

Consumers with learning disabilities

Practical difficulties in accessing legal services

People with learning disabilities use legal services for the same reasons as any other citizen. They may also require legal advice to deal with issues that are more likely to affect them than other sections of society, for example getting the right level of community care support, challenging an assessment of their health, social or educational needs, or establishing their capacity to make a decision for themselves.

People with learning disabilities are also more likely than the general population to be victims of crime or suffer harassment or bullying because of their disability. They are therefore more likely to come into contact with the police, courts and lawyers.

However, research commissioned by the Legal Services Consumer Panel, the Legal Services Board and Mencap found evidence that people with learning disabilities face barriers to accessing legal services. While some lawyers were skilled in working with people with learning disabilities and adapted their practices to meet the needs of their clients, there were also examples where lawyers could not be understood, appeared uninterested or were not able to signpost clients to the right specialist support

The major barriers to getting a legal service were:

- Lack of clear pathways to getting the right support, especially for specialist legal services that may not be available locally
- Lack of accessible advice and information
- Anxiety about the process
- Fear of consequences arising from taking legal action
- Worry about the potential costs in doing so

About learning disability

A learning disability is caused by the way the brain develops before, during or shortly after birth.

Mencap defines a learning disability as “reduced intellectual ability and difficulty with everyday activities – for example household tasks, socialising or managing money – which affects someone for their whole life. People with a learning disability tend to take longer to learn and may need support to develop new skills, understand complex information and interact with other people.” Learning disabilities are likely to be present from early childhood and remain constant. A learning disability may be mild, moderate or severe.

Learning disability used to be called mental handicap but this term is outdated and offensive. Learning disability is **not** a mental illness. The term learning difficulty is often incorrectly used interchangeably with learning disability.



Key facts

There is no definitive record of the number of people with learning disabilities in England but it is estimated at around 1.2 million

Many people with a learning disability have hearing and/or visual problems that can affect their communication and understanding

Adults with learning disabilities who lack capacity to make some or most decisions for themselves are protected by the Mental Capacity Act

Useful resources

Lawyers for People with Learning Disabilities is a resource for solicitors who are approached by or on behalf of a person with learning disabilities, as well as for members of the public looking to locate a solicitor with expertise in this area - <http://www.lpld.org/>

Mencap provides resources on communicating with people with a learning disability - <http://www.mencap.org.uk/all-about-learning-disability/information-professionals/communication>

The Norah Fry Research Centre research report commissioned by the Legal Services Board, Legal Services Consumer Panel, and Mencap provides information and practical steps to help improve access to legal advice for people with learning disabilities – <http://www.legalservicesconsumerpanel.org.uk/ourwork/vulnerableconsumers/Legal%20Advice%20Learning%20Disabilities%20Final%20Report.pdf>

Common sense things that advisors can do to improve services for people with learning disabilities

Mencap produces materials for people working with those with a learning disability which highlight good communication practices. These include:

- Make adjustments, follow the lead of the person you are communicating with, and go at their pace
- Words only account for 7% of the way people communicate so body language and tone of voice are very important
- Try to communicate face-to-face if possible;
- Find a quiet space without distractions
- Avoid using long words or jargon
- Remember that objects, pictures, photos and drawings can help
- If you are speaking on the phone don't rush, speak slowly and clearly
- In writing use a minimum of 16 point font, try to use bullet points, and don't use too much colour – colour can make it difficult for some people to read

Good practices can also be shared and promoted through collaboration between legal services providers and learning disability and carers' organisations.

If legal services are being funded privately you should identify estimated costs for the support or equipment, and if your firm is unable to absorb all of these you should inform the person of the likely costs up front. In doing this, you must consider the requirements of the Equality Act 2010 and your code of conduct, in particular legal obligations to make reasonable adjustments for disabled clients.