Equality Advisory & Support Service (EASS) 0808 800 0082

The UN Convention on the Rights of People with Disabilities, 2013
This section explores the need for Reasonable Adjustments in court and tribunal hearings and how to go about obtaining them.

What is a Reasonable Adjustment?

The core of equality legislation (relating to disabilities) is the duty to remove barriers for people with disabilities, insofar as this is reasonable. Hence the term, reasonable adjustments. However, this goes beyond simply avoiding treating disabled people less favourably for any reason relating to their disability.

The previous chapter refers to the three requirements of the Equality Act that apply in situations where a disabled person would otherwise be placed at a substantial disadvantage compared with people who are not disabled. These can be summarised as changing the way things are done; making changes to overcome barriers created by the physical features of premises; and providing extra aids and services.

The requirement to make a reasonable adjustment is anticipatory so organisations should consider in advance what they might do to make their services more accessible to people with a range of disabilities, while the reasonable adjustment must not prevent the service from being offered to other users.

The most relevant aspect of this duty, and the ensuing reasonable adjustments, are the sections on the provision of services to a section of the public, and carrying out a public function. Both can be applied to the operation of the courts and tribunals service (HMCTS). In order to help with compliance, HMCTS keeps records of the diverse needs of court-users with disabilities to build up its knowledge. Where appropriate, information is shared, for instance, between the court & tribunal centres and Witness Care Unit.

It is worth noting that people with SpLDs who attend a court or tribunal seldom require accommodations or adjustments that have big cost implications, the exception being a request for breaks (due to the costs relating to court time). However, whatever the cost of making an adjustment, this is never passed on to the court user.

Issues of accessibility

Moving back to the initial stages of a court or tribunal process – these always entail obtaining official information and trying to get a grip on the vital information conveyed. Some court users with dyslexia and poor literacy, require information in alternative formats. One individual, who campaigns on behalf of his adult dyslexia group and is struggling to bring a case in the small claims courts, has recounted his difficulties obtaining audio versions of HMCTS information – he has been offered Braille, large print and audio cassettes but repeatedly requests 1) an audio CD and 2) a version of the guidance that is fully accessible for his screen-reader.

This is a matter of making reasonable adjustments; it is being taken up with the HMCTS
Equality and Diversity team, who have shown willingness to resolve these issues.

An incidence of possible discrimination against someone with a disability occurred when the individual mentioned above made a visit to the small claims court office. Private security staff removed the dictaphone he uses to record and recall all important conversations as well as the camera he uses to take a picture (always with permission) of people who he may need to remember (he is unable to take notes or remember faces and names). However he noticed that other visitors were allowed to keep their smartphones, which can perform exactly the same functions. Is this another example of poor staff training by private contractors?

What is most helpful overall for court users with SpLDs?

First and foremost, it would be helpful if lawyers and magistrates had some awareness of the difficulties associated with SpLDs. In the court context, problem areas can include the following:

- poor / inaccurate recall of details, of times, places and events
- slow processing of information, misunderstandings and partial answers
- a limited attention span leading to mental overload
- inability to respond immediately to any new documentation
- increased susceptibility to stress.

Proposed reasonable adjustments might consist of:

- rest breaks to restore concentration (at least ten minutes for every fifty minutes of the proceedings)
- assistance in locating and digesting documentation
- support from an advocate or McKenzie Friend, as appropriate (see Chapter 7)
- encouragement to take time in answering questions in order to provide a thoughtful response
- the use of a video link (this is a special measure which has to be applied for)

Part C of the Reference Section of this Guide is a document designed to help you consider a range of problem areas and possible reasonable adjustments. This template can be customised into a three-part document for the courts by an adult SpLD specialist so it becomes a record of: a) your SpLD assessment(s), b) your anticipated difficulties coping with a hearing, and c) proposed accommodations. Please note this amount of information will not always be necessary – start by following the advice in the next section.

As it stands, this document can be used to bring lawyers up to speed regarding the widespread impacts of SpLDs. The template is regularly updated, following this link: www.dyslexia-malvern.co.uk/docs/justice/Accommodating SpLDs in hearings.doc
Requesting Reasonable Adjustments for court hearings

Having determined which reasonable adjustments might be helpful, it is necessary for you (or your representative) to contact the court where your case is being dealt with. Inform them what your disability is and what reasonable adjustments you may require. Be aware that HMCTS has a stated commitment to ensure *fair and equal access to their services* and has a procedure for dealing with reasonable adjustments, along with factsheets on disabilities to inform their staff.

Contact details for all courts are given on the website www.gov.uk/find-court-tribunal

Tribunals and Reasonable Adjustments

Employment Tribunal forms include a question about disability; full information should be entered, along with details of helpful adjustments (See Chapter 9). There are plenty of resources available about reasonable adjustments *in employment*, which is not a topic covered by this Guide. However helpful resources are listed at the end of Chapter 9 and in the Reference Section.

Regarding the remaining types of tribunal, people with SpLDs are advised to contact the Customer Service Manager (or the appropriate member of staff) at the Tribunals Hearing Centre they will be attending, in order to establish their needs, such as breaks.

In Conclusion

It is always helpful to have a stand-alone summary of your SpLD difficulties and how these might be accommodated in the courts. This can then be circulated to all parties prior to the hearing. The concept is that these accommodations should enable you to ‘*fully access the court or tribunal process*’.
Despite a greater emphasis on Equality and Diversity, most justice professionals still lack awareness of SpLDs. It is therefore up to you to provide information on your Specific Learning Difference/ Difficulty, which should be concise and in a useful format.

Providing useful information

There are a number of ways of doing this:

a) Have an assessment
If you have not had a formal written assessment of your strengths and difficulties as an adult, you will find it helpful to do so. This involves going to a specialist for an interview and tests, resulting in a written report describing your strengths and weaknesses. There may be ways of compensating for a problem area that you have not considered; or you may not be drawing on all your strengths.

The British Dyslexia Association www.bdadyslexia.org.uk and Patoss www.patoss-dyslexia.org can provide guidance on how best to get an assessment. Another option is Dyslexia Assessment & Consultancy www.workingwithdyslexia.com, which has a network of psychologists and tutors trained in adult assessments; this organisation also has expertise in court and tribunal work. Finally, there is information on the website www.dyslexia-malvern.co.uk.

An assessment report can be very long with jargon, complex appendices and considerable detail. The most useful section is often the summary; locate this and make a few extra copies for your representative to circulate. Ideally it should be self-explanatory and able to be used as a stand-alone document.

b) List your likely difficulties, with regard to appearing at a court or tribunal
It is best to do this with a friend or support worker. Talk through those areas which will be challenging (e.g. staying focused, expressing what you mean to say, understanding the question, remembering details). A list can then be drawn up which can be discussed with your solicitor or helper. It may be a matter of requesting reasonable adjustments by contacting the court / tribunal where the case will be heard (see Chapter 3) or having your solicitor apply for a consideration of special measures (see Chapter 2). In both cases, documentation must be forwarded to the court and circulated to the other parties in the case.

The Good Practice Guide (see (c) immediately below) contains an example of this approach, in Section 4.3: Example of Reasonable Adjustments documentation.

c) Obtain the Guide for Justice Professionals
This resource was written with the aim of informing professionals about the impact of SpLDs. Entitled The Good Practice Guide for Justice Professionals: Guidelines for supporting users of the Justice System who have Dyslexia and other Specific Learning Difficulties, it is described as follows:
The Guide presents the challenges arising out of Specific Learning Difficulties in justice settings and outlines good practice in accommodating them. There is an emphasis on interview situations such as court, tribunal or parole hearings and police custody.

Full details are given in Part B of the Reference Section of this publication. The 2013 update of The Good Practice Guide can also be downloaded from the resources section of www.dyslexia-malvern.co.uk. The (original) hard copy is obtainable from the British Dyslexia Association, or the Dyspraxia Foundation.

d) Flag up the Equal Treatment Bench Book – see Reference Section E of this Guide
This is the official guidance for the judiciary (i.e. judges, magistrates and chairs of tribunals) on equality and diversity issues. Until recently, this important publication had no content relating to SpLDs. After lobbying and committee work, a section on ‘Specific Learning Difficulties’ was finally included in 2008 and the disability glossary was updated to include information on individual SpLDs in court situations. A further revision, in 2013, brought out two important points, quoted below, based on situations that had arisen in the intervening years:

1. Acquired dyslexia following brain injury, trauma or infection is far less common than developmental dyslexia, and will generally be documented following medical assessments. However psychologists or suitably qualified tutors are appropriate to supply documentation on developmental dyslexia. (Some judges still believe that only medical evidence was acceptable, so this section may be pertinent.)

2. Some people with SpLDs have come to rely so heavily on technology for many aspects of their daily lives that they feel quite disabled when they are not allowed to use IT, for example in court.

Employment Tribunal Judges receive regular training on disability issues, including SpLDs, and refer to this Bench Book. However I would expect the majority of the judiciary to be unaware of this resource amidst the vast amount of guidelines and directives they need to take into account. It is produced by the Judicial College, and it is available on their website: www.judiciary.gov.uk. You will find links to the two relevant sections in Part B of the Reference Section and extracts from the Bench Book in Part E.

e) Ensure that a request for Reasonable Adjustments has been made via the Court or Tribunal in which the case will be heard.
In the first instance, a simple request for reasonable adjustments, stating what the disability is and how you are affected, should suffice. Ideally a pre-case management meeting will be held to determine what should be provided. If more information is requested by the judge, Part C of the Reference Section of this Guide on Reasonable Adjustments / Accommodations has been designed to assist you. This includes a checklist approach to identify possible problem areas and how they could be accommodated in court or tribunal hearings. It is advisable to ask an SpLD professional to draw up a document, based on this template. There should be evidence that such provisions are justified.

The previous Chapter (3) deals with reasonable adjustments in more detail.
f) Accessibility needs
Inform your solicitor (and other appropriate justice professionals) if you need adaptations to written communications such as larger font size, off-white paper or if you prefer communications to be received electronically, enabling you to use voice recognition on your computer.

If you experience Visual Stress when reading, advice is available from the British Dyslexia Association or via the hyperlink: www.dyslexia-malvern.co.uk/visualstress
In this section we look at routes to legal advice and ways of coping if you are not represented by a solicitor. The issue of court fees is mentioned.

Where and how to get good legal advice

This is the most vital consideration for people facing a court or tribunal hearing. Rather than enquiring with firms of solicitors as to whether they know about dyspraxia, dyslexia etc. it is better to find out whether a lawyer is prepared to learn about the relevant condition(s). A good solicitor will be prepared to take these factors on board and be directed by you as to where your particular problems lie. S/he should be ready to investigate which disability provisions are appropriate to your situation.

Of course some solicitors have SpLDs themselves or have experience within their own families. Others have researched the relevant conditions through acting for clients. At the moment the easiest way to locate such people would be through national and local SpLD charities, and the National Autistic Society in cases of Asperger Syndrome. However I am assured that the Law Society is now considering the needs of this vulnerable population and am hoping that this may result in a list of solicitors who are able to act effectively for clients with SpLDs and have some training in this area.

The Law Society website has a ‘find a solicitor’ facility by following the link: www.lawsociety.org.uk/FindASolicitor. Contact Law also provides this service via phone 0808 1492 907, linking callers to a trained adviser who then locates a solicitor who has been recommended; they can be emailed on info@contactlaw.co.uk

Introduction to issues of Legal Aid and Representation

If you cannot employ a solicitor, the first consideration is applying for legal aid. This has been much reduced in recent years. It is means-tested so will involve a financial declaration on your part. It is always worth checking to see whether you qualify financially and if legal aid is still available for the kind of case you are involved in. The best way of doing this is by finding a solicitor, they have a duty to advise you on this important matter.

The Law Society has a good website with information about what is currently still covered by legal aid at the time of writing www.lawsociety.org.uk/for-the-public/paying-for-legal-services/legal-aid

Some solicitors will give a free first interview or charge a fixed fee to advise on the strength of your potential case and possible ways of funding it. This service may also be provided by Law Centres and the Citizens Advice Bureau (CAB).

Information is available on www.gov.uk/check-legal-aid, which gives a ‘legal aid checker’ and includes the disclaimer that this process will provide guidance rather than a final decision. This covers non-criminal cases (civil) only.
In criminal cases, certain criteria must be met in order to qualify for legal aid, known as the interests of justice test. To pass this, at least one of the following must be demonstrated:

- Likelihood of prison if convicted
- A substantial question of law, for example: in an assault case, was this self-defence? In a theft case, was this conduct dishonest?
- The defendant is likely not to understand court proceedings, e.g. a youth or someone with a disability
- Witnesses need to be traced
- Expert cross-examination of a prosecution witness will be needed
- There is serious damage to reputation if convicted

It is the first two instances in the above list that enable most applications to succeed, namely the risk of prison and/or points of law that a lay person cannot be expected to argue.

The means test is applicable in both civil and criminal cases where legal aid is sought. Your application will usually be successful if you are on what is known as a passported benefit, i.e. Job Seekers Allowance, Income Support, State Pension Guarantee Credit, Employment & Support Allowance or Universal Credit. See link below for a document entitled Universal Credit and Legal Aid Means Testing www.gov.uk/government/uploads/system/uploads/attachment_data/file/362048/universal-credit-legal-aid-means-testing.pdf

The means test also relates to income. If you have an annual income of £12,475 or less, you will pass the means test and should get legal aid without a contribution. If your income is more than this but less than £22,325, you may have to pay something. If your case is in the Crown Court you should get legal aid, however if you do have to pay a contribution, this could be a large amount.

The legal aid funding goes directly to your solicitor or adviser.

Please Note: amounts quoted are correct at time of writing, Oct 2014.

The following websites also cover the area of means testing:
www.gov.uk/civil-legal-aid-means-testing
www.gov.uk/criminal-legal-aid-means-testing

Another calculator is provided on a helpful website www.gov.uk/legal-aid. Under the subheadings Overview and What You’ll Get, the various kinds of available help are described, as follows:
Legal aid can help you pay for legal advice, family mediation and representation in court and some tribunals.
This could include help for housing, debt, family or education problems.
You could get help with costs of legal advice or getting someone to speak or negotiate for you.
In some cases, you could get a solicitor or barrister to represent you in court and some tribunals.
You can also get help if you’re accused of a crime, e.g. advice at a police station or someone to represent you in court.
You may have to pay some money towards the legal costs of your case.
The section **How to Claim** includes a link to a directory of legal advisers, located by typing in a postcode.

A legal adviser or solicitor will be able to tell you which type of service you need and whether they can help with your legal aid application. You will need to supply evidence of your income – check what they need to see or consult the legal-aid website (above). Documentation will probably include:

- your national insurance number
- (if on benefits) benefits statements
- (if employed) information on income, including recent pay slips
- recent bank statements.
- (if self-employed) the latest full self-assessment tax return form or latest set of accounts.

If an applicant fails the means test but believes that paying for their legal costs would cause financial hardship, they can ask for a review of their additional expenses not yet taken into account.

**Further Ways of funding legal cases**

If you do not qualify for legal aid, you may have access to free legal advice through a variety of avenues, for example, through a legal expenses insurance policy. This can be through a specific legal expenses insurance policy or through another insurance policy that you hold, for example, a home contents insurance policy or car insurance. It is always worth checking all these options. Other options include a trade union or professional association.

In some cases, solicitors can offer clients a ‘no win no fee agreement’ otherwise called a conditional fee agreement. These are complicated and will need to be explained by a solicitor. A guide from the CAB explains more about these issues, but this is no substitute for individual advice from a solicitor. [http://www.adviceguide.org.uk/england/law_e/law_legal_system_e/law_taking_legal_action_e/help_with_legal_costs_legal_aid.htm](http://www.adviceguide.org.uk/england/law_e/law_legal_system_e/law_taking_legal_action_e/help_with_legal_costs_legal_aid.htm)

If none of these options are available, it may be possible to find some free representation either from a lawyer acting without charge (called **pro bono work**), or through an organisation providing this type of service, such as a Law Centre. Unfortunately there are now fewer walk-in Law Centres but it is worth checking the website of the Law Centres Network to see if there is one near you: [www.lawcentres.org.uk](http://www.lawcentres.org.uk)

There is information about volunteer barristers on [www.barprobono.org.uk](http://www.barprobono.org.uk) Assistance is only available to those who cannot afford to pay and who cannot obtain public funding (Legal Aid). Solicitors offering pro-bono help can be located via [www.lawworks.org](http://www.lawworks.org)

Another possibility is a University Law Clinic which can offer advice from qualified solicitors working with students to give them experience of real cases. See [http://lawworks.org.uk/clinics](http://lawworks.org.uk/clinics)

People who subscribe to Which magazine (see [www.which.co.uk](http://www.which.co.uk)) can obtain some types of legal advice from this organisation.
Further sources of legal advice in civil cases

The majority of the helplines that were available when I first wrote this Guide have now gone, with services increasingly being offered on-line only, however the first option below does have a phone-in facility.

**Civil Legal Advice** – only if you are eligible for Legal Aid. [www.gov.uk/civil-legal-advice](http://www.gov.uk/civil-legal-advice). This is one of the few places with a helpline: 0345 345 4345. Beware that there are charges for phone calls – up to 9p a minute from landlines and up to 40p per minute from mobiles.

Typing ‘Civil Legal Advice’ into a search engine might lead you to the website below. **Legal Care** [www.legalcare.co.uk/](http://www.legalcare.co.uk/). This association offers a free service whereby you send in your (typed) question to a solicitor. After a 14 day free trial, you have the option to pay to retain their services.

**Citizen’s Advice Bureau (CAB)** [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Contact your local CAB to get help clarifying points of law and to enquire about what legal advice is available locally. Regrettably the CAB service is now much reduced in some areas (where the main focus is often on debt advice) and may no longer be available in your town. However some places are still well staffed with sections advising on Employment, for example. (Usually) you can drop in, phone or email to make an appointment. When you are absorbed by your case, it can be difficult for you to explain the issues clearly, so, before meeting with an Adviser, make some notes about the basic facts of the matter, and have a copy ready for the Adviser. During the meeting, try to avoid getting into complicated detail straight away. Check that you have correctly grasped the advice you have been given by feeding it back. Take a friend to make notes for you.

**Trade Union Council** [www.tuc.org.uk](http://www.tuc.org.uk)

If you are a member of a Trade Union, you should be able to get advice from their legal department or from a firm of solicitors instructed by the Union. This is worth checking out because they may be able to offer you support during a hearing. In general this help is NOT forthcoming if you join the union once you are in difficulties but it is always worth asking your Union to see what the current position is. Be sure to study the advice in the CAB paragraph above, as the situations are similar.

**Unrepresented Parties and Litigants in Person**

These terms apply to someone who, for a variety of reasons, is not represented by a solicitor or barrister. If you are conducting your own civil case, this is known as being a **litigant in person**. The general term for a court user without a solicitor is **un-represented**. Litigants in Person are therefore obliged to conduct their case personally, a tremendous challenge for an individual with SpLDs. Not only will they need to inform themselves concerning the legal ramifications of their case, but produce and digest large amounts of documentation and follow complicated procedures. Added to this will be the demands of the hearing itself.
The Equal Treatment Bench Book provides guidance for the judiciary in such cases. The section on Unrepresented Parties from the 2008 edition is quoted below (unfortunately this is NOT included in the 2013 revision):

Representing oneself is highly inadvisable for people with Specific Learning Difficulties. The difficulties of doing so should be made clear, and information on legal advice provided. If the individual still decides to go ahead, clear written guidelines should be provided on court procedures and terminology. The presence of a McKenzie Friend in civil or family proceedings should be encouraged in order to help locate information, prompt as necessary during the questioning of witnesses, and provide the opportunity for brief discussion of issues as they arise. [Witness] Intermediaries may also work with people with Specific Learning Difficulties and it may not be necessary to restrict this to criminal cases.

Further useful sections from the Bench Book are included in Part E of the Reference Section in this Guide.

If, for any reason, you cannot get representation or choose not use a solicitor, you are strongly advised to investigate the relevant sources of support outlined in this chapter. Further options include McKenzie Friends, see Chapter 7. The Royal Courts of Justice website (below) may also prove useful. If you are severely affected by a Specific Learning Difficulty you will need to point out, at very stage, that you have a disability.

Royal Courts of Justice Advice Bureau www.rcjadvice.org.uk
The Royal Courts of Justice no longer runs a telephone advice line, but it does provide help via its website. There is full advice on Civil & Family Law, Bankruptcy and Miscarriages of Justice. At the time of writing (October 2014) the website outlined its legal services as follows:
Since 1978, the RCJ Advice Bureau has been helping litigants in person within the Royal Courts of Justice. We help people navigate the court system and comply with civil procedure rules.
We provide free legal advice and assistance if you cannot afford a solicitor and you are defending an action, or taking a case on your own, to:
  the High Court or Court of Appeal at the Royal Court of Justice & County Courts across England and Wales
  the family court at the Principal Registry of the Family Division or any other family court
  the bankruptcy court at the Royal Court of Justice (read more)

Please note:
Legal aid is not generally available for representation at most types of tribunal, but there are various routes to legal advice for employees, see Chapter 9.

Court Fees

The issue of fees arises in Chapter 9 on Employment Tribunals, but court fees are payable in other parts of the system. When you start to engage with any process in which a fee is required, this will be made clear. People unable to pay can apply for remission of fees through a form available online. The current practice is to download the form, fill in the necessary financial information, sign and return it to the address indicated. If you cannot cope with this process the CAB is a good source of help.
It has recently come to my attention that in some areas, such as the Small Claims Court, there are two sliding scales of fees. Lower charges are payable by claimants who are able to complete and submit the form on-line, whereas higher charges must be paid by those who opt to print the forms out and post them. In cases of disability, this appears to be discriminatory.

Finding a lawyer
www.lawsociety.org.uk/FindASolicitor
www.contactlaw.co.uk
www.barprobono.org.uk
www.lawworks.org
www.legalcare.co.uk

Law Centres Network
www.lawcentres.org.uk

Legal Aid
www.gov.uk/check-legal-aid
www.gov.uk/civil-legal-advice Tel 0345 345 4345 (charges apply)
www.gov.uk/civil-legal-aid-means-testing
www.gov.uk/criminal-legal-aid-means-testing

For legal practitioners www.justice.gov.uk/legal-aid

Citizen’s Advice Bureau (CAB) www.citizensadvice.org.uk
Tel 08444 111 444 (charges apply)

Trade Union Council www.tuc.org.uk

Royal Courts of Justice Advice Bureau www.rcjadvice.org.uk
This chapter deals with Official guidance, Pre-trial visits, Legal appointments and Case Management issues. The following topics are dealt with elsewhere: Organising Reasonable Adjustments (Chapter 3); Legal Representation (Chapter 5); Human Support (Chapter 7).

Official guidance

In the first edition of this Guide (2011), the following document was referred to: Going to court if you have a hidden impairment. Please Note that this has now been withdrawn, and replaced with a general statement on the assistance available for court users, from the following link: www.justice.gov.uk/contacts/hmcts. Sections include: Do you require assistance? AND Who to contact (which links to all courts and tribunals).

Pre-trial visits

If your Hearing involves issues that need to be sorted out in advance, such as the use of an Intermediary or other special measures, this may necessitate a visit to the court which will enable you to familiarise yourself with the building at the same time. Check which room your hearing is likely to take place in, and what facilities there are. Sometimes trial management matters are sorted out over the phone – if this is the case, you may still wish to arrange a guided visit.

The link www.gov.uk/find-court-tribunal gives full information on each court, and is searchable via postcode, court or tribunal name; a further link within the court page provides directions and a map. Investigation of various court websites shows that disability is still being related to the physical aspect of the building or to hearing loops, but an email contact is always provided. The example below, taken from this website, mentions reasonable adjustments, something you will need to have in place: If you have a disability and need help coming to a hearing, please contact the court or tribunal to make sure the facilities meet your specific needs or to discuss a reasonable adjustment you need.

It is also possible to search the various locations where different areas or law are dealt with by simply entering www.gov.uk/find-court-tribunal and clicking on Area of law. If you are not on the internet, phone the court (the number should be on your correspondence) and ask for a map and written directions. If you have difficulties with map reading, explain that you have dyspraxia / dyslexia (as appropriate) and that this is a disability affecting navigation. You might find it helpful to enquire about landmarks. It is also useful to request the contact name and phone number of a member of staff who can meet you.

You may be required to attend the court prior to the hearing, due to case management factors. If not, you are within your rights to request a visit, on the grounds of disability or a hidden impairment. I would advise you to take advantage of this opportunity.
Legal appointments (also known as legal conferences)

If you have legal representation it will be up to you to provide clear information, backed up by professional documentation such as a report. Chapter 4 is about Clueing up the professionals. It is vital that your problem areas are discussed as early as possible in the proceedings and that you are specific about how the hearing is likely to impact on your disability. Using the term disability may be against your principles, but it is on the grounds of disability that you are entitled to extra support and reasonable adjustments.

The legal meetings during which the case is prepared are your opportunity to educate your lawyer about the effects of your particular difficulties, and explore how these could be accommodated in order for you to provide best evidence. If you know that you often misinterpret a question, miss the point or have great trouble getting your points across, now is the time to say this and for the lawyer to understand that you have genuine and consistent difficulties in these areas. If s/he decides to make a statement about your condition on your behalf, make sure you have had a chance to study it first. Ideally you should work on it together.

All these issues are also relevant for meetings with McKenzie Friends and other support personnel (Chapter 7).

Case Management issues

One of the issues that should come up in case management meetings and directions hearings is the matter of reasonable adjustments. This is up to your legal representative to sort out (if you have one) but do not assume that, because you have asked for something, it will happen. Despite the up-to-date information now provided for HMCTS staff on SpLDs you may still be faced with ignorance and even bewilderment. It is therefore best to be very clear about what is needed and to keep it as simple as possible, using the format suggested in Chapter 3.

An example of a useful approach is a statement such as:
‘I have a very short attention span, this has been documented in my report. I therefore need a short break every 40 minutes to restore my concentration. This is a disability issue. Please can you confirm that I will be allowed breaks?’

The purposes of pre-trial directions have been described in general terms as ‘recognising and accommodating any aspects of disability that could cause difficulty in court and place the affected individual at an unfair disadvantage’. These judicial directions have the following aims, according to the 2008 version of the Equal Treatment Bench Book:

- to identify difficulties that are likely to arise in court hearings and procedures
- to clarify the individual’s needs
- to arrive at a proportionate response.”

It is also stressed that people with SpLDs should be consulted individually about their needs, rather than professionals making assumptions.
The disability chapter in the current *Equal Treatment Bench Book* (2013) has this to say about accommodating 'special needs':

[SECTION 45] The best outcome is for any special needs to be identified at the preliminary stages and for procedures to meet any difficulties or disadvantage to be in place at the commencement of the hearing. The court or tribunal staff should check with any person with a disclosed disability (or their solicitor or other representative) what is required, or whether what is being proposed is appropriate.

Furthermore, under the subheading *Pre-hearing planning*, there is this guidance:

[SECTION 39] Making any special arrangements in advance will save time and, as importantly embarrassment at the hearing. There is scope in both the civil, criminal and tribunal processes to identify at an early stage whether anyone involved has special needs. The forms completed by the parties should make enquiry so that the administration know when facilities to accommodate disabilities are required and the judiciary must be alert to when special directions are needed. Advisers should be encouraged to tell the court or tribunal that a litigant or witness has particular requirements.

[40] It is often easy to compensate for a disability, but in some instances special facilities or procedures are needed which require advance planning or specialist knowledge.

Despite the important role of the *Equal Treatment Bench Book* in setting out the issues surrounding equality matters (including disabilities) in the context of the courts, the majority of the judiciary (both judges and magistrates) are not familiar with its content. It may well be up to you to look through the provisions and recommendations in order to identify relevant and useful sections. Use the most recent revision, dated 2013.

(Introduction to the *Equal Treatment Bench Book* in Chapter 4, more useful extracts in Reference Section E.)

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www.gov.uk/find-court-tribunal

**Equal Treatment Bench Book (revised 2013)**  *Guidance for the judiciary:*


Disability Glossary from page 86, Specific Learning Difficulties section from page 105. **OR** go to www.judiciary.gov.uk then to PUBLICATIONS where you can search for *Equal Treatment Bench Book*. The various chapters are laid out at the bottom of the introductory comments. There are useful extracts on disability in general within Physical Disability. The Disability Glossary is at the end of this chapter. The Specific Learning Difficulties content is a stand-alone section, coming after Mental Disability.
This section deals with the various types of human support that are available in different circumstances and via different routes. \textit{(Legal Aid and Legal Advice are discussed in Chapter 5).} Since provisions and contact information appear to be changing ever more frequently, you are strongly advised to check with the relevant websites and helplines.

Appropriate Adults

See Chapter 1 for how they can provide support in police custody.

Help for Victims and Witnesses

There is a lot of help for both victims of crime and witnesses via Victim Support, which operates through a network of local branches. Their website, \url{www.victimsupport.org.uk}, divides into two main sections for \textbf{Help for Victims} (of crime) and \textbf{Help for Witnesses}. Both of these headings contains a number of further links such as \textbf{Practical help}, \textbf{Emotional support} and information on various aspects of the criminal justice system. Through this service you can also request a callback, search the directory of local services and download information leaflets such as \textit{Going to Court}. This is a useful, well-resourced site that is worth studying carefully.

The national Victim Supportline is 0845 30 30 9000. There is now a Code of Practice for Victims of Crime (2013); go to the Summary for a useful overview: \url{www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime}

Intermediaries (see also Chapter 1)

If you are likely to have difficulties understanding and communicating in court, the court can sometimes appoint an Intermediary (formerly referred to as \textbf{Witness Intermediaries}).

Intermediaries are one of the ‘special measures’ created by the Youth Justice and Criminal Evidence Act, 1999. The law allows for the assistance of a Registered Intermediary for prosecution or defence \textbf{witnesses}. However the courts have the authority to order the use of a Non-registered Intermediary for a \textbf{defendant}.

The role of the Intermediary is to facilitate communication by assisting a witness or defendant to understand questions put to them and, where necessary, communicating their reply. Intermediaries therefore need to be communication specialists; many are speech and language therapists, with additional special training enabling them to become \textbf{Registered Intermediaries}. Their duty, by the way, is to the court, not to the individual they are assisting.
Non-registered Intermediaries will need to satisfy the court of their suitability to take on the role. It is worth noting that we are told that the term communication should be interpreted widely and that the person in court does not need to be suffering from a particular listed condition. However the Witness Intermediary Team information leaflet mentions a number of conditions, including Attention Deficit (Hyperactivity) Disorder, Autism and Dyspraxia. [www.rcslt.org/about/young_offenders_and_criminal_justice/witness_intermediary_team_leaflet](http://www.rcslt.org/about/young_offenders_and_criminal_justice/witness_intermediary_team_leaflet)

The whole issue of Intermediaries relates to the two types of vulnerable court users, referred to in the Youth and Criminal Evidence Act:

1. ‘Children under the age of 18 at the time of the hearing. The Achieving Best Evidence report (which relates to children) recommends that an Intermediary may be used ‘to help improve the quality of evidence of any child who is unable to detect and cope with misunderstanding, recognise a problematic question or tell the questioner that they have not understood’. (This would also seem to be relevant to some people with SpLDs, especially when under stress.)
2. ‘Anyone whose quality of evidence is likely to be diminished by reason of the fact that they suffer from a mental disorder within the meaning of the Mental Health Act 1983, or otherwise have a significant impairment of intelligence and social function, or have a physical disability or are suffering from a physical disorder’.

I have come across people with dyslexia who experience difficulties with aspects of communication as part of their specific difficulties profile. In order for a solicitor to make the case for assistance from an Intermediary, I would expect the communication problem to be considerable and backed up by professional documentation.

However, it is often the addition of stress that undermines a person’s ability to communicate. Where this fact needs to be established, it must be shown that the debilitating effects of stress go beyond the nervousness of someone without a disability who comes before the courts.

Asperger Syndrome is not always immediately apparent or diagnosed, but this is a condition where a communication specialist with expert knowledge of Asperger Syndrome and, ideally, of the individual involved, should always be provided. If you support someone with Asperger Syndrome who is in trouble with the law or has to appear as a witness, it is advisable to contact the National Autistic Society straight away for advice.

Intermediaries: the process

It is important to remember that Intermediaries are appointed by the courts, not the solicitor. Their assistance will necessitate a pre-trial hearing to sort out exactly what help should be given. However communication needs should have been noted earlier in the process, at the police stage (see Chapter 1) leading to an ‘early special measures meeting’ between the police officer involved and the Crown Prosecution Service.

The process begins with a referral to the Witness Intermediary Scheme which manages the national register of Intermediaries. A meeting is then set up between an Intermediary and the person coming before the courts (if consent has been given) so that their communication needs can be assessed.
As a result of the assessment, the Intermediary is able to ascertain the following:

- whether the witness can give evidence at all
- whether the witness can give evidence with the assistance of an intermediary
- whether the witness needs the assistance of an intermediary
- whether this intermediary has the necessary skills to help this witness - if they do not, then the case is handed on to another intermediary
- whether the witness wishes this intermediary to help them.

The ensuing report is circulated to the investigating (police) officer, the Crown Prosecution Service and the court (including the defence). It records both the court user’s needs and a summary of any suggestions as to how s/he can give best evidence at trial. In this way it serves a similar purpose to a document outlining the need for *reasonable adjustments* and recommending what adjustments are appropriate.

Although it is ideal to have an Intermediary involved at the stage of police questioning, s/he may be brought in much later if concerns are raised by the Crown Prosecution Service, the Witness Service, or the judge at the pre-trial stage or even during the course of the trial itself.

Full information on Intermediaries, both Registered and Non-registered, is available on the Advocates Gateway website, where further links can be found to all aspects of the service: [www.theadvocatesgateway.org/intermediaries](http://www.theadvocatesgateway.org/intermediaries)

**McKenzie Friends**

This section refers to support for people litigating in the civil or family courts who are not represented by a solicitor. The focus of this section is the support role of the McKenzie Friend and how to go about obtaining one.

See also [Litigants in Person](#) and [Legal Aid](#) issues (Chapter 5).

If you are not being represented by a solicitor or barrister, you have the right to reasonable assistance from a layperson, usually referred to as a McKenzie Friend. If you wish to exercise this right you should inform the judge as early as possible in the process and state who the McKenzie Friend will be. The McKenzie Friend may be requested to submit a short statement setting out relevant experience, confirming that he or she has no interest in the case and understands the McKenzie Friend’s role, together with the duty of confidentiality.

This role of the McKenzie Friend is clearly laid out in guidance documentation.

**They may:**

1. provide moral support for litigants
2. take notes
3. help with case papers
4. quietly give advice on any aspect of the conduct of the case.
They may not:
1. act as the litigant’s agent in relation to the proceedings
2. manage litigants' cases outside court, for example by signing court documents
3. make oral submissions, examine witnesses or address the court (except in very unusual circumstances).

Examples of exceptional circumstances in which the McKenzie friend might be granted a right of audience by the court are as follows (the litigant would be expected to be present):
- the McKenzie Friend is a close relative of the litigant
- health problems prevent the litigant from addressing the court and conducting the litigation, and the litigant cannot afford to pay for a qualified legal representative
- the litigant is relatively inarticulate so it is preferable for the McKenzie Friend to speak the litigant’s words than to have to prompt and encourage him, thus prolonging the proceedings unnecessarily.

Please note:
The McKenzie Friend is not regarded as a representative. Where someone chooses not to have solicitor in a criminal case, it is possible to obtain support from a McKenzie Friend, but, to the best of my information, this title would not be used.

Lay representative

Official guidance makes provision for Lay Representatives. Their role is seen as someone who is acting in the best interests of ‘the party’, for example on behalf of a litigant with poor health who is unable to get a solicitor. This is usually confirmed in writing. Application to use a Lay Representative must be made at the earliest opportunity; you may then need to contact the court or tribunal to check whether this has been granted.

Support Worker

There are examples of the court allowing an individual with SpLDs to be assisted by a Support Worker. If this person is an SpLD specialist, working with the solicitor, the help provided can be invaluable. In a particular child custody case, the support for Client X included:
- Providing recommendations to the participants in the court case along the lines of reasonable adjustments; these could include pausing between sentences when reading information aloud, repeating back to the client what had been said; ensuring that time is allowed to formulate responses
- Intervening if it becomes clear that a question had not been understood
- Passing notes from the client to their counsel
- Indicating when a break is necessary
- Identifying and (quietly) reading relevant text to the client when references are made to her/his statement
- Accompanying the client to a quiet space outside the courtroom, when it is necessary to read and digest new documentation.

This type of help is the ideal support for a person with SpLDs in a court, tribunal or parole board hearing. Another useful service is that of note-taker.
Personal Support Units (PSU)

This charitable organisation offers help that could be invaluable to users of courts and tribunals with SpLDs who are ‘unrepresented’ (i.e. without a lawyer). Personal Support Units give the following types of help, listed under the heading **How we can help you**

- provide someone to talk to
- provide somewhere for you to wait and something to drink
- provide practical guidance and/or emotional support
- explain what happens in court
- guide you round the court building
- help you to fill in forms
- help you to organise your papers and your thoughts
- refer you to legal advice agencies
- go with you to court offices and counters
- go to court with you and stay for your hearing
- help you think about your next steps

They are not allowed to give legal advice and cannot represent you.

At the time of revising this Guide, the PSU had ten offices, has improved the advice it offers on-line, [www.thepsu.co.uk](http://www.thepsu.co.uk) and is still contactable by phone Tel 020 7947 7701/7703. The Links section of their website signposts you to a wealth of further information and organisations.

One further source of support, for those who face seemingly intractable difficulties, is the **local MP**. They will often be prepared to look into the matter.

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**Witness Intermediary Scheme (WIS)** Tel 0845 000 5463  
(information on WIS on Advocates Gateway and Royal College of Speech & Language Therapists’ websites)

**Registered Intermediaries** [www.rcslt.org/about/young_offenders_and_criminal_justice/witness_intermediary_team_leaflet](http://www.rcslt.org/about/young_offenders_and_criminal_justice/witness_intermediary_team_leaflet)

**Advocates Gateway** information on Intermediaries  
[http://www.theadvocatesgateway.org/intermediaries](http://www.theadvocatesgateway.org/intermediaries)

**Victim Support**  
[www.victimsupport.org.uk](http://www.victimsupport.org.uk)  
Tel 0845 30 30 9000.  
Code of Practice for Victims of Crime (2013) - see Summary  

**Personal Support Unit**  
[www.thepsu.co.uk](http://www.thepsu.co.uk)  
Tel 020 7947 7701/7703

**Families Need Fathers**  
[www.fnf.org.uk](http://www.fnf.org.uk)  
Tel 0300 0300 363  
(This website gives useful information on several aspects of law, means of support and recent developments).
Focusing on the hearing itself, we look at ways of getting the best outcome from a situation that contains innate challenges for people with SpLDs. Making a complaint is also covered.

Dealing with Stress

On the day itself, stress will be the biggest problem. Any techniques you have for reducing stress, such as deep breathing exercises or visualisation, will be helpful. Hopefully a directions hearing or case management meeting has sorted out issues such as reasonable adjustments, and you have formed a good working relationship with your solicitor, barrister or representative.

Inevitably there will be a lot of waiting around so plan for this. If you spend this time cramming your notes you will simply come into court already mentally exhausted. It might be advisable for your representative to enquire whether the case can be listed so that waiting time is minimised (on the grounds of disability).

Some of you will be attending court in less fortunate circumstances with no provisions in place and, if you have representation, your representative may not have grasped the essentials of SpLDs. If this is your situation, you will have to stand up for yourself and let people know what you need.

Coping with questioning

A number of people who have contacted SpLD charities over the years have said that their case took place 'over their head', leaving them with very little idea of what transpired or even what had been agreed (especially in complex child custody cases). There is a temptation to want to get it all over with and simply fall in with the lines of questioning, agreeing to whatever is put to you. The way questions are posed makes this an easy trap to fall into. Beware of phrases such as:

- *I put it to you that you had no intention of*……
- *Is it not the case that you had already decided to*…….*?
- *Mr/s X, would you say that you* ……….*?

As a result of questioning like this, your words, your intentions or particular interpretations of events are set out before you in a way that seems to expect you to agree. It is difficult to challenge or contradict them without seeming awkward and uncooperative. If this happens you must be ready with an effective answer to this type of questioning, such as: “You are putting words into my mouth. What I want to say is ....”

Alternatively, you could find yourself agreeing to a fairly bland statement only to be hit by a follow-on question which implicates you in some way. You might wish to respond: “I am not sure I grasp what you are implying. I would like to state that ....”
Flagging up your Specific Learning Difference

It is advisable to tell the presiding magistrate, judge or chair of the tribunal about your needs at the earliest opportunity. Here are some examples, which you can adapt to suit your circumstances:

“I am dyslexic/dyspraxic, I will need more time to:
• think about my response
• consult my notes, since my memory is poor
• work out what this question is getting at”

Or perhaps:
“Is have Attention Deficit Disorder; I lose focus very easily, so please can you recap?”

If you are criticised for not keeping to the point, not answering the question, etc., you may need to re-state that you have a disability. Give the name of the condition (for example, Attention Deficit Disorder, Dyspraxia) because the terms ‘Specific Performance Difficulties’ (increasingly favoured in the workplace) or even ‘Specific Learning Difficulties’ will be unfamiliar or ambiguous. There is a danger of confusion with the term ‘Learning Difficulties’ which has quite different implications and suggests lack of mental capacity.

At times you may have to ask for a question to be repeated or rephrased in a more direct way. If you are being asked compound questions (i.e. several questions at once), you may wish to request one question at a time. You may have to ask for more time to consider your answer. Unfortunately you may have to re-state your requests and be prepared to repeat them more than once.

A difficulty arises when you reach mental overload but no breaks have been scheduled. It is for situations like this that it is desirable to have prepared a document, – a brief statement on one or two pages – which outlines the difficulties that may affect your performance in court. Omit all other factors. Try to refrain from going into detail about how these difficulties might be accommodated in court, this is not essential.

Even if the court has not officially accepted this document, it should demonstrate that you are not making up excuses as you hit problems; instead you are presenting information about a condition which will have an impact on how you cope in court.

A possible format is that shown in the Good Practice Guide for Justice Professionals, pages 23 & 24, hyperlink below (please note that the example given here is based on a client with complex difficulties). The shorter this declaration is, the better.

www.dyslexia-malvern.co.uk/docs/justice/Justice guide to SpLDs.pdf

The judge or magistrate is likely to say that this matter should have been resolved before the hearing. This is true, but if it has not been possible, raising the issue now is your best chance of avoiding being disadvantaged. Hesitations, misinterpretations, partial answers, inconsistencies can easily appear to be signs of guilt (in criminal cases) or evasion / unreliability in civil or family cases.

It is worth bearing in mind the various roles in criminal cases:
The Crown Prosecution Service (CPS) looks at the police evidence and decides if this is sufficient for a prosecution.
In court, the CPS and solicitors / barristers put questions, in order to establish and test the evidence. In crown court cases only the jury decides on guilt.
Judges and magistrates apply the law according to sentencing guidelines.
Awareness of the outcome

A common issue is the inability to retain exactly what has been established during the hearing. How can this best be resolved? Occasionally, and after great persistence, litigants have been allowed to obtain or buy a transcript of the proceedings (the cost varies). I would suggest that a transcript is not very helpful: the sheer volume of information is overwhelming and ploughing through pages of cross-questioning to locate nuggets of information is a very demanding task.

What you need are notes containing a summary of the main issues and the conclusions of the court. You should ask how this can be provided. If a Personal Support Unit is based at the court or tribunal centre where your hearing takes place, they could possibly undertake this role. (Personal Support Units are described in Chapter 7). If not, there is a strong argument for being allowed to bring in a note-taker. Occasionally this has been allowed as a *reasonable adjustment* and paid for by legal aid.

In order to locate professional typists, enter note-taking and transcription services into a search engine (such as Google). Consider which service you require and check if it is allowed. One possible service in London is: [www.takenotetyping.com](http://www.takenotetyping.com)

Making a Complaint

Following a hearing, you may believe that you have grounds for complaint. How you complain depends on where the fault lies – is it with the court administration or the conduct of the hearing itself - either the judiciary, a tribunal panel member or the lawyers?

Full information is provided on the following website and its associated links: [www.justice.gov.uk/complaints/hm-courts-and-tribunals-service](http://www.justice.gov.uk/complaints/hm-courts-and-tribunals-service)

Having started by welcoming feedback in order to improve standards, the home page continues:

*If you wish to complain about the administrative service you have received or the facilities provided, please contact the court or tribunal office dealing with your case. Our leaflet EX343 - Unhappy with our service - what can you do? provides full details about our complaints process.*

You are taken through the following staged procedure, if you are not satisfied.

**STAGE 1** phone or write to the office where the problem arose
**STAGE 2** ask the senior manager at the office where the complaint arose to carry out a review
**STAGE 3** make an appeal to the Complaints, Correspondence and Litigation (CCL) Team who will take a fresh look at the circumstances
Strict timetables are given for Stages 1-3
**STAGE 4** involves asking your MP to refer your complaint to the Parliamentary and Health Service Ombudsman (PHSO). (The House of Commons Office will direct you to the relevant MP Tel 020 7219 4272). The PHSO is independent. [www.ombudsman.org.uk](http://www.ombudsman.org.uk) Tel 0345 015 4033 Email enquiries@ombudsman.org.uk
The leaflet EX343 then moves on to two further areas: **judicial decisions** (suggesting you seek advice about an Appeal) and **judicial conduct**. If you decide to lodge a complaint against the judiciary (i.e. a magistrate, a court judge or a tribunal judge / member of a tribunal panel) this MUST be done within three months of the event. There is a different route for each of the three categories.

A further website covers the roles mentioned in the web address:  
www.gov.uk/complain-judge-magistrate-tribunal-coroner

Finally, if you think a lawyer has acted unprofessionally, contact the Legal Ombudsman. The website www.legalombudsman.org.uk/ includes information in video form.

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**Advocates Gateway** Questioning someone with hidden disabilities  
www.theadvocatesgateway.org/images/toolkits/5Hiddendisabilities211013.pdf

**Personal Support Unit**  
www.thepsu.org.uk Tel 020 7947 770/7703

**Transcription service** in London  
www.takenotetyping.com

**Complaints**  
www.justice.gov.uk/complaints/hm-courts-and-tribunals-service  
www.gov.uk/complain-judge-magistrate-tribunal-coroner

**Parliamentary and Health Service Ombudsman**  
www.ombudsman.org.uk Tel 0345 015 4033 Email enquiries@ombudsman.org.uk

**Legal Ombudsman**  
www.legalombudsman.org.uk/
The main focus of this section is Employment Tribunals. There is also a paragraph on Social Security tribunals at the end of this chapter. But we begin with a fundamental issue, disclosure at work.

For official information see [www.justice.gov.uk/about/hmcts/tribunals](http://www.justice.gov.uk/about/hmcts/tribunals)

Disclosure of a Specific Learning Difficulty

The issue of disclosure of a Specific Learning Difficulty or disability in the workplace can be very sensitive. Some adults have come to see their SpLD as an asset, linked to their talents and abilities, others rely heavily on coping strategies to get by. Perhaps a helpful line manager is prepared to allow some flexibility and appreciates what you uniquely contribute to the organisation.

If you do decide not to ‘disclose’, bear in mind that this may lead to unforeseen problems. Two things can arise which may cause employees with SpLDs to ‘come unstuck’: major changes in working practices and changes in personnel (due to promotions, or a company buyout, for example). When this happens the problem areas that accompany SpLDs can become visible, causing you stress and difficulty. Perhaps you believed that disclosing an SpLD would jeopardise your getting the job in the first place, or perhaps you had never thought to look into possible entitlements as someone with an SpLD.

The charity Scope provides some advice on disclosure at the recruitment stage: You don’t have to tell a prospective employer about your disability unless you’re asked direct questions about your health as part of a medical questionnaire. This would usually be done after an offer of employment has been made. The Equality Act 2010 protects you as a disabled candidate. Employers cannot ask you questions about your health unless they are related to the job you’re being interviewed for. Many people worry that disclosing their disability during the recruitment stages will mean they are subject to discrimination.

Benefits of disclosing your impairment

These can include:

- being considered under the Two Ticks scheme (this guarantees an interview to candidates with disabilities who are suitably qualified for the post)
- getting reasonable adjustments for the interview
- some employers look for disabled candidates
- the ability to use your disability-related experiences (or, in the case of SpLDs, any special abilities) to enhance your interview answers


It is also worth noting that if you are offered an interview under the Two Ticks scheme, you should be entitled to legal representation if your job is later under threat for disability-related reasons.
Workplace difficulties

A range of workplace problems has come to the attention of SpLD charities. Some people are operating in demanding professional roles, compensating well for personal areas of difficulty, but lack the flexibility to adapt quickly to change and new requirements; this can lead to the threat of disciplinary measures and stress-related illness. Others face bullying/harassment in the workplace, a failure to make reasonable adjustments, or disadvantage in aspects of the job, such as promotion. Sometimes these workplace difficulties can escalate into charges of disability discrimination or unfair dismissal.

Grievances and disciplinary procedures

Employment disputes break down into two areas:

- grievances (when the employee makes a complaint)
- disciplinary procedures (when the employer is unhappy about some aspect of your work)

In both cases it is best if any concerns are sorted out at the earliest possible stage, before the situation escalates into formal proceedings. An Employment Tribunal will always look at how you and your employer have already tried to resolve your dispute before proceeding to a claim.

I have developed a helpful approach over a number of years, which has the benefit of presenting employees with SpLDs as willing and able to demonstrate that difficulties in the workplace can be resolved. Rather than listing ‘Problems’ and ‘Solutions’ which suggest that it is all the fault of the worker with SpLDs, the approach is one of Issues and Strategies. A real-life example, for adaptation to your personal circumstances, is included in the Reference Section of this Guide (as document D). This format can be used in a meeting with management; it may need to be backed up by an official letter from an SpLD charity or specialist (an example is shown on the second page of Workplace Issues and Strategies).

When you attend a meeting to try and sort things out, whether formal or informal, it is advisable to bring a trusted colleague, a helper or Trade Union Rep for support and to take notes for you, rather than relying on the secretarial services that report to the manager. You may decide to request the use of a dictaphone but be aware that this may restrict the discussion.

If this ‘in-house approach’ does not work out, the next option is to consider going to Acas, which provides an impartial mediation service in workplace disputes.

An important change, since May 2014, is that it is now a legal requirement for both parties to engage with Acas to try and reach a successful resolution before it is possible to proceed to an Employment Tribunal.
This process, referred to as Early Conciliation, is fully explained on the Acas website [www.acas.org.uk](http://www.acas.org.uk). It involves a number of stages described below, with the overarching aim of reaching a fair settlement rather than proceeding to lodge a claim with an Employment Tribunal.

**STAGE 1** - Submit a request for Early Conciliation on the notification form (obtainable via the website or by making a request over the phone). Ensure that the name of the employer is correct – a careless mistake could lead to the claim being thrown out by a tribunal.

**STAGE 2** – Receive an acknowledgement of the form, followed by an explanatory phone call.

**STAGE 3** – Receive a call from the Acas Conciliator to explain the next steps; if the employee agrees, contact is made with the employer.

**STAGE 4**] Both parties are then contacted.

**STAGE 5** – if the claimant cannot be contacted or if they do NOT want to proceed, an Early Conciliation certificate is issued and the case is closed.

**STAGE 6** – the Conciliator talks through issues with both sides either over the phone or through a meeting, chaired by the Conciliator (who remains impartial throughout). This is the time to look carefully at all options and proposals. Back to STAGE 5 – if the matter is not resolved, the Early Conciliation process is brought to a close and the certificate is issued. The unique reference number this contains must be quoted when submitting a claim to the Employment Tribunal.

**STAGE 7** – successful resolution: what has been agreed is recorded on a COT3 form, signed by both parties. No further tribunal claim relating to the disputed matter will now be possible.

All these stages are subject to new time limits (known as limitations), explained in the Early Conciliation section on the Acas website. The initial period outlined above is expected to last up to a month, with an extension of up to 14 days being possible if both parties agree. This cannot be extended further. Entering the Early Conciliation process pauses the time limit on presenting a claim to the Employment Tribunal.

You are advised to take great care over complying with deadlines, checking the official information on Employment Tribunals for the latest information. If you cannot comply with the time limits, you must seek official help or risk having your claim denied. The issue of deadlines and extensions is very relevant for the majority of people with SpLDs who describe themselves as having poor control over time.

**Important changes to the Tribunals service**

Following the Tribunals, Courts & Enforcement Act (2007) tribunals were organised into First-tier Tribunals and Upper Tribunals – the latter primarily for hearing appeals relating to decisions of the First-tier Tribunals, such as the Employment Appeal Tribunal (EAT).

Another major change took place in 2013 with regards to Employment Tribunals, namely the introduction of a graduated fees structure, both to bring a claim and to proceed to a full hearing. At the time of writing (October 2014) the cost of bringing a disability discrimination claim is as follows:
Those unable to pay can apply for remission of fees. You will have to download the appropriate form, complete, sign and return it (if this is problematic, your Citizens Advice Bureau may be able to assist). There is further information on the process on the website: http://www.justice.gov.uk/tribunals/employment/claims which provides a postal address for sending the claim and the appropriate fee (or an application for remission): Employment Tribunal Central Office (England and Wales), PO Box 10218, Leicester LE1 8EG.

There is no doubt that the introduction of fees, together with the fall in legal aid, have been largely responsible for the drop in the number of cases that now come before Employment Tribunals. However it is likely that the mandatory involvement of the conciliation service Acas has also reduced the number of referrals to Employment Tribunals.

Making a claim to an Employment Tribunal

Tribunal Hearings are bound to be stressful and preparation is very time-consuming. Before making a claim, it is therefore advisable to seek specialist advice about the tribunal process, and the sort of evidence you would need to present in support of your claim. Check your facts very carefully. You should also look at the websites mentioned in this chapter. The experience of Early Conciliation with Acas will also have provided useful information.

In order to make a claim, you will need to complete form ET1, and fill in the unique reference number on the Acas certificate (see previous paragraphs). ET1 includes the question (currently Q12) Do you have a disability? The President of the Employment Tribunal recently provided the following advice on how Q12 can best be completed: Rather than simply filling in “I am dyslexic” you should provide the following 4 pieces of information:
1) “I am dyslexic (dyspraxic etc.)” 2) Date/s of assessment/s
3) How you are affected generally (briefly) 4) Your needs, relating to coping with the Hearing and how they might be accommodated. You are advised to be specific, for example “because of my condition, I may struggle to answer questions and to locate information referred to. I therefore wish to bring my sister to help me”. Typical requests also include breaks to restore concentration, or the opportunity to study any new documentation quietly and without pressure.

<table>
<thead>
<tr>
<th>TRIBUNAL FEES</th>
<th>Claim fee</th>
<th>Hearing fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment Tribunal</td>
<td>£250</td>
<td>£950</td>
</tr>
<tr>
<td>Employment Appeal Tribunal</td>
<td>£400</td>
<td>£1,200</td>
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THE TRIBUNAL PROCESS
Ensuring reasonable adjustments

The Judge will look at the information you provide on the ET1 form and EITHER give a direction (i.e. an order in advance) on reasonable adjustments OR refer the matter for the tribunal to determine. The latter does not work well for the majority of people with SpLDs, who become understandably anxious without the reassurance that their needs will be met before they attend the Hearing. If you are not legally represented, you are strongly advised to write to your Employment Tribunal (by letter or email) or to phone them to check that your requests have been received. This is to ensure that they have not been accidentally overlooked.

If you are represented, you should ensure your solicitor has a clear statement of your needs and that they will handle this matter, getting back to you with confirmation of what will be in place.

Sometimes the issues will be sorted out in a case management or directions hearing. This is the ideal solution and is recommended in the Equal Treatment Bench Book (See section on Case Management Issues, end of Chapter 6). Less ideal is a case management session over the phone; problems can then arise as you struggle to make a note of what has been decided.

The Citizens Advice Bureau is a possible source of help with form completion. Phone your local branch or look at their website: www.adviceguide.org.uk/ where there is a very comprehensive section on all aspects of preparing a case for an Employment Tribunal. Many CABs have a trained Employment Adviser who can provide invaluable help in these times of shrinking funding for assistance.

Please Note: the CAB does not provide legal advice.

Employers’ protection against discrimination cases

Some legal firms specialise in advising employers how to avoid being taken to a tribunal by their employees. One tactic is to oblige new employees to sign a contract which contains a form of words that will make it very difficult to bring a case. You are advised to look carefully at anything you sign when starting a new job so that you are not caught unawares. Likewise, if you are informed that your working conditions have changed, go through the small print in anything you are asked to sign. Your employer’s Human Resources (personnel) department may be able to assist you by clarifying the situation.

Ask someone to help you if you need support with this, such as the CAB. If you have disclosed a disability, you may be asked to confirm in writing that you accept that the measures put in place are sufficient and that you will not make a complaint – this was the case for dyslexic law students in training with the College of Law. It is possible that the reduction of tribunal cases since the introduction of fees will make this employer behaviour less common.
Disciplinary proceedings

If a complaint is made against you the formal process is as follows:

- a letter, laying out the complaint
- a meeting, to which you are allowed to bring a companion – this could be a work colleague or trade union official.

Of course, having an SpLD is not a defence if you have failed to fulfil the requirements of your job. But if the employer has failed to make reasonable adjustments, despite being informed of disability-related difficulties, then you do have a case.

Trade Union support

Employees with SpLDs are advised to join a Trade Union (TU) just in case they should need their organisational support at some stage. Bear in mind that it is no good leaving membership until you are involved in difficulties at work. A good TU representative can also offer help in areas such as helping with disclosure of a Specific Learning Difficulty by acting as a mentor or intermediary. The various issues that arise are covered in Brian Hagan’s TUC Guide, entitled Dyslexia in the Workplace (3rd edition 2014). Sections cover workplace assessments, adjustments at work, case law and promoting awareness. It is written for TU representatives.

Attending an Employment Tribunal

Many of the issues raised in the previous chapter apply here, such as the importance of support and representation wherever possible, minimising stress and flagging up your SpLD. However whereas the court process is adversarial with a very heavy reliance on efficient language processing skills, the tribunal process (in theory at least) is designed to be inquisitorial and sort out grievances in a less confrontational way. If the employer has an impressive legal team the whole process can seem very intimidating, but the tribunal chair is trained to take this imbalance into account.

Arranging reasonable adjustments has been covered earlier in this chapter. A tribunal claimant with an SpLD may think that their history of disability measures (such as special exam arrangements, Disabled Students Allowances, contact with the Disability Employment Adviser, Access to Work provisions, assessments - any or all of the above) establishes that their SpLD is reckoned to be a disability. They may be aware of the definition in the Equality Act 2010, namely ‘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’.

Unfortunately, if the claim concerns the issue of disability (such as disability discrimination) the burden of proof will be upon the claimant to establish that they are a disabled person - unless the respondent readily concedes that the claimant has the protected characteristic of disability by virtue of a Specific Learning Difficulty (see section on the Equality Act, Chapter 2). An expert report may therefore be required, but even this does not outweigh the role of the judge in determining disability.
Employment Appeal Tribunal

If the claimant does not accept the outcome of the tribunal an appeal against a judicial decision can proceed in two situations only:
(1) if it arises out of a new point of law OR
(2) if there is a charge of bias or misrepresentation.

Information shared with me about appeals by people with SpLDs suggests that they usually appeal because they have experienced bias or misrepresentation. Case studies I have compiled include: situations where reasonable adjustments were not even considered; cases where the Specific Learning Difficulty was discounted (despite assessments that showed otherwise); and hearings lasting several days against well-represented employers whose legal team tried to discredit the claimant.

If you are contemplating an appeal, consult the website below for guidance, appeal forms and Frequently Asked Questions (FAQs).

www.justice.gov.uk/tribunals/employment-appeals

Making a Complaint

The final section of the previous chapter outlines the various stages of this process, providing essential web links. If the complaint is about judicial conduct in an Employment Tribunal, you are directed towards either the Regional Employment Tribunal Judge or the President of the Employment Tribunal or the Judicial Complaints Investigation Office - the complaint will be forwarded to the most appropriate channel.

Social Security Tribunals

Withdrawal of benefits may lead to a hearing at the Social Security and Child Support (SSCS) Tribunal. Guidance should be available from the appropriate disability group (such as Mencap for mental illness). The support of your GP is vital when completing the documentation, but they are not likely to be very knowledgeable about SpLDs.

DIAL UK (contact information at end of this chapter) is particularly helpful.

Finally, if you live in the right geographical area, help may be possible from The Free Representation Unit which has been providing representation on Social Security and Employment Tribunals since 1972. It operates in London, SE or Nottingham and via referral only. A list of referral agencies are given on the website www.thefru.org.uk
Official guidance  [www.justice.gov.uk/tribunals/employment](http://www.justice.gov.uk/tribunals/employment)
This covers taking your employer to an employment tribunal AND being taken to an employment tribunal by an employee

Employment Appeal Tribunal
Includes guidance, Frequently Asked Questions (FAQs) and forms

Acas
[www.acas.org.uk](http://www.acas.org.uk) Tel 0300 123 11 22

Disability Rights UK
Email enquiries@disabilityrightsuk.org

Business Disability Forum
[www.businessdisabilityforum.org.uk](http://www.businessdisabilityforum.org.uk)  Tel 020 7403 3020
Email enquiries@businessdisabilityforum.org.uk

Citizens Advice Bureau (search for Employment Tribunal)
[www.adviceguide.org.uk](http://www.adviceguide.org.uk)

DIAL UK (the Disability Information and Advice organisation) now works with Scope
Free advice Tel 0808 800 3333

Trade Union Congress
[www.tuc.org.uk](http://www.tuc.org.uk)

British Dyslexia Association
[www.bdadyslexia.org.uk](http://www.bdadyslexia.org.uk)  Email helpline@bdadyslexia.org.uk
Helpline 0333 405 4567 Office 0333 405 4555
Further SpLD organisations are listed in the Organisations & Networks section

A selection of publications
How to Succeed in Employment with Specific Learning Difficulties (2013) A Kirby
[Souvenir Press Ltd](http://www.souvenirpress.co.uk)
Working with Dyspraxia – A Hidden Asset (2013?) Dyspraxia Foundation Guide for Employers
[www.dyspraxiafoundation.org.uk](http://www.dyspraxiafoundation.org.uk)

Further materials  [www.dyslexia-malvern.co.uk/resources](http://www.dyslexia-malvern.co.uk/resources)  (M Jameson)
- Resolving Workplace Difficulties
- Strategies for Success in the Workplace
This Guide cannot cover the full range of processes that take place in courts and tribunals. Instead, this chapter highlights an issue which is increasingly common as people find themselves unable to cope with growing debt, namely bankruptcy.

Specific Terminology is listed at the end of the chapter.

Like so many court processes, filing for bankruptcy is a multi-staged process with forms and paperwork to complete. As mentioned repeatedly in this Guide, it is advisable to get advice early on – in this situation, help from a debt charity or the Citizens Advice Bureau. Official guidance can be found in the Guide to Bankruptcy, from the Insolvency Service on www.bis.gov.uk/insolvency/publications and www.gov.uk/bankruptcy.

First of all, can bankruptcy be avoided? Advice is available from three main sources:
2. The National Debtline, which has the free phone number 0808 808 400, and the website www.nationaldebtline.org/EW/Pages/default.aspx with an email option.
3. The Citizens Advice Bureau, both in person and on-line. There is a Live Chat option on the following CAB website www.adviceguide.org.uk/england/debt_e/debt_help_with_debt_e/bankruptcy.htm

Other sources of possible help are listed at the end of this chapter.

There are two types of petition - a creditor’s petition, where someone you owe money to makes you bankrupt and a debtor’s petition, where you file for bankruptcy. This chapter is from the position of the indebted person, rather than the creditor, and based on a case where I provided support. Some of the processes are common to both situations.

Completing the paperwork

As expected, a mass of detail is required when filing for bankruptcy. A key form is the Statement of Affairs, easily identifiable on-line; there is also a guide to its completion. Some people have told me that their difficulty is compounded when trying to follow two documents simultaneously (whether printed out or on screen) so they simply wade through the Statement of Affairs the best they can – all 26 pages of it! A recommendation from a friend without dyslexia, who still struggled greatly to fill in the paperwork, is that an anonymous fair copy would be the most helpful aid to completion.

Three copies are required, so completing the form on-line, then printing out three copies, is clearly less laborious than doing it by hand. But for those who find working on a hard copy preferable to writing on screen, the only possibility is to go through the process three times or run up a large photocopying bill. Mistakes and uncertainty may mean that you need to start again so it is advisable to pencil in the tricky parts and get help. An example of a question that seems, at first sight, to be ambiguous is 3.7: Do you own a motor vehicle or have you disposed of any vehicle in the last 12 months?
Check before you begin whether the form requires black ink or block capitals.

Like so many official documents, you cannot simply omit all the sections that do not apply to you – they have to be competed with the appropriate denial. One challenge with completing the form is providing accurate figures of money owed, gas and electricity costs and other financial information when these figures can change on a day-to-day basis. Querying this with the court administrator, it emerged that these figures are seen as a guideline only, since an investigation of all your financial affairs can yield an up-to-date amount at any time. The important thing is to list all the creditors, together with the (rough) amount they are owed and supply references to your accounts.

Attending on the day

Not all courts handle bankruptcies, the courtfinder website www.gov.uk/find-court-tribunal enables you to check easily by combining the search Area of Law with a geographical search.

Surprisingly, since the issue is lack of funds, you are obliged to bring £525 in cash to hand over to the court for the Official Receiver. It was suggested that certain charities or churches may be able to help with provide this money, an example was given of the British Legion. You will not be able to file for bankruptcy if you do not have the required fees. There will also be a court fee of around £180 (currently) but a remission of fees can be claimed – another form to fill in!

Levels of stress would be reduced if people were informed that the bankruptcy hearing is usually an administrative process rather than a hearing in court. Practices vary, but you will generally be dealt with by a court administrator who checks through your papers, making queries as necessary before passing them to a district judge who can make the bankruptcy order. You will only need to appear before the judge in complex cases; if this is your situation and your SpLD amounts to a disability, you would benefit from reasonable adjustments (see Chapters 3 & 4) to help you cope with the questioning process. If the matter is not complicated, you will wait a short time until the administrator returns, hand over the fee, then be free to go.

Please note: your bank account will be temporally frozen, for at least a week. It is therefore necessary to withdraw some cash straight away; debtors in this situation have been advised to draw all the cash out of their account because it may form part of the bankruptcy estate and become unavailable. Furthermore some banks will close the account once they are aware of the bankruptcy order. This important fact is not always made clear.

A follow-up phone call is made by the Official Receiver within a few days. Anticipate this by having any questions ready but the main purpose of the call is so that Receiver can check various things. Unfortunately there is then another form to tackle which must be turned around within a tight 48 hour deadline and returned along with bank statements and credit cards. A second phone call or meeting is then likely.
Please note: if you believe that working to these short deadlines are a disability-related difficulty and you can reasonably ask for extra time, request this reasonable adjustment at the earliest opportunity. Do not wait until you have missed a deadline.

The bankruptcy lasts a year if you cooperate with the Official Receiver. After that time you would normally get an automatic discharge from bankruptcy. If you fail to co-operate, the discharge from bankruptcy can be suspended indefinitely. The record of the bankruptcy stays on the files of credit reference agencies for 5 years from the date of the Bankruptcy Order and will affect your ability to obtain credit in the future.

Debt Relief Orders (DRO)

This process is similar to Bankruptcy but is only available to people with less than £15,000 worth of creditors’ debts and no assets. The fee for a DRO is currently £90 and application must be made via an organisation on an official list of intermediaries (most of these are listed at the end of this chapter).

Individual Voluntary Arrangement (IVA)

An IVA has been described as a deal that is struck between you and your creditors to receive a lesser amount than is actually owed. It is administered by a Licensed Insolvency Practitioner who acts firstly as the nominee in the IVA, and then, if approved by the creditors, as the Supervisor. An IVA works by issuing periodic payments to the Supervisor for a period of up to 5 years, resulting in a better return for creditors and avoiding bankruptcy for the debtor. It should be noted that an IVA still affects your credit rating and so should only be considered where Bankruptcy is not a viable option (for instance if you are the director of a Limited Company). More advice on this subject can be found on the Insolvency Service website.

TERMINOLOGY LIST

Annulment
Cancellation.

Assets
Anything that belongs to you that may be used to pay your debts.

Bankruptcy order
A court order making you bankrupt.

Bankruptcy restrictions order or undertaking
A procedure whereby you may have a court order made against you or give an undertaking which will mean that bankruptcy restrictions continue to apply for a period of between 2 to 15 years.

Bankruptcy petition or Petition
A request made (by you as the debtor or by a creditor) to the court for you to be made bankrupt and giving the reasons why.
Charging order
An order made by the court which gives the trustee a legal charge on your interest in your home. This continues even after you are discharged from bankruptcy.

Creditor
Someone to whom you owe money.

Discharge
Free from bankruptcy.

Estate
Your assets or property which your trustee can deal with to pay your creditors.

Income payments agreement
You may enter into a written agreement with your trustee to pay them part of your wages, salary or other income for an agreed period.

Income payments order
The court may order you to pay part of your wages, salary or other income to the trustee if your income is more than you or your family need to live on.

Insolvency practitioner
An authorised person who specialises in insolvency, usually an accountant or solicitor. They are authorised either by the Secretary of State or by one of a number of recognised professional bodies.

Interest
A right to, or share in, a property.

Legal charge
A form of security (e.g. a mortgage) to ensure payment of a debt.

Preferential creditor
A creditor in bankruptcy proceedings who is entitled to receive certain payments in priority to other unsecured creditors. These creditors include occupational pension schemes and employees.
The following organisations, along with CAB and The National Debtline (above), are also currently registered as intermediaries for Debt Relief Orders.

**Step Change** [www.stepchange.org/](http://www.stepchange.org/)
Free Online Debt Advice from StepChange Debt Charity

**Payplan** [www.payplan.com/](http://www.payplan.com/)
Apply Online To Get Help & Advice! Free Debt Plans Tailored To You

**Debtrelease Direct** [www.debtreleasedirect.co.uk/](http://www.debtreleasedirect.co.uk/) 
Option to write in or free phone call

**All About Money** [www.allaboutmoney.com](http://www.allaboutmoney.com)
Financial help and debt advice

**Christians Against Poverty** [www.capuk.org/](http://www.capuk.org/)
Debt counselling charity

**Shelter** [www.shelter.org.uk](http://www.shelter.org.uk)
This term covers Alternative Dispute Resolution (ADR), mediation in the small claims track in the County Court, Restorative Justice initiatives and conciliation in employment disputes. It is particularly appropriate for settling disputes relating to children.

There is a range of ways in which a dispute or difficulty between individuals or ‘parties’ can be resolved. These include negotiation; mediation, restorative conferencing; arbitration; litigation. They are on a sliding scale from negotiation (most desirable) to litigation (most undesirable).

The main differences between these approaches can be summarised as follows:

- **Negotiation**: the two parties talk to each other directly and work out a way forward.
- **Mediation, Conferencing, Restorative Justice**: an encounter facilitated by a (neutral) third party. The parties themselves reach a decision.
- **Arbitration**: in arbitration the third party arrives at a decision which is binding upon the participants.
- **Litigation**: takes place in a court, the parties are (usually) represented by lawyers, and a judge or magistrate makes the decision. This can be much more expensive.

Conciliation and Arbitration can occur in the realm of employment and are often facilitated by Acas, the Arbitration and Conciliation Service (their role in Employment disputes is covered in Chapter 9).

**Alternative Dispute Resolution**

The term Alternative Dispute Resolution or ADR refers to procedures to resolve a dispute without going to trial. A judge may encourage this during trial management, and may point out the possible costs incurred against a party who refuses to participate.

ADR is a good way of resolving commercial disputes, and should be considered in this setting, rather than the far more costly and complicated court case.

The County Courts provide a mediation service which the parties are encouraged to use before proceeding to a small claims hearing.

**Restorative Justice**

The Restorative Justice Council (RJC) explains Restorative Justice as follows:

*Restorative processes bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward.*
In criminal justice, restorative processes give victims the chance to meet or communicate with their offenders to explain the real impact of the crime - it empowers victims by giving them a voice. It also holds offenders to account for what they have done and helps them to take responsibility and make amends.

From an offender’s perspective, taking responsibility for one’s actions is important. From the victim’s point of view, Restorative Justice provides the opportunity to have the harm done to them acknowledged. Some people on the autistic spectrum will be unlikely to show empathy and find participation in (un-adapted) restorative justice processes challenging. As a result of concerns about this, a guide has been produced entitled *How to Make Restorative Practice More Inclusive*. Although dyslexia is mentioned, the focus is mainly on Learning Disabilities and Autism. Some of the guidance deals with turn-taking (so this could be appropriate to ADHD). The approach is that of removing barriers and being aware of needs. The guide can only be accessed / downloaded by members of the Restorative Justice Council.

The restorative justice approach has been used by Youth Offending Teams (YOTs) since the 1990s and more recently has been transferred to adult contexts. The Police sometimes use Restorative Conferencing at an early stage to stop escalation to court proceedings when the offences are minor; this tends to adhere to a script and is therefore less flexible.

The Conservative-LibDem coalition government (2010 -2015) has made several statements in favour of Restorative Justice, acknowledging that outcomes are generally much more satisfactory for all concerned, that it reduces re-offending and is valued by victims. There are now Neighbourhood Justice Teams who undertake Restorative Justice in the community. It is therefore to be hoped that this approach will continue to be promoted throughout the justice system.

Family Justice options

When the first edition of this Guide was being written (2010-11), the coalition government was undertaking a review of the Family Justice system. It was widely acknowledged that disputes regarding children should not be battled out in an adversarial setting, in which the parents become increasingly hostile (to the detriment of all concerned – especially the children). At that time, a greater role was foreseen for National Family Mediation, which works with parents to enable them to come to decisions about their children, property and other areas of disagreement. Agreements reached through the agency of the National Family Mediation are not legally enforceable unless they are subsequently registered in the courts. However experience has shown that the majority of decisions reached in this way ‘stick’, because the parents have not had decisions imposed upon them but have arrived at them themselves.

The diminution of legal aid appears to have undermined this process; as I revise the Guide, representations have been made to the government describing the 'devastating' impact of changes to Legal Aid on not-for-profit family mediation providers. This is despite a Government pledge to fund more free mediation sessions for separating and divorcing couples.
Another option is the Collaborative Process (transferred to this country in 2003 from the USA and Canada). The ‘parties’ make an agreement not to go to court, and, using legal representatives, work to sort out the contentious issue(s). A final document is drafted at the end of the process, laying out what has been agreed. This process is not cheap since two solicitors are charging for their time. If this approach fails, both sides must find different legal representatives to restart the process in court. Information on “Resolution”, a network of family lawyers describing themselves as committed to the constructive resolution of family disputes, is given at the end of this Chapter.

What about SpLDs?

The more informal the process is, the easier it is to participate. However in all these situations, the information-processing and communication difficulties associated with SpLDs can be problematic. The mediator should therefore be informed in advance, so that reasonable adjustments can be made. If you have an SpLD, it is always advisable to explain how you are affected and what would make it easier for you to participate fully.

Child Custody

As if divorce proceedings were not distressing enough, the matter of child custody will often need to be sorted out. This will lead to the involvement of the Children and Family Court Advisory and Support Service (Cafcass), described as an independent public body set up to safeguard and promote the interests of children involved in family proceedings. Its role entails working with children and their families, and then advising the family courts on what it considers to be in the children's best interests. If the children have dyslexia or a related SpLD, this should be flagged up.

It could be argued that a parent with an SpLD would have an innate understanding of a child with the same condition and this should be borne in mind. However the main issue I would like to raise here is that of ensuring a fair hearing for a parent with dyslexia or a related Specific Learning Difficulty. In deciding what is the best outcome for the child – always the prime consideration - the judge may order psychological reports on the parents. These will assess various aspects of functioning, in order to evaluate reliability, caring skills etc. If a parent has an SpLD which is not evaluated by a specialist in these conditions, this may be misrepresented in reports for the courts. In this way a parent can be documented as being unsuitable to a lesser or greater extent when in fact what are being recorded are the effects of SpLDs, for which the parent is well able to compensate.

My advice to adults with SpLDs in child custody proceedings is as follows: Firstly, ensure that your SpLD(s) are well documented by a specialist in adults. Secondly, if you are un-represented, do not face a hearing alone. Chapter 7 has a section on a good source of support, the McKenzie Friend. It describes their role and tells you how to acquire a Friend. The charity Families Need Fathers (rather than the activist Fathers for Justice) assists lone parents of either sex in this difficult situation, and they can often provide a McKenzie Friend.

If you are represented, ensure your solicitor is well informed (Chapter 4 deals with this matter). Reasonable adjustments will probably be needed in either situation, see Chapter 3.
Law Society  [www.lawsociety.org.uk/a-z/dispute-resolution](http://www.lawsociety.org.uk/a-z/dispute-resolution)  
(this site is for practitioners)

Restorative Justice Council  [www.restorativejustice.org.uk](http://www.restorativejustice.org.uk)  

Resolution  [www.resolution.org.uk](http://www.resolution.org.uk)

National Family Mediation  [www.nfm.org.uk](http://www.nfm.org.uk)

Families Need Fathers  [www.fnf.org.uk](http://www.fnf.org.uk)  
Tel 0300 0300 363  
This website gives useful information on several aspects of law, means of support and recent developments. **Please note**: it also provides support for mothers.
People with SpLDs are likely to face some difficulty in undertaking jury service, due to the demands of information processing. Does this mean that you should attempt to get out of this civil duty or can you manage to fulfil your obligations despite the disadvantage of Specific Processing & Learning Differences?

Official guidance on jury service www.gov.uk/jury-service

The Jury Summons

When you receive a summons from the Jury Central Summoning Bureau to serve as a juror you must respond promptly. The official website www.gov.uk/jury-service is well organised under a number of subheadings such as Overview, Discussing the Trial, Questions about Jury Service. Clicking on the last subheading ‘Questions’ takes you to a section where disability is mentioned, along with the possibility of arranging a visit to the court to check facilities.

The site links you to two important resources: the Jury Summons Guide and the Jury Summons Form. It is pointed out that deferral (change to a later date) and excusal (not able to attend in the next 12 months) are possible. Both Guide and Form have a disability section. On the Form, under Disability and Special Needs you have the opportunity to disclose a disability and fill in what special arrangements you require. As has been stressed elsewhere in this Guide, do not assume that the officials you come across will have an understanding of your needs. It is therefore up to you to provide useful, focused, information about your SpLD and be clear about what reasonable adjustments you require. If no-one gets back to you about putting these in place, make sure you explain on arrival.

The form must be completed in BLOCK CAPITALS – I would advise you to print out a copy to use for practice, then copy it out carefully. There is a fine (currently £1000) if you refuse to supply information or supply false information.

According to the official view, as laid out in the Juries Act 1974, there is a ‘presumption that people with disabilities should undertake jury service unless the judge is of the opinion that they would not be capable of acting effectively as a juror, on account of their disability’. It is stressed that there is no possibility of a carer or helper accompanying the disabled juror in the jury room where the deliberations take place. So it is up to the judge to determine if someone cannot serve, by reason of disability.

Some people with SpLDs are all too aware that this role is beyond them and wish to explain to the jury service why it is not possible – this is something that SpLD organisations have been asked to help with. However do bear in mind that your ‘specific difference’ includes certain abilities; examples of skills associated with SpLDs include acute perception, lateral thinking skills or being able to look beyond the detail to gain an overview.
When you are contacted regarding jury service, you receive a booklet with vital advice and legal requirements; disobeying the rules (such as discussing the trial or looking up background information about it) could render you in contempt of court so study them carefully.

Coping in Court

As a juror with SpLDs, you will need to evolve a good way of noting key bits of information, possibly through a mind map or diagrammatic approach. Make sure to look through and clarify your notes at the end of each session. A member of DANDA reported that her main problem as a juror was remaining focused during long courtroom debates.

Another previous juror with dyslexia has made the following suggestions, to make it easier for jurors with SpLDs to understand the role of the juror and the trial process:

- Communication should follow good practice in accessibility
- The booklet sent out to jurors should be more accessible with key pieces of information clearly highlighted, especially what is forbidden and the penalties for breaking the rules
- Discussions about reasonable adjustments should take place before jury selection, ideally in a 1:1 meeting
- The summing up by the judge before the jury retires should always be backed up by a written record – it would be even better for some people to have an audio version that can be listened to carefully on headphones in a quiet place.

In fact this summary, known as Directions, is increasingly provided in written as well as spoken form. I would advise that you check in advance that you can receive Directions in a written version, so that you do not need to struggle to retain this vital guidance.

When you retire to the jury room for the deliberations process, you may decide to make your fellow jurors aware of ways in which they might support you, such as having a short gap after heated deliberations (which would probably be helpful to everyone). Further suggestions are that the judge’s summary should be read out at the start of the deliberations and that one of the participants should read out key parts of the transcript - again this would benefit all the jurors.

It is helpful for the image of SpLDs if you are able to play a full part in civic roles, thus educating the general population and professionals who work in these areas.

www.gov.uk/jury-service

Jury Central Summoning Bureau
Tel 0845 803 8003 or 020 7202 6800  Email jurysummoning@hmcts.gsi.gov.uk
Address Jury Central Summoning Bureau, HM Courts & Tribunals Service, FREEPOST LON 19669, Pocock St, London SE1 0YG
A) Terminology

B) Organisations & Networks

This section will be updated as necessary in the PDF version of the Guide and on the websites: www.dyslexia-malvern.co.uk www.workingwithdyslexia.com

A request to readers of this Guide

Please email information about further resources and contact details of useful organisations to mj@dyslexia-malvern.co.uk. This will enable the reference section to be as helpful and up-to-date as possible.

C) Reasonable Adjustments / Accommodations

This section is provided for people with SpLDs to share with their lawyers (and other people helping or representing them) regarding reasonable adjustments.

Under the terms of the Equality Act, reasonable adjustments can be requested if your difficulties amount to a disability. This document Reasonable Adjustments / Accommodations in Courts & Tribunals can be used, as it stands, to explain needs and possible accommodations arising out SpLDs in general terms.

Alternatively, you could use it as a basis for an evaluation of your own individual needs and how they could best be accommodated in a hearing. It is best to go through it with a helper or advocate, highlighting what applies to you. This personalised document can then be submitted by an SpLD specialist or used by anyone who assesses you.

The term Specific Learning Difficulties has been used throughout, because it is the more usual term and because it is consistent with the language used in official guidance, such as the Equal Treatment Bench Book (used by judges, magistrates and tribunal chairs).

To download a version of this document, follow the link:
www.dyslexia-malvern.co.uk/docs/justice/SpLD_Hearings.doc

D) Workplace Issues and Strategies

This comprises a specimen letter from an employee with SpLDs outlining Issues that are causing him problems at work and Strategies for coping with them. It is followed by a specimen letter from an SpLD specialist, backing it up. You would need to modify them for your own use.

E) Extracts from the Equal Treatment Bench Book

These are on disability in general, see also the Bench Book section on SpLDs

F) SUMMARY OF KEY POINTS
### Terminology linked to the justice System

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<td>Acas</td>
<td>The Arbitration and Conciliation Service</td>
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<td>ASSET</td>
<td>Assessment Tool used by Youth Justice System, also ONSET</td>
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<td>CAB</td>
<td>Citizens Advice Bureau</td>
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<tr>
<td>Cafcass</td>
<td>Children and Family Court Advisory and Support Service</td>
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<td>HCP</td>
<td>Healthcare Professional: Doctor or nurse working in a police custody setting</td>
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<td>HMCTS</td>
<td>Her Majesty’s Courts &amp; Tribunals Service</td>
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<td>IPP</td>
<td>Indeterminate Sentence for Public Protection</td>
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<td>JP</td>
<td>Justice of the Peace (Magistrate)</td>
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<td>NOMS</td>
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<td>YOT</td>
<td>Youth Offending Team</td>
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**Disposal**

The official response to an offence, e.g. *out-of-court disposal* may be a fine or referral for drug detox. *Youth Justice disposal* refers to the range of non-custodial options available to the Youth Courts

**Intermediary**

(formerly ‘Witness Intermediary’) A trained specialist who supports court users and people being questioned by the police, who have communication needs

**Lay Representative** A lay person who has no advocacy rights but is granted right of audience
Legal Adviser  Provides legal advice to magistrates
Litigant in Person  Someone who brings a case themselves, without using a solicitor
McKenzie Friend  A lay person who provides support in court in specific ways
Unrepresented  Someone who appears in a hearing without a solicitor

Please Note: terms relating to Bankruptcy are listed at the end of Chapter 10
Most sources of information appear in the appropriate chapter. This section contains:
1) Additional resources and networks
2) Key web links, that relate to many sections of this Guide

The following entries are in alphabetical order, followed by SpLD organisations. However we begin with the key government and ombudsman websites. Though correct at the time of writing (October 2014) contact details may change or the organisation may cease to function.

Key Official Websites

www.gov.uk the official government information website, covering all public services. (formerly www.direct.gov.uk)

www.justice.gov.uk/contacts/hmcts/courts OR www.gov.uk/find-court-tribunal to locate / contact courts & tribunals

Complaints

www.justice.gov.uk/complaints/hm-courts-and-tribunals-service

www.gov.uk/complain-judge-magistrate-tribunal-coroner

Legal Ombudsman www.legalombudsman.org.uk/ Tel 0300 555 0333

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Advicenow
An independent, not-for-profit website providing accurate, up-to-date information on rights and legal issues.

www.advicenow.org.uk

Advice UK
A UK network of advice-providing organisations. They do not give out advice themselves, but the website has a directory of advice-giving agencies.

www.adviceuk.org.uk Tel 0300 777 0107/08 Email mail@adviceuk.org.uk

Advocates Gateway
Information on Intermediaries (and other issues)

www.theadvocatesgateway.org/intermediaries

Centre for Mental Health
Includes section on criminal justice on website

www.centreformentalhealth.org.uk
Citizens Advice Bureau / Adviceguide
The website below is the main public information service of the Citizens Advice Bureau. On the home page there is a heading Your rights which contains two useful sections:
- Discrimination which includes a quick guide to the 2010 Equality Act
- The legal system which includes Frequently asked questions about legal matters and Help with legal costs
Any local directory should contain the phone number for your local office.
www.adviceguide.org.uk

Contact Law
www.contactlaw.co.uk,
Tel 0800 1596 066. Callers are linked to a trained adviser who then locates a solicitor.

Disability Law Service (DLS)
The DLS covers a wide range of topics including discrimination, consumer issues, education and employment.
www.dls.org.uk   Tel 020 7791 9800   Email admin@dls.org.uk

Disability Rights UK (formerly RADAR)
www.disabilityrightsuk.org   Website links to:
Disabled Students Helpline
Equality Advisory and Support Service (EASS)
Email: enquiries@disabilityrightsuk.org

Equality & Human Rights Commission (EHRC)
This organisation brings together the former single issue commissions (such as the Disability Rights Commission) and provides information on disability discrimination.
www.equalityhumanrights.com
Tel 0808 800 0082

Judicial College
www.judiciary.gov.uk   use this web address if links below, cease to function

Equal Treatment Bench Book Key publication, providing guidance for the judiciary
EITHER locate SpLD section from page 105; SpLDs are listed within Glossary from page 86 OR locate the following two chapters via the direct links below.

1) Physical Disability: this has useful disability guidance. It concludes with a Disability Glossary in which all Specific Learning Difficulties appear, within an alphabetical listing

   Useful extracts on disability in general are quoted in Section E of this Reference Section

2) The Specific Learning Difficulties content of the Bench Book; this is situated in a stand-alone section, after Mental Disability.
Law Centres Network
This is the national co-ordinating organisation for a network of community-based law centres which can provide free and independent specialist legal advice to people who live or work in their catchment areas. Link to your nearest centre from the website.
www.lawcentres.org.uk

Law Society
A range of guides are available on their website, together with a ‘find a solicitor’ link.
www.law society.org.uk

LawWorks – the Solicitors Pro Bono group
LawWorks puts people in touch with a solicitor who can provide free legal advice. It only helps people who cannot afford to pay and cannot get legal aid.
www.lawworks.org.uk

Personal Support Unit
Help and advice, based at a number of courts.
www.thepsu.co.uk  Tel 020 7947 7701/7703

Victim Support
www.victimsupport.org.uk  Tel 0845 30 30 9000.
Code of Practice for Victims of Crime (2013) - see Summary

Specific Learning Difficulties Organisations

Adult Dyslexia Organisation (ADO)
www.adult-dyslexia.org
Tel 07974 755163   Email ado.dns@dial.pipex.com

Attention Deficit (Hyperactivity) Disorder Information Service: ADDISS
www.addiss.co.uk
Tel 020 8952 2800   Email info@addiss.co.uk

Autism West Midlands
www.autismwestmidlands.org.uk
For information relating to criminal justice issues:
www.autismwestmidlands.org.uk/helpadvice/criminal_ justice
Tel 0121 450 7582 / 0303 03 00 111   Email info@autismwestmidlands.org.uk
British Dyslexia Association: BDA
Resources include a range of information sheets and hard copies of the Good Practice Guide for Justice Professionals (for sale). You can link to regional groups.
www.bdadyslexia.org.uk
Helpline 0333 405 4567  Office 0333 405 4555  Training 0333 405 4565
Email helpline@bdadyslexia.org.uk

Dyscovery Centre
SEE ALSO www.doitprofiler.com
Centre of expertise on all SpLDs, training, research, assessment, resources
www.dyscovery.info/
Tel 01633 432330  Email dyscoverycentre@newport.ac.uk

Dyslexia Foundation
Dyslexia centres catering for adults and employers in Liverpool and Manchester, plus a national Adult Helpline, free Screening, Assessments and Training for disadvantaged adults. NEW free online dyslexia screening tool www.dyslexia-test.me
www.dyslexia-help.org
Tel 0800 077 8763  Email info@dyslexiafoundation.co.uk

Dyslexia Assessment & Consultancy
For SpLD assessments, legal reports, support for court users, expert witnesses
www.workingwithdyslexia.com
Tel 020 7582 6117  Email info@workingwithdyslexia.com

Dyslexia Consultancy Malvern
www.dyslexia-malvern.co.uk
Tel 01684 572466  Email mj@dyslexia-malvern.co.uk
Range of website resources on justice matters, including latest versions of the following:
1. Good Practice Guide for Justice Professionals. Guidelines for supporting users of the Justice System who have Dyslexia and other Specific Learning Difficulties
www.dyslexia-malvern.co.uk/docs/justice/Justice guide to SpLDs.pdf
2. Coping with Courts & Tribunals: A Guide for People with Specific Learning & Processing Differences [i.e. link to PDF version of this guide, which will be updated]
www.dyslexia-malvern.co.uk/docs/justice/Coping With Courts & Tribunals.pdf

Dyspraxia Foundation
www.dyspraxiafoundation.org.uk
Tel 01462 454 986  Email dyspraxia@dyspraxiafoundation.org.uk

Key 4 Learning
SpLD expertise, training, employer / employee services, assessment
www.key4learning.com
Tel 01285 720964  Email office@key4learning.com
**National Autistic Society**
See *Autism: A Guide for Criminal Justice Professionals*, PDF available from website [www.autism.org.uk](http://www.autism.org.uk) Tel 0808 800 1050 Email [nas@nas.org.uk](mailto:nas@nas.org.uk)

**Patoss** (Professional Association of Teachers of Students with SpLDs)
This is primarily a teaching organisation but is useful to find an SpLD assessor [www.patoss-dyslexia.org](http://www.patoss-dyslexia.org)
Tel 01386 712650 Email [patoss@sworcs.ac.uk](mailto:patoss@sworcs.ac.uk)

**INFORMATION SHEETS**
[www.workingwithdyslexia.com](http://www.workingwithdyslexia.com)  [www.dyspraxiafoundation.org.uk](http://www.dyspraxiafoundation.org.uk)
[www.dyslexia-malvern.co.uk](http://www.dyslexia-malvern.co.uk)  [www.autismwestmidlands.org.uk](http://www.autismwestmidlands.org.uk)  criminal justice

**RESEARCH ON CRIMINAL JUSTICE & SPECIFIC LEARNING DIFFICULTIES**


**CONCLUSION**: Just over half (52%) have literacy difficulties. 20% have a hidden disability, affecting learning and employment, such as Attention Deficit Disorder.
This template should be adapted for each individual. Part (a) summarising previous assessments, should be inserted. Parts (b) & (c) will vary from individual to individual.

BACKGROUND

People with disabilities – including many with Specific Learning Difficulties (such as Dyslexia, Dyspraxia, Attention Deficit Disorder and Asperger Syndrome) - are entitled to have their needs considered and their difficulties accommodated, insofar as this is ‘reasonable’.

This approach is enshrined in key pieces of legislation:

- The Human Rights Act (1998)
- The Equality Act (2010)

When someone with Specific Learning Difficulties comes before a court or tribunal hearing these obligations can be met by the provision of a document following this template which

(a) summarises any previous assessments, highlighting the particular difficulties recorded in professional reports

(b) describes the impact of these difficulties during court or tribunal processes

(c) outlines appropriate Accommodations or Reasonable Adjustments.

The individual’s difficulties often amount to a disability according to the legal definition:

'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.'

(Disability Discrimination Act 1995, carried over to the Equality Act 2010).

This document highlights difficulties faced by court- and tribunal-users with Specific Learning Difficulties at all stages of the process, not just during the hearing itself.
(b) THE IMPACT OF SPECIFIC LEARNING DIFFICULTIES IN COURTS & TRIBUNALS

Difficulties arising from Dyslexia, Dyspraxia and AD(H)D vary considerably from person to person, but the areas of difficulty listed below are typical and will impact on the individual's ability to participate fully in their court or tribunal hearing.

Information Processing

- Difficulties taking in information efficiently (this could be written or auditory)
- Slow speed of information processing, such as a ‘penny dropping’ delay between hearing something and understanding and responding to it

Memory

- Poor short-term memory for facts, events, times, dates (giving the impression of unreliability)
- Problems with remembering names (these could apply to people, places or items such as drugs or medication) and mistakes with routine information
- Inability to hold on to information without referring to notes

Communication Skills

- Lack of verbal fluency, lack of precision in speech (giving the impression of evasiveness)
- Inability to work out what to say quickly enough, word-finding problems
- Misunderstandings or misinterpretations during oral exchanges
- Difficulty in judging or modulating tone of delivery, often either too loud or too quiet
- Sometimes mispronunciations or a speech impediment may be present
- Individuals with Asperger Syndrome may panic and use extreme language

Literacy

- Erratic spelling and/or awkward or illegible handwriting
- Even if reading skills are adequate, ‘digesting’ written material, skimming through documentation or easily locating a piece of information in a court bundle is very challenging.
Particular difficulty with unfamiliar types of language such as legal terminology, acronyms etc.

Difficulty with reading because of visual stress: symptoms include a ‘glare’ from white paper, difficulty keeping the place on the page, apparent print distortion and eye strain. 

Visual stress can be exacerbated by fluorescent lighting, cramped text or white paper.

**Sequencing, Organisation and Time Management**
- Difficulty presenting a sequence of events in a logical, structured way
- Incorrect sequencing of number and letter strings
- Tendency to misplace items, disorganisation, muddling dates or times
- Poor time management and particular difficulties in estimating the passage of time

**Orientation**
- Difficulty with finding the way to places or navigating an unfamiliar building

**Concentration**
- Weak listening skills, a limited attention span, inability to remain focused
- A tendency to be easily distracted
- Sensations of mental overload / ‘switching off’

**Sensory Sensitivity**
- A heightened sensitivity to noise and visual stimuli
- Impaired ability to screen out background noise or movement

**Lack of awareness**
- Failure to realise the consequences of their speech or actions
- Failure to take account of body language
- Missing the implication of what they are told, or interpreting it over-literally
The effects of stress

People with Specific Learning Difficulties are usually debilitated by stressful situations (such as a court or tribunal appearance) because stress further exacerbates areas of difficulty and undermines coping strategies. Heightened susceptibility to the effects of stress is a well-documented feature of Specific Learning Difficulties. See *Dyslexia and Stress 2nd edition* Edited by TR Miles (2004) Whurr Publishers Ltd Special difficulties arise with Asperger Syndrome, making any form of cross-questioning very problematic.

Assistive Technology

Some people rely heavily on various items of technology to function effectively. Denying the use of these technologies in Hearings is depriving them of their disability aids. They struggle to retrieve information from memory, and to provide facts as required.

(c) APPROPRIATE ACCOMMODATIONS OR REASONABLE ADJUSTMENTS

General communication issues
- Always aim for clarity and remove all ambiguity in all modes of communication.
- When providing complex information first introduce the topic, then give the details, then summarise if necessary.
- As far as possible, deal with issues in chronological order: do not jump around in time
- Provide a glossary of technical terms.

During oral exchanges
- Allow the individual to ask for questions to be repeated or re-phrased without censure or (implied) criticism. S/he may need to check understanding by re-phrasing questions.
- A helper will be needed to find the place when extracts from particular documents have to be located ‘on the spot’.
- When reading information out to someone with Specific Learning Difficulties, insert pauses after each section to allow the information to be absorbed.
- Make allowances for slow processing of information, misunderstandings and partial answers.
- Allow thinking time before prompting a response.
- Check back as necessary to ensure understanding.
- Take account of likely difficulty with recalling / reciting strings of numbers or letters (number plates, addresses etc.)
Be aware that, in a stressful situation, recall of details such as times, places and names may not be accurate. Comprehension will become increasingly impaired.

Always be aware of a probable limited attention span and the possibility of mental overload. Breaks should be offered (extra time is needed to accommodate them).

When supplying written information / during written correspondence

- Be aware that most dyslexic people have considerable difficulty 'digesting' written material, despite being able to read adequately. During a hearing they will need to withdraw, ideally with a helper, to study the import of any new documentation.

- If the individual suffers from visual stress, documentation should be adapted according to accessibility guidelines. Bright white paper should be avoided; tinted paper, such as pale blue or grey, is preferable.

- Whole phrases in capital letters should be avoided (these are hard to decipher because the normal shape of the lower case word is lost).

Facilitating reliable evidence

- In many cases, rest breaks will be necessary to restore concentration (at least ten minutes for every fifty minutes of the proceedings). Many people with specific learning difficulties will have reached 'mental overload' long before this time.

- Information on likely topics and the opportunity to consider them in advance is helpful.

- The matter of lighting should be considered in cases of light sensitivity.

The stress and distractions of the court, together with the rapid 'cut and thrust' of questioning, disadvantage people with specific learning difficulties. In some cases ‘special measures’ will be appropriate, such as the use of a video link and the support of a Registered Intermediary.

Further issues

If the individual is unable to retain what has transpired during the hearing, s/he should be supplied with a record of the proceedings.

It is not advisable for people with Specific Learning Difficulties to be unrepresented / Litigants in Person. The difficulties inherent in their condition(s), together with inexperience and ignorance of legal proceedings, combine to place them at an overwhelming disadvantage.
People with Dyslexia, Dyspraxia and Attention Deficit (Hyperactivity) Disorder can vary greatly individually in the difficulties they experience; accommodations therefore need to be adapted to suit each individual. Never make assumptions – individuals should be given the opportunity to explain their needs and preferences.

**RESOURCES**

*Equal Treatment Bench Book, 2013 revision* [www.judiciary.gov.uk](http://www.judiciary.gov.uk)

*Good Practice Guide for Justice Professionals*
[www.dyslexia-malvern.co.uk/docs/justice/Justice%20guide%20to%20SpLDs.pdf](http://www.dyslexia-malvern.co.uk/docs/justice/Justice%20guide%20to%20SpLDs.pdf)
AN APPROACH TO RESOLVING WORKPLACE DIFFICULTIES

Presented at the Dyslexia Action Seminar on Adults in the Workplace 20/11/12

This correspondence demonstrates an approach to resolving difficulties that can arise for an employee with SpLDs. The example should be customised.

(a) Letter from an employee with dyspraxia and dyslexia (Mr Y) who has been absent due to work-related stress and may be facing disciplinary procedures.

(b) Support letter from Melanie Jameson, in her role as Adviser to an SpLD charity

(a) Letter from employee with SpLDs (Mr Y) to Mrs X (line manager)

I was assessed as dyslexic as a teenager. A more recent assessment (copy available) highlighted on-going difficulties with short-term memory and difficulties working under pressure caused by excessive volume of work. An unmanageable workload appears to be an inevitable part of the Z Section; this has led to a period off work due to stress.

I am keen to return to work but feel I shall only be able to perform effectively in a quieter section and if I can employ certain strategies.

I have highlighted a number of Issues (in bold) and identified helpful Strategies (in italics). In this way I believe that the difficulties can be resolved and I will be enabled to work effectively.

**ISSUE**  Coping with huge and unpredictable volumes of work under strict time constraints exacerbated by staff shortages
**STRATEGY** - placement in a less busy section.

**ISSUE**  Working in a noisy open-planned environment
**STRATEGY** - placement in a smaller office (ideally) or in a corner of the room, away from the photocopier and the main door

**ISSUE**  Working with constant interruptions
**STRATEGY** - I work best when I can prioritise and plan my tasks, ten minutes at the start of the morning and afternoon would help.

**ISSUE**  Weak short-term memory, further undermined by ‘overload’
**STRATEGY** – a dictaphone and customised proformas would facilitate effective communication.

**ISSUE**  Dealing with customers without time to do follow-up documentation
**STRATEGY** - it is impossible for me to work effectively when customer numbers are excessive. I need time to dictate a few notes after each client.

These strategies are along the lines of ‘reasonable adjustments’ under the 2010 Equality Act. I fit within the description of a person with a disability as defined by this Act. Since my health has now recovered this is an ideal time to resolve these issues so that I can return to work as an effective and competent employee as soon as possible.

Signed by Mr Y
Mrs X
Z section

Dear Mrs X

Re Mr Y

Mr Y made an appointment to see me last week, in my capacity as Justice Adviser to DANDA, in order to discuss his return to work following a period of illness attributed to working in the Z section, which proved to be too stressful. (He can provide information from his GP.)

As you know, Mr Y is dyspraxic and dyslexic but, under normal circumstances, is able to compensate effectively for his difficulties. He feels that he could cope in a quieter section, given certain ‘reasonable adjustments’ as understood by the 2010 Equality Act. These have been laid out in his communication (enclosed) and take the form of Issues (areas of difficulty) and Strategies (ways round the ‘Issues’).

Having discussed the ways in which dyspraxia and dyslexia affect him, and having looked through the most recent assessment, I would regard Mr Y as fitting the definition of ‘disability’ as described in that Act. He would therefore be entitled to support through the Access to Work programme.

The former Disability Discrimination Act (in accompanying guidance notes) actually refers to the case of stress ‘suspending’ the coping strategies of a person with dyslexia: In some cases people have ‘coping strategies’ which cease to work in some circumstances (for example, where someone who stutters or has dyslexia is placed under stress). If it is possible that a person's ability to manage the effects of an impairment will break down so that the effects will sometimes occur, this possibility must be taken into account when assessing the effects of their impairment. DDA Section A8

The current Equality Act (2010) continues the promotion of Reasonable Adjustments to offset areas of difficulty for people with disabilities. Mr Y fits the definition of someone with a disability and is therefore entitled to these accommodations.

DANDA would like to offer any support we can both to Mr Y and your office in bringing this matter to a successful conclusion as soon as possible.

Yours sincerely

Melanie Jameson
Justice Advisor to DANDA

Please Note  DANDA’s role has now been subsumed into the Dyspraxia Foundation
The Physical Disability chapter contains general guidance on disability, quoted below. Section numbers are shown, where these exist, the underlining is mine. See also the SpLD entries within the Disability Glossary at the end of the chapter. The first quotation is an important overall statement from Section 67.

[67] Irrespective of any statutory obligation, the ethos of this volume (the Equal Treatment Bench Book) is that the legal process over which the judiciary has control or influence should as far as possible assist those in a position of vulnerability to access justice equally with others in society.

Physical Disability Overview: Key Points
Disability has two key elements. The first is the limitation imposed upon the individual by reason of their physical, mental or sensory impairment. This is the medical model of disability. The second is the disadvantage or difficulty which society imposes on the individual in their environment, essentially the lack of adjustment that may allow the disabled person to access the same facilities as those without disability. This is the social model of disability.

The UN Convention of the Rights of People with Disabilities 2006 defines persons with disabilities as including those who have long term physical, mental, intellectual or sensory impairments which, in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Any disadvantage that a disabled person has in society should not be reinforced by the legal system; the individual who cannot cope with the facilities and procedures of the courts or tribunals is as entitled to justice as those without this disadvantage.

[1] Introduction
The intention of (the Equal Treatment Bench Book chapter on) Disability is to provide practical information that may be used when considering the needs of individuals with a wide range of disabilities and impairments, both obvious and hidden, physical and mental. The aim is to enable litigants, defendants and witnesses (and, where appropriate, advocates, jurors and others involved in the court process) with disabilities to participate fully in the process of justice.

Making reasonable adjustments or accommodating the needs of disabled people is not a form of favouritism or bias towards disabled people but may be necessary to help provide a level playing field by giving disabled people the opportunity to participate in court and tribunal hearings in whatever capacity. Disabled people need to be given the opportunity to express themselves properly and, if a witness, to give their evidence to the court or tribunal. To achieve this aim each person with a disability must be assessed and treated by the judge or tribunal panel as an individual so that their specific needs can be considered and appropriate action taken. Failure to do this may result in a decision being overturned on appeal.
[15] Approach to potential Disability issues
Enquire as to what is needed rather than the nature and extent of the impairment.

[30] Trial management and disability
Trial management is concerned with how a hearing may best be managed where a party, witness, defendant, juror or advocate has a disability which might become a consideration. It is based on common sense and common courtesy which should in any event, be applied to the management of the hearing. The overall aim must be to ensure that no disability amounts to a handicap to the attainment of justice.

Key elements for people with disabilities
[33] Likely to need more time – so a longer time estimate may be required for a hearing
[34] May not be able to hear, read, be understood or fully comprehend what is taking place.
[35] May be using up much of their energy to cope with the disability and therefore tire more easily.
[36] The stress of attending may exacerbate symptoms

Pre-hearing planning
[39] Making any special arrangements in advance will save time and, as importantly, embarrassment at the hearing. There is scope in both the civil, criminal and tribunal processes to identify at an early stage whether anyone involved has special needs. The forms completed by the parties should make enquiry so that the administration know when facilities to accommodate disabilities are required and the judiciary must be alert to when special directions are needed. Advisers should be encouraged to tell the court or tribunal that a litigant or witness has particular requirements.

[40] It is often easy to compensate for a disability, but in some instances special facilities or procedures are needed which require advance planning or specialist knowledge. (omitted text) If in doubt as to what is required, ask the disabled person directly and in advance to indicate what may assist their participation. This will not only ensure a more just outcome but also result in more efficient use of time.

Civil justice in both courts and tribunals
[44] As the intention is to ensure that the parties are on an equal footing there is much of potential benefit to people with disabilities or other disadvantages. Whilst there is no specific mention of a duty to address the personal needs of litigants and the emphasis may appear to be upon financial inequality, the overriding objective is wide enough to encompass disability issues and the judge in managing cases should take these into account.
Implications

[45] The best outcome is for any special needs to be identified at the preliminary stages and for procedures to meet any difficulties or disadvantage to be in place at the commencement of the hearing. The court or tribunal staff should check with any person with a disclosed disability (or their solicitor or other representative) what is required, or whether what is being proposed is appropriate. Often attending court or a tribunal venue can impose considerable stress on a person with a disability and consideration should be given to the number of pre-trial hearings which are held and how these might be managed or limited. This may especially apply in family cases where reviews are held more frequently than in other forms of litigation. Options now available include telephone conferences or the use of video links.
The information in this Guide is correct, as far as the Author can ascertain, at the time of revision, October 2014. Sources of support continue to disappear or change.

You are strongly advised to check current regulations and ensure that you have the latest advice.

**POLICE   Chapter 1**
Inform the custody sergeant that you have Dyspraxia, Dyslexia, Attention Deficit Disorder, Aspergers (as appropriate) and that this is a disability
Make sure you understand your Rights & Entitlements
Use the available support systems
Tell the police if you believe you are the victim of a Disability Hate Crime
As far as the police are concerned, people of 18 years of age and above are regarded as adults

**LEGISLATION   Chapters 2 & 3**
SpLDs are recognised as disabilities under disability legislation
Find out which provisions apply to your situation
Consider how you would be disadvantaged by your SpLD in the Hearing
Someone with a disability is entitled to Reasonable Adjustments to help accommodate their difficulties

**PREPARING FOR HEARINGS   Chapters 4,5,6 & 7**
It is crucial to obtain good legal advice
Have you explored possible sources of help and support?
Your SpLDs should be confirmed by a professional assessment
Lawyers need to be supplied with your personal information on your SpLDs
Check that information on the impact of your SpLDs has been circulated (e.g. to the Judge), prior to the hearing.

**COPING IN COURT   Chapter 8**
Are reasonable adjustments in place? What has been agreed?
A helper to take notes on your behalf and find the place in documentation invaluable
Do not be pushed or hurried by aggressive questioning – take your time
Ask for a break, as necessary
EMPLOYMENT TRIBUNALS  Chapter 9
Try to sort out your problems with your employer before the dispute escalates
The involvement of Acas is now obligatory
In a case dealing with disability, the judge will determine if this applies to you
Fees are payable at each stage of a Tribunal or Appeal – but you can apply for remission

BANKRUPTCY PROCEEDINGS / INSOLVENCY  Chapter 10
Seek help with the form-filling and gain advice on the process
Keep all financial papers, bank statements, bank cards; you will be asked for them
If you may have difficulties meeting deadlines, inform the court in advance
The bankruptcy hearing may be an administrative meeting rather than a session before a judge in court

MEDIATION & CHILD CUSTODY  Chapter 11
There are different types of mediation
People with SpLDs may struggle with the (spoken) communication aspect of these processes and need reasonable adjustments
In child custody proceedings the SpLDs of parents should be documented so that their behaviour is not misinterpreted

JURY SERVICE  Chapter 12
Disability is not a sufficient reason to be excused jury service.
Make sure you understand what behaviours are forbidden if you are selected as a juror – the penalties are severe.
Be clear about what reasonable adjustments you might need to help you participate, and make these clear at the earliest opportunity.
COMMENTS

A copy of this document should be provided for each custody suite. It is a clear guide to the needs of anyone with a specific learning difficulty. In fact, it is useful for anyone with a disability who comes into contact with the Criminal Justice System. It can be a difficult system to navigate even if you are not disabled. This booklet is a positive addition to the toolkit.

*Police Equality and Diversity Advisor*

This is a tour de force, and equally useful to professionals

*SpLD consultant*

I am a claimant with specific learning difficulties, who experienced massive barriers getting legal support and then severe problems going through the tribunal process alone. Having this guide would have saved so much time, stress and confusion.

This is a must-have guide for every Citizens Advice Bureau and Trade Union.

*Tribunal-user with dyslexia*

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**DISCLAIMER**

Melanie Jameson is a specialist in Specific Learning Difficulties NOT in legal matters.

Her aim in writing this Guide is to point out disability entitlements and direct readers to sources of support.