

Effective Participation – understanding the role of the Intermediary . *Working together in fitness to practice proceedings*

Facilitating Fair Access to Justice



Intermediaries for Justice (Charity)



Who am I?

- Speech and Language Therapist/Psychological Therapist/Specialist in Trauma / EMDR with over 35 years clinical experience
- Registered Intermediary –witness scheme
- Intermediary in Criminal/Family Courts/Tribunals since 2009
- Trains – Police, Lawyers, Social Workers, Teachers, Probation Officers, Dock Officers
- Currently researching for PhD- The Experience and Knowledge of Trauma Informed Practice in the Justice System

Who /What is an intermediary ?

- Most intermediaries have an initial training as, -
speech and language therapists, psychologists, occupational therapists, specialist teachers and social workers
- They must be able to demonstrate expertise and knowledge in communication
- They need life experience
- They need understanding of trauma/emotions
- Registered Intermediaries are recruited and trained by the Ministry of Justice or under HMCTS guideline
- The role is regulated and there is a complaints procedure.



- Justice Intermediaries around the globe

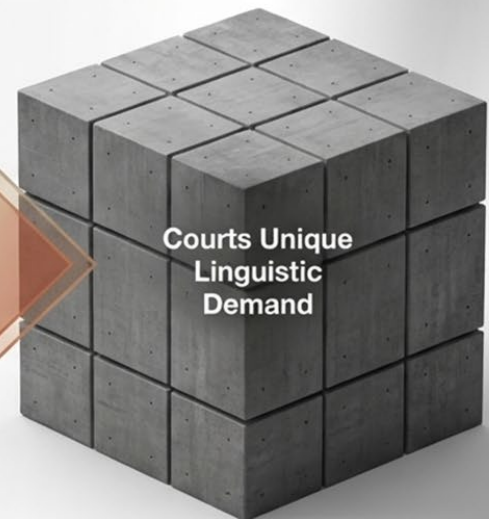
Intermediaries bridge the gap

The gap between natural conversation and legal cross-examination



Everyday interactions, organic flow,
built-in conversational repair mechanisms.

The assessment must reflect the demand.
We must map exactly how the person responds to
different question types and identify precisely where
communication breaks down under artificial strain.

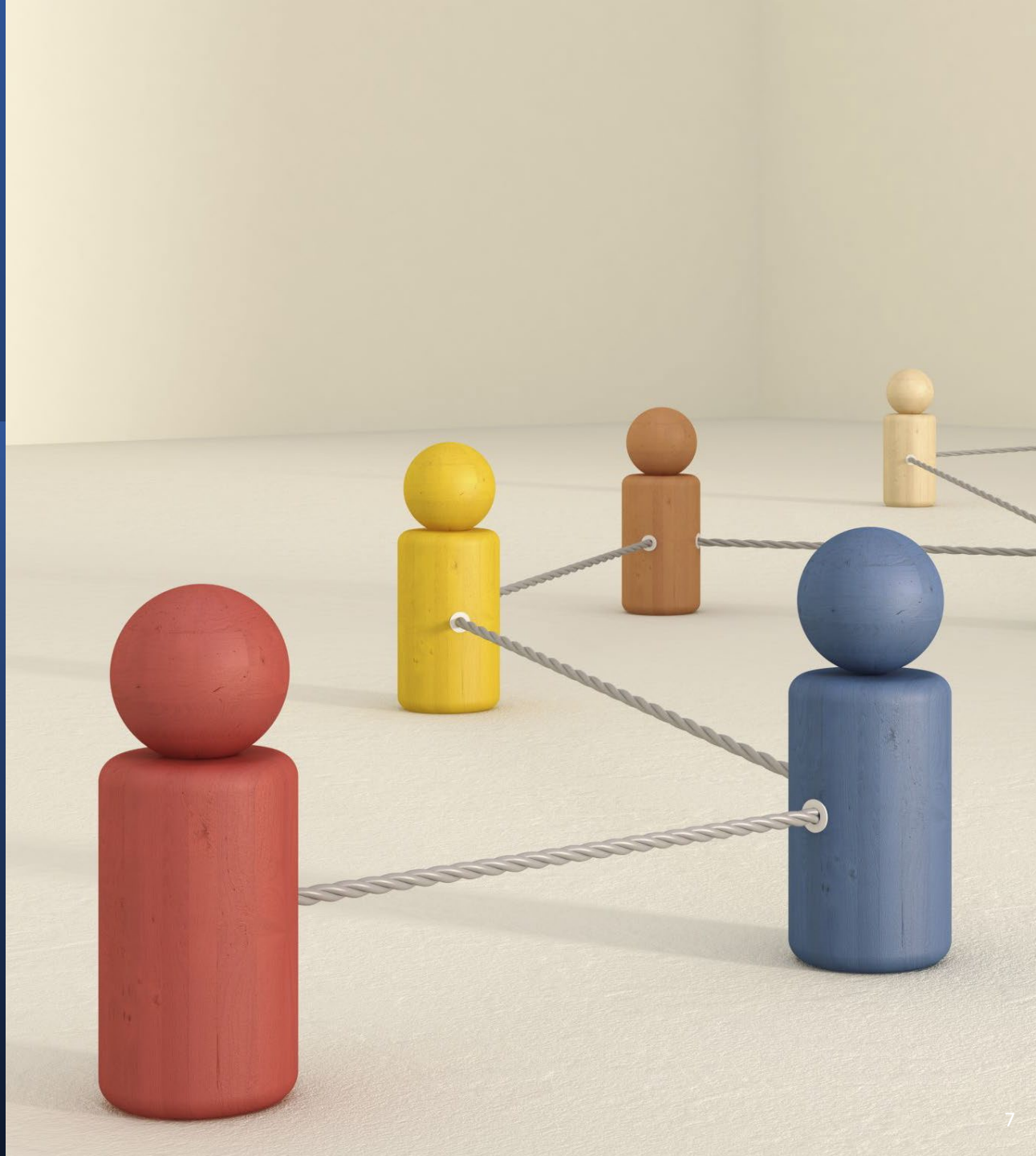


Highly structured, adversarial,
complex sentence construction.

A man dressed as a judge, wearing a black robe and a white wig, sits at a wooden desk in a courtroom. He is pointing a pen at three brown bears sitting in the witness box. The judge has a speech bubble above him containing a humorous legal question. The courtroom has dark wood paneling.

“Isn’t it true that
the perpetrator
a blonde caucasian
female trespassed
on your land
broke into your dwelling
sat in your chairs
consumed your porridge
and slept in your beds?”

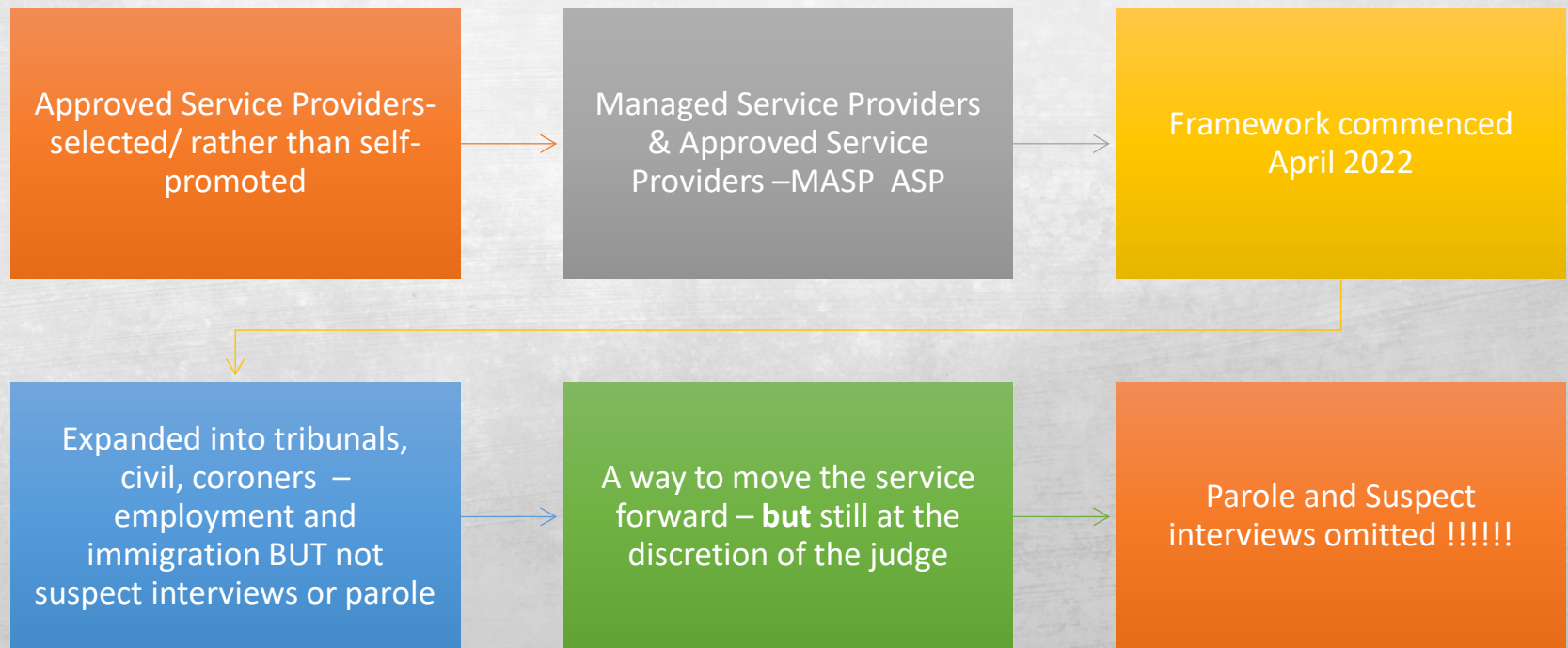
How are
intermediaries
currently
requested?



HMCTS CAIS- Court Approved Intermediaries

- Approved service providers- selected/ rather than self promoted ASP
- Managed Service Providers & Approved Service Providers –MASP
- Framework commenced April 2022
- Expanded into tribunals, civil, coroners –employment and immigration **BUT not** suspect interviews or parole
- A way to move the service forward – **but still at the discretion of the judge**
- Mental health tribunals and Fitness to Practice proceeding need to be included in the future

HMCTS CAIS- Court Appointed Intermediaries Reg Intermediaries



Fitness to Practice

- New area
- No formal pathway yet
- Guidance produced by IFJ
- Please visit
- <https://intermediaries-for-justice.org/find-intermediary>
- There is a guidance sheet –Working with Intermediaries in Fitness to Practice Proceedings
- <https://intermediaries-for-justice.org/sites/default/files/2026-05/Fitness%20to%20Practise%20Guidance%20Notes%2026.pdf>

Who we work with.....

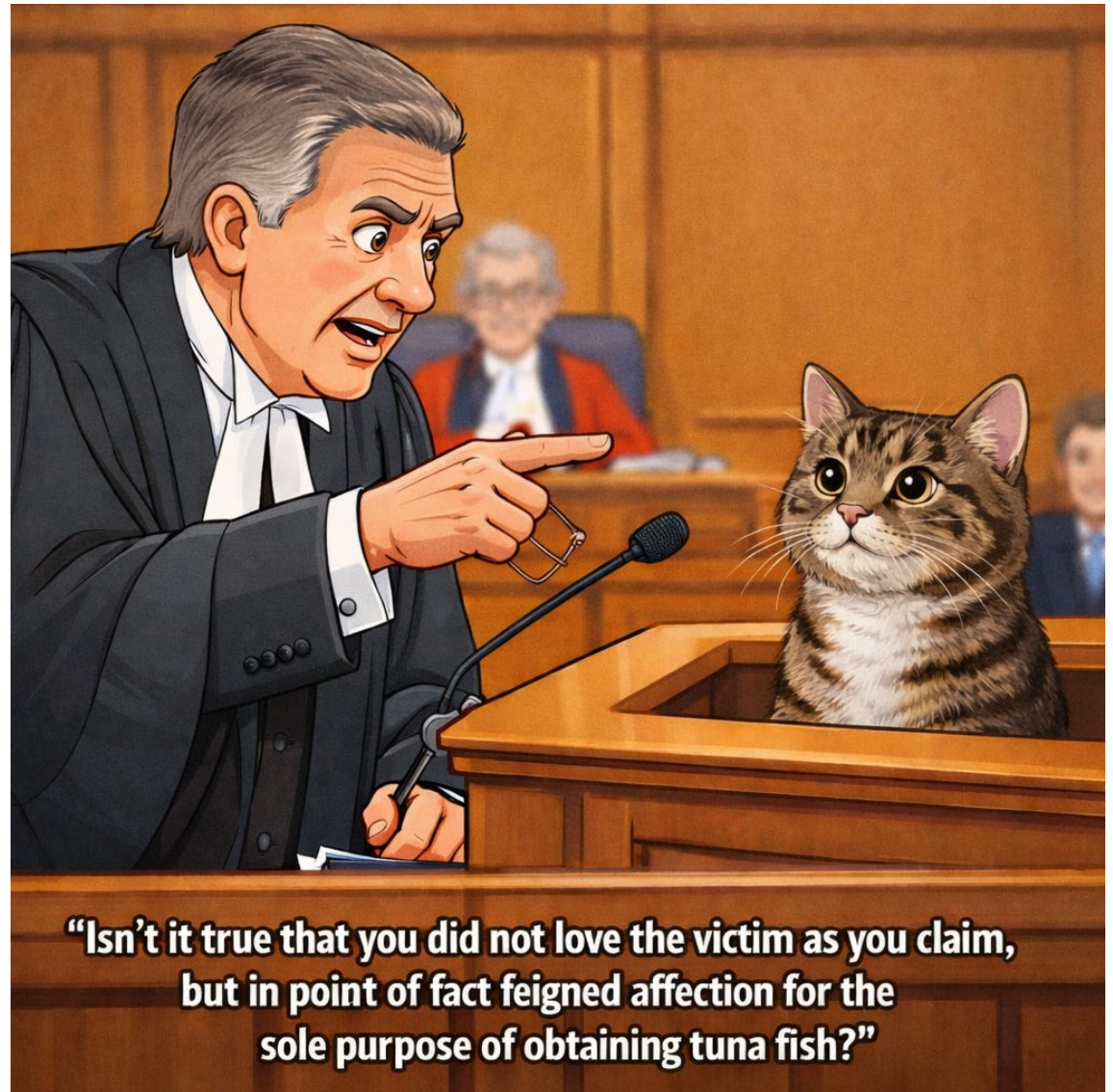
- Children under 18
- People with :
- **Mental Health Needs** ----anxiety – schizophrenia –dissociative disorders
- **Learning Disability** e.g. Down Syndrome, global delay
- **Neuro Diversity** - ASD -Neuro Developmental Needs
- **Hidden Learning Difficulties** – dyslexia, dyspraxia, dyscalculia– processing issues ASS/ASD - autism, ADHD, language delay/disorder
- **Vulnerable elderly**
- **Acquired neuro diversity** –
- progressive /neurological disorders - MND stroke, dementia, brain injury, CP
- **Traumatised people**

+
0

- Your clientsbe aware of their needs.....
It's vital

- 70-80% of disabilities are invisible
- 5% of the population have ADHD
- 1-2% of the population is Autistic
- 10% of the population are dyslexic
- 6-10% of the population are dyspraxic
- 1-2% of the population have Tourette Syndrome
- 22.5 %of the population have mental health needs
- 1 in 12 to 1-in 20 of the population have an acquired brain injury .(depends if mild concussion is included)
- General population UK 2026

Deconstructing Questions



Examples of bad language /question from a barrister to a 13 yr old with learning disability

“You said that the 2nd time would have been after the 1st one but still before your birthday. We know your birthday was 2nd March. And your first interview was 20th March. And you said the first time was about a week before your birthday. And you could remember that because you remembered when your birthday was. So when you were interviewed, why did you tell the police about the one that happened the longest time away but not the more recent occasion?”

THE DEMANDS !

The process of interviews, giving a statement or attending court/hearings – a demanding experience beyond The Window of Tolerance.

UNPREDICTABILITY -attitudes and belief systems about guilt/about intermediaries etc
Shame is often acute

It's not just about language



What we are dealing with...

Investigation

- *“if one set out intentionally to design a system for provoking symptoms of posttraumatic disorder, it might look very much like a court of law”.*

(Herman, 2003)

- Abuse of power
- Loss of control
- Betrayal of trust



***Trauma is a physiological
response to threat beyond our
conscious control***

*‘the arousal continuum from
vigilance through
to terror’ (Bruce Perry)*

**It is about feeling trapped by
inescapable and uncontrollable
events.**

The Body keeps the Score –
Bessel Van der Kolk



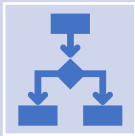
Errors and inconsistent accounts- trauma memories not stored with orderly beginning middle and end .



Paper - *Telling Refugee Stories: Trauma, Credibility, and the Adversarial Adjudication of Claims for Asylum*, Paskey (2016) looks at **Trauma, the perceived credibility, and the impact of Trauma on refugees.**



Found -Judge talked about **inconsistency- appeal was rejected** .



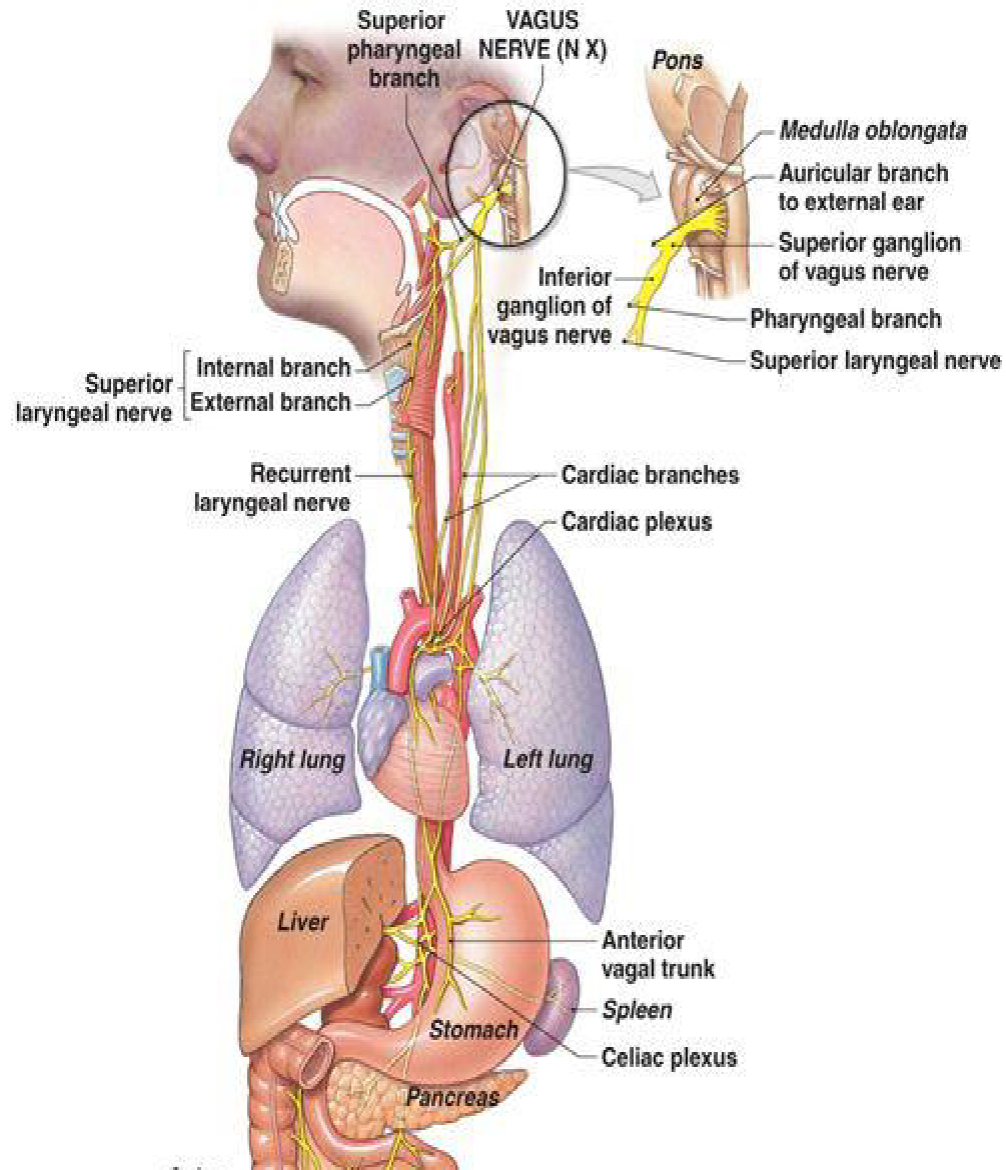
Trauma Informed Approaches to be used during assessments, informing reports and statement-taking.



if not - **brain can go 'offline'** -inability to sequence words in a narrative order . Trauma memories stored somatically(body) –fragmented – disjointed

Cranial Nerve X – Vagus

The vagus nerve is a critical nerve for supplying parasympathetic information to the visceral organs of the respiratory, digestive and urinary systems. It is important in the control of heart rate, bronchoconstriction & digestive processes.



Emotional Regulation –the essence of communication

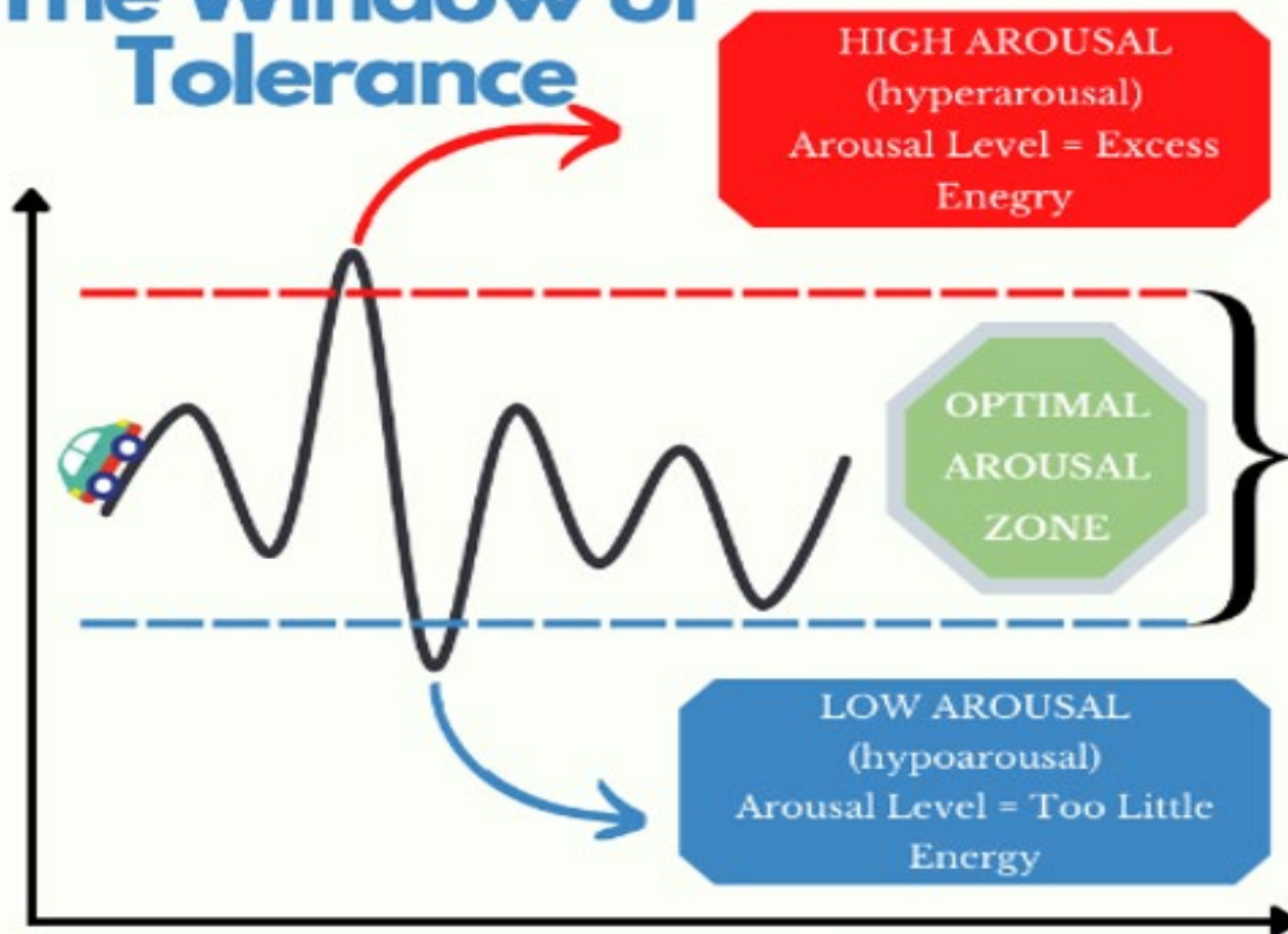
- Regulation is the essence of communication
- Very much part of our role- often missed and not acknowledged
- Zones of regulation
- Window of tolerance
- Co regulationall terms used in our reports.
- Justice System need to be **trained to work using Trauma Informed Practice**
- Only with this can **effective participation** take place

Keeping in the window of tolerance tolerance



The Window of Tolerance

A
R
O
U
S
A
L



Arousal Capacity

When the arousal level is too HIGH or too LOW, dysregulation occurs.

*At this time our goal is to increase (upregulate) or decrease (down regulate) arousal to promote regulation (optimal arousal).

When a disclosure is forced by the pressures of the legal process, when there is no time to build a safe and trusting relationship, when sensitivity to timing and pacing is lacking, the risk of re-traumatisation increases'

(Crenshaw 2015).



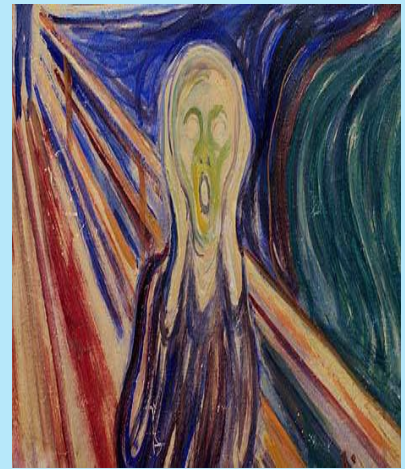
**We use our minds not to
discover facts but to
hide them.**

Damasio, A (2012)

**Some Aspects of
Reality
are Too
Unbearable
to Face**



Impact of trauma



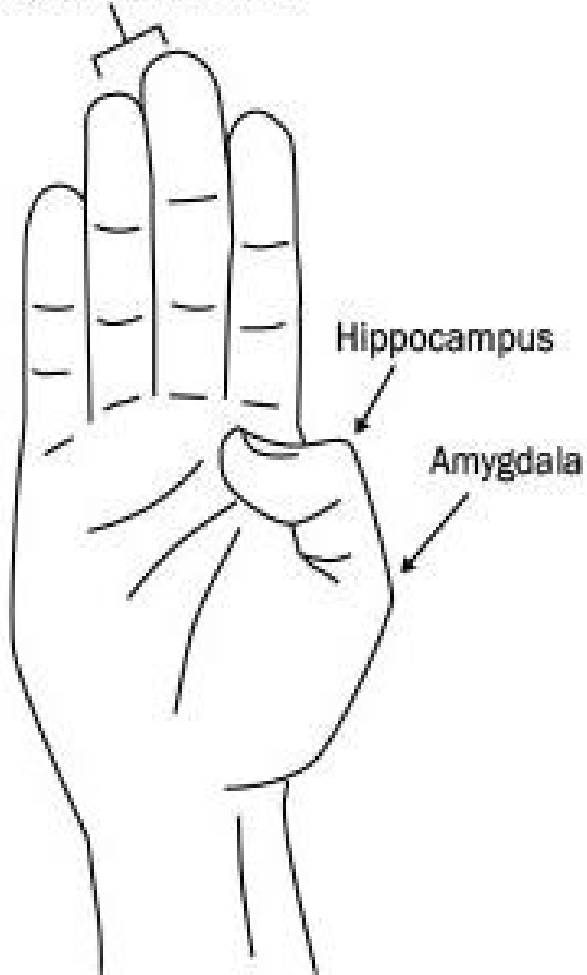
- Flashbacks and dissociation may be:
 - triggered by questioning
 - experienced as if real
 - can be as distressing as original event
 - affect communication
- Example: a barrister waving a pen may be seen as a person with a weapon
- DO NOT -use of present tense speech rather than past tense : the event happened ***then not now – you are safe now.*** ~~***‘so you are walking down the street’***~~
- ***‘last week you were walking down the street’***

What happens to the brain and communication ?

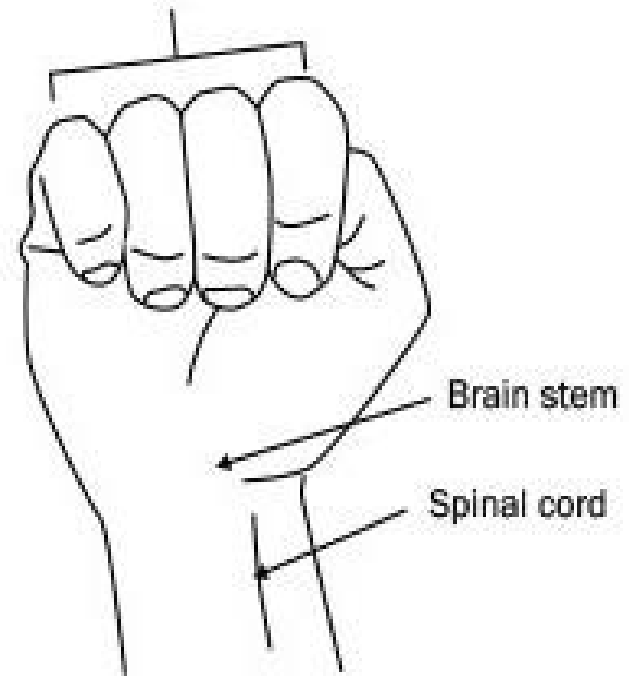
- **The amygdala** gets input information from our senses that process the outside world for us. SMOKE DETECTOR
- **If triggered**, the amygdala can use that information to then influence our output responses. -**freeze, flight or fight** dominate
- The amygdala is particularly concerned with threat and the fear of attack and harm. Once triggered, **dopamine** and **adrenalin** released into the blood stream, increases blood flow and ready to deal with the perceived threat.

And in pictures!

Middle prefrontal cortex



Cerebral cortex



Associated Memories

-Flashbacks - fragments of the experience, isolated images, sounds and body sensations from the past.

Can occur totally out of context cause --fear and panic.-

TERROR

These are fed by **associated channels TRIGGERS**

People may lose memories of events but suddenly remember them at a later date.

An event or experience in an interview /court can trigger flashbacks.

Shona ---BEES LAVENDER

Certain looks etc can trigger . Whites of someone eyes.

Cliffs example ----taken to A&E same hospital –triggers monitors/colour of walls

The survivor of sexual abuse may be retriggered during a gynaecological examination..

Trauma, stress and communication

Trauma and stress can interfere with our:

- attention levels
- memory retrieval
- ability to communicate.



Impact of trauma

- The person may become:
 - dissociated, 'cut off'
 - submissive and suggestible
 - disengaged and lethargic
 - aggressive and explosive
- The person may respond inappropriately to a situation and give the wrong message; for example laughing or smiling when a situation is very serious.



Impact of trauma



- Flashbacks and dissociation may be:
 - triggered by questioning
 - experienced as if real
 - can be as distressing as original event
 - affect communication
- Example: a barrister waving a pen may be seen as a person with a weapon
- The use of present tense speech rather than past tense is important: the event happened then not now – you are safe now.

What is the process
when working with
an intermediary ?

Referral ---- make sure intermediary has correct skills –assessment - information gathering

Assessment Comprehension /expression verbal reasoning sequential thought etc.Effects of Trauma

Intermediary Report – does person need an intermediary ? What findings ? What recommendations ?

Suggestions for VRI /statements & adapting the hearing procedure

Intermediary to be included in CMH –Works best

direction to assist at conferences -Statements /VRI trauma can cause sequential problems and may seem inconsistent

Memory refresher view VRI/ABE

-Evidence in chief

Court /Tribunal Visit -practice live link or witness box
–adapt process!!!!!!!

Review questions in advance

Ground Rules Hearing GRH (all parties present)

Assist sitting next to witness –intervene if necessary .
Breaks/regulation

What are we looking for in our assessments?

- Diagnosis
- Auditory memory and concentration
- Receptive language
- Compliance and behaviour, emotional regulation
- Expressive language
- Understanding of court
- Social skills
- Adaptation to environment, engagement and participation
- Literacy ..possibly numeracy (fraud)

Preparing statements - hearing

- Comprehensionmasking –decoding
- Expressive skills - encoding --wordfinding
- Processingtrauma effects this.
- Sequencing -----inconsistency --need to be visual-time lines
- One point per sentence ---avoid and and buttoo long.
- Make sure the **interpreter** doesn't fill in the gaps! **Less is more**
- Window of tolerance
- **Emotional regulation** -the essence of communication
- **Trauma Informed Approach is vital**

Assessment cont.

- Ability to give evidence; functional language
- Ability to give a narrative of a story or recall and describe an event
- Understanding: basic concepts i.e. big/small; soft/hard; wet/dry etc.
- Prepositions: in/on/under/in front/behind
- Expression: vocabulary
- Emotions: happy/sad/angry/frightened/shocked
- Emotional Regulation. Use of communication symbols

Examples of recommendations

- Strategies to help with verbal comprehension
- Chunk questions; no tags or multi-part questions
- Listening/attention skills, frequent breaks
- Expressive language: showing and telling or just showing
- Speech/intelligibility; act as a bridge, lapel microphone
- Dates/time/sequencing; time -lines
- Use of visual aids and figurines, drawing
- Grounding/self soothing techniques; breathing; music; fidget objects; apps; aromas.

- Short questions
- Tone
- Pace
- Simple words
- One idea per question
- Chronological order
- Signpost subject
- Use names
- 'Who', 'what', 'where', 'when' 'did'
- Ongoing simplification – next to defendant
- Assist with review of questions -20 principles .

The Ground Rules Hearing sometimes confused with CMH

<https://www.theadvocatesgateway.org/toolkits-1-1-1>

- **All parties** who will be at the hearing /trial should be present

Aim:

- To go through Intermediary recommendations in report
- To assist court/ tribunal to understand the vulnerability
- To review questions from barristers in advance
- To highlight language levels and emotional regulation needs
- Help court to adapt to be trauma informed
- Discuss management during trial
- Use of visuals and communication aids –time-lines etc

GRH cont.

- Discuss special measures –no wigs, live link room ??
- Need to attend all conferences pre- and during trial
- To be able to whisper to the VP during hearing simplifying , drawing charts, keywords
- Agree on breaks and how to indicate an emergency break
- Explain about on-going evaluation of mental health or emotional regulation
- Request documents-statements, VRIs, batting order large font - double spacing
- Discuss use of fidget tools, word search books etc

Case study Angel

Diagnosis- 26 year old Learning Disability , Complex PTSD, extreme self –harm , hallucination ,Psychosis , Anxiety – Depression at risk register 5yrs -

Modern slavery- trafficking . Sexual abuse since child

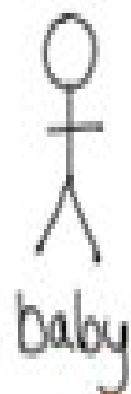
Assessed while detained in prison –several cases against her - previous NRM

Needed frequent breaks -co regulation

Statement (font 14 double spaced .revisited with solicitor and many facts clarified or changed. -simplified ...used wh questions. Who What When Where timelines and charts used

Emotional regulation - Lavender aroma fidget tools, emotions thermometer angel drawing -cushion to hug

Used assistance dog at hearings



baby

School →
- too hard
- too many rules

Bring
- don't get us
- don't know anyone

Don't see anyone
from high school now
Don't play hard
any more

Synthesizer +
Cody's +1111

Intermediate
level
high school

Do it again?
NO!

Mechanics
course

See Sisters
and Nan

One place to stay
- same people

* Stuff that happened *

What do you
think
feel
now?

1 2 3 4 5
not sorry sorry



adult

Sleeping lots of
places

Not sure how long
at home?
Feel up with moving

Not seeing
Casper

Where do they
live?
Are they OK?

Think? Feel?
Say

Some makes
hard to say
NO! to

What to do for them?
- say sorry!
- gift?
- help!
- pay!

for their wife

Full license

Help with
drugs +
alcohol

Help with mates
- saying No!

Angel continued

- Deportation -Coram excellent
- Criminal cases ----bad solicitormany previous ones .
- Unfair detention case – Settlement from Home Office
- High court of Justice -appeal to overturn convictions
- Community Care Solicitor -housing etc
- Mental health Specialist solicitor
- So many cases and different lawyers. ... 14???
- made a colour coded chart to help her



Differences in attitude and willingness to
adapt

Differences in attitude and willingness to adapt.....

- Three different solicitor firms –Coram Wilson
wonderful deportation, unfair detention etc
- Involved intermediary at every conference -timelines
- Showed in length and details in statements .
- 74 paragraphs in statement with intermediary taken at Bronzefield Prison
- 24 paragraphs for appeal statement –no intermediary
- Home Office shared their questions and worked with intermediary to adapt them
- Mixture of oral and written responses allowed

Appeal –Royal Court of Justice

- Solicitor - **hostile** towards working with an intermediary
- Thought they could do it all.
- 3 Judges ... 4 Barristers
- Did not adapt the room.
- Counsel produced **350 questions** insisted the judge requested this . Forced to review all. I explained that Angel's attention span was max 10 mins
- **I recommended live link to her sheltered placement**
- **Refused saying** *'nice room –you should have said before'*.
- Refused to attend as 'so hot'-persuaded re taxi --!!!
- Flash backs of being in brothel....when male judge asked her a questions.
- Highly stressful

- **Angel died 10 days later**
- Cardiac arrest
- All the solicitors and barrister were shocked and emailed -apart from appeal team
- Even Home Office barrister contacted me twice
- Not a word from the Appeal group
- I joined a reflective practice with Mental Health teams really helped. .
- Schwartz round /Reflective Practice good for justice system ????
- **Learning point –joined up practice essentialtrust other professionals – Listen to each other**



Adapting the process.....

Communication is more than words

**CREATIVE METHODS TO ASSIST
EFFECTIVE PARTICIPATION**

I'm hearing voices



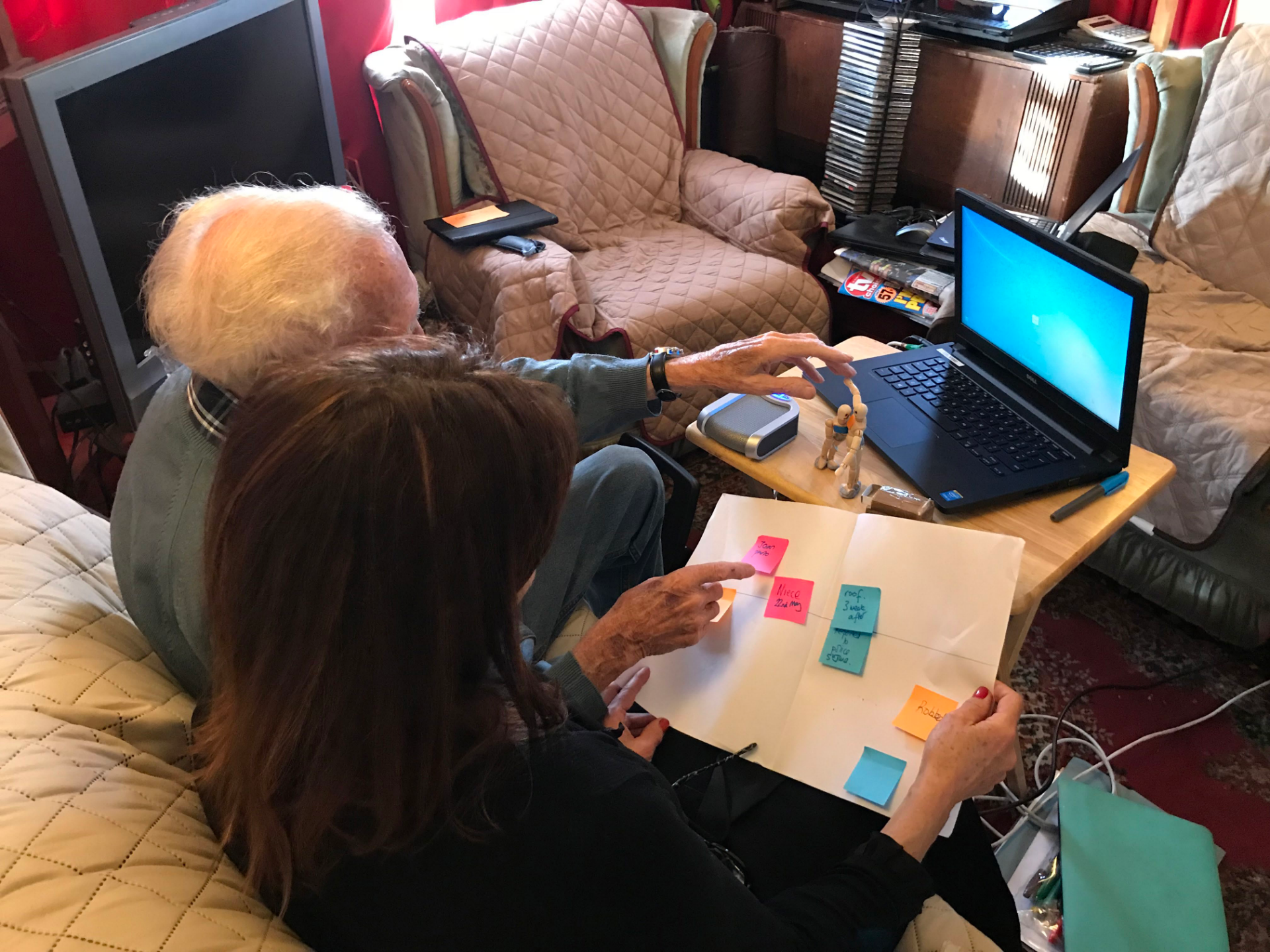
I'm seeing things/hallucinating

I'm okay now

Familiarisation court visit

- At court
- Remote
- Home/hospital/school
- Practice using live link.





NHS
England

Don't miss out on your free health check!

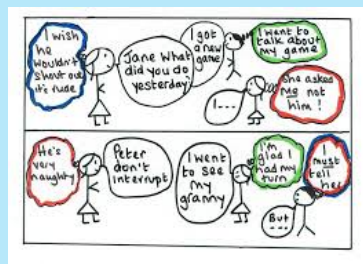
 Do you have a learning disability?

 Ask reception or your doctor to put you on the learning disability register.

 You need to be on the register to get a free health check every year.

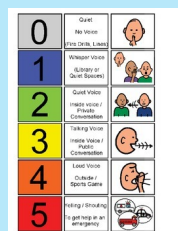
 Having a health check will help you stay healthy.

 Find out more about what the health check is by talking to your doctor.

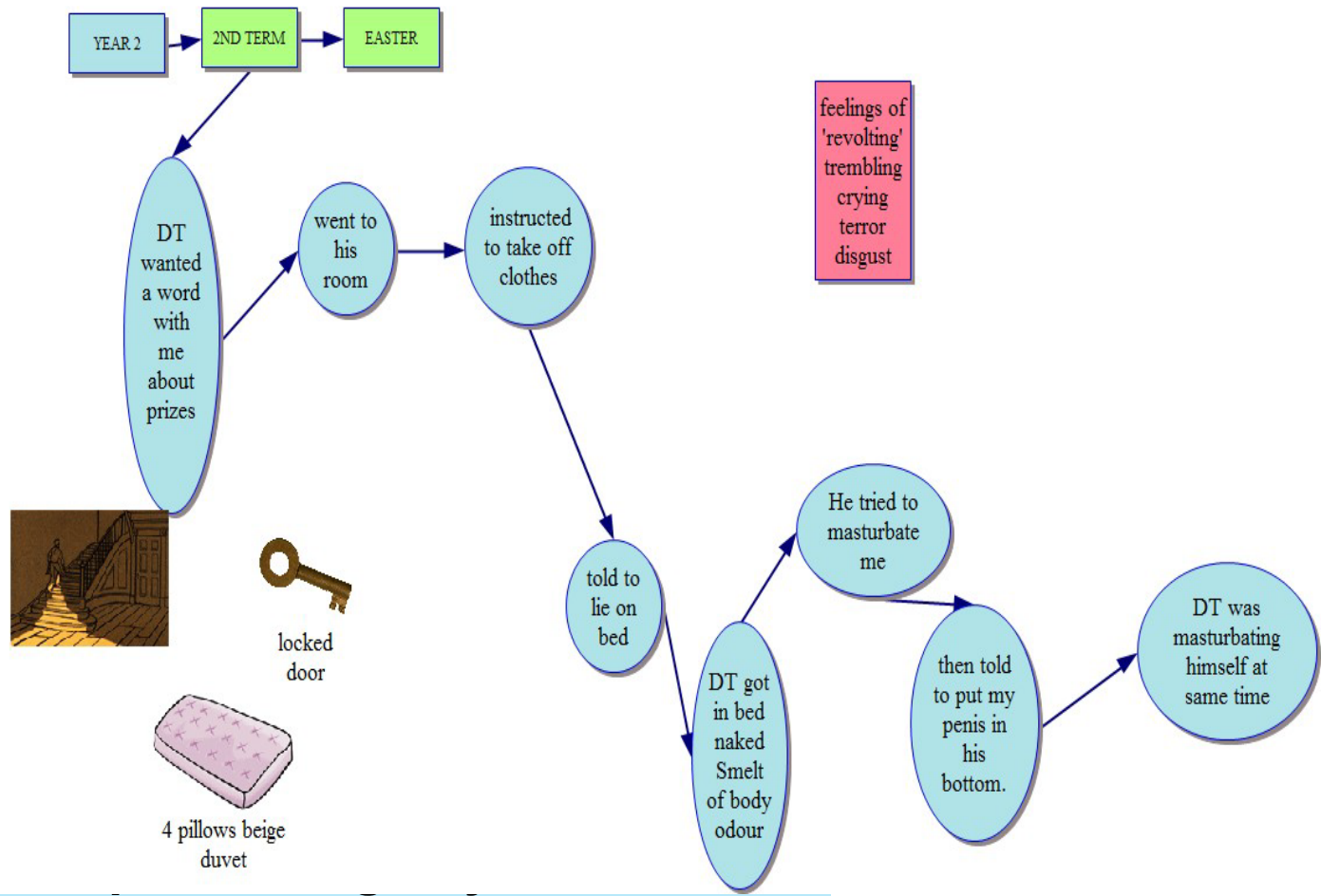


Visual Supports

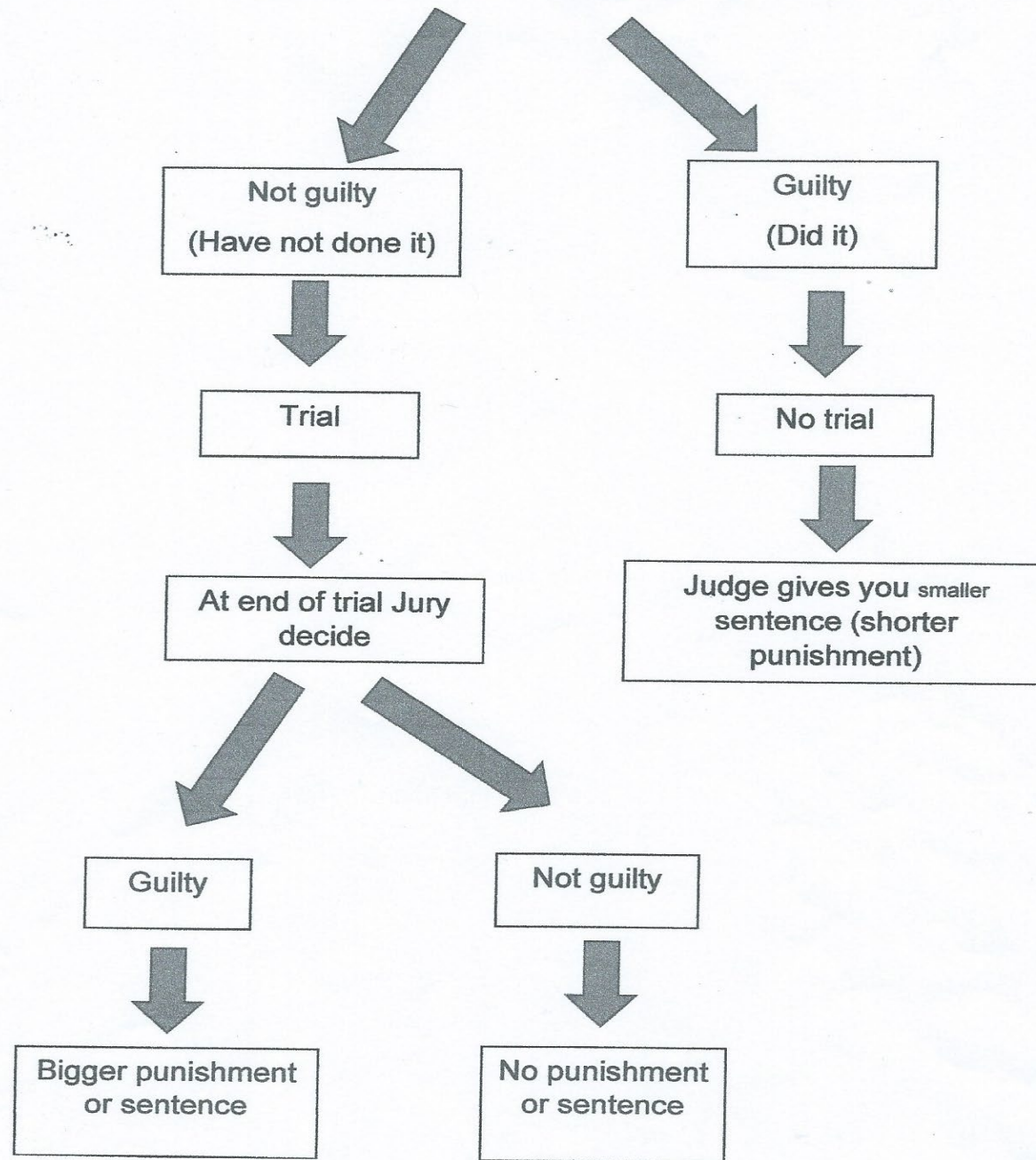
- Pen and Paper/ Post-it notes
- Social Story
- Comic Strip Conversations
- Word Maps
- Talking Mats
- Picture/Photograph sorting
- Visual scales
- Easy read information
- Visual Schedules



8.15.8.16



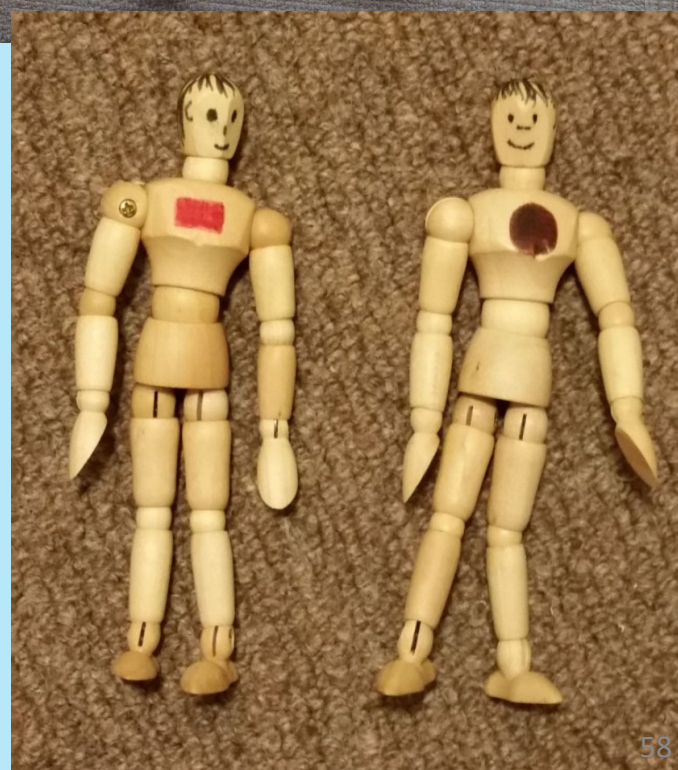
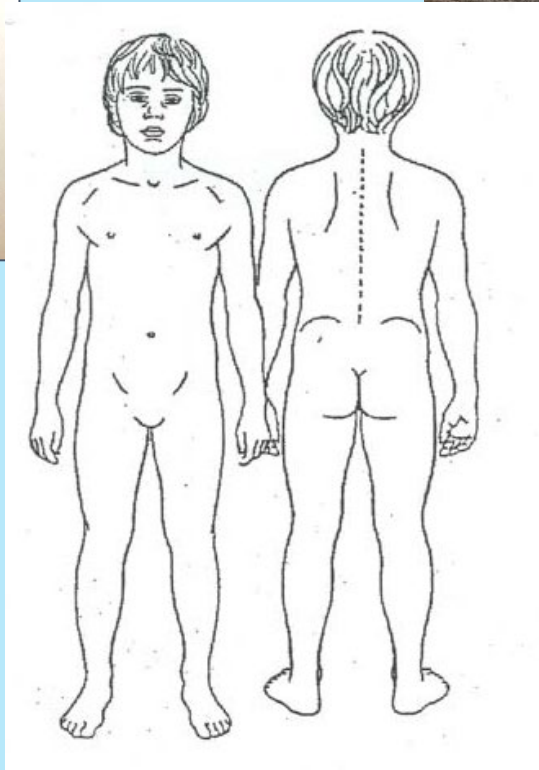
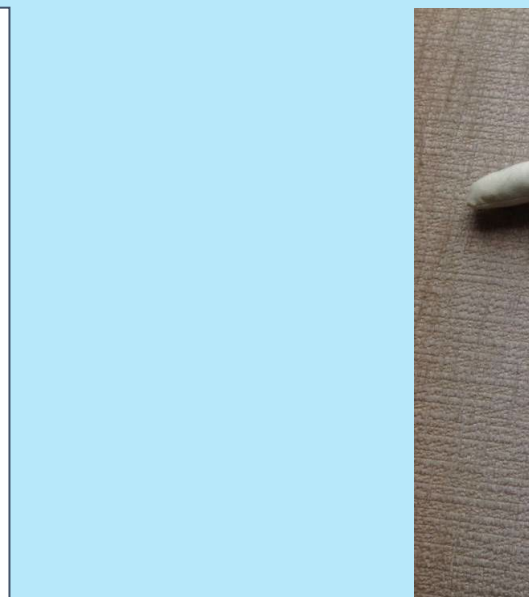
There are 2 options for you to say:



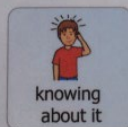
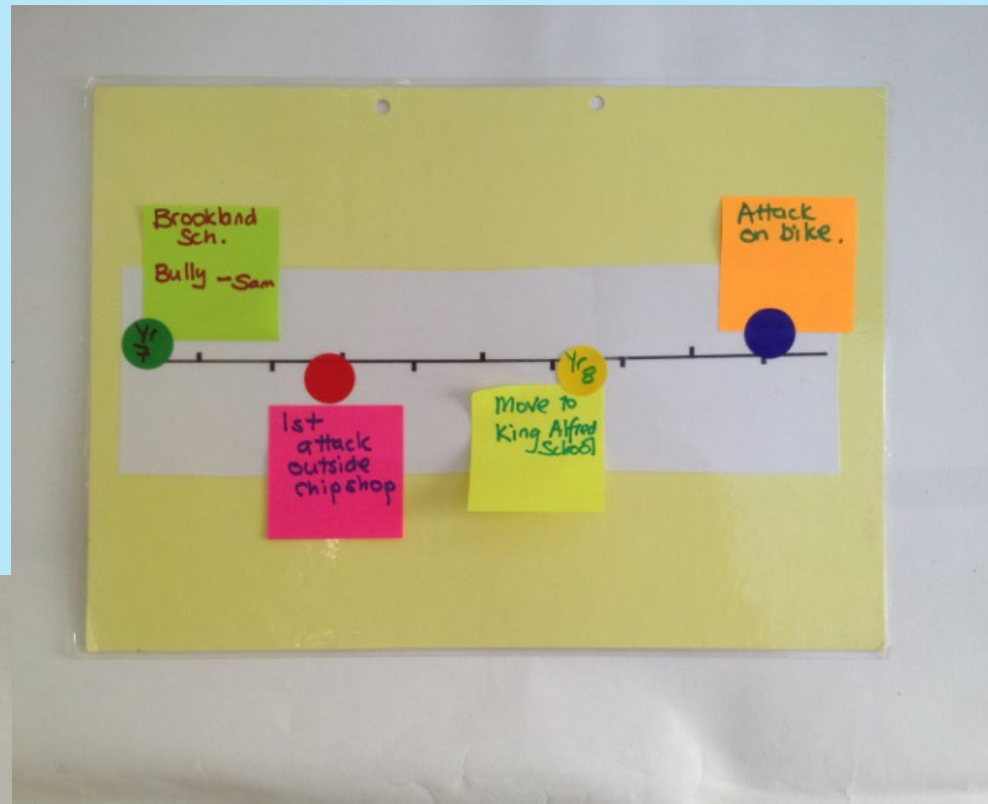
Sensory tools



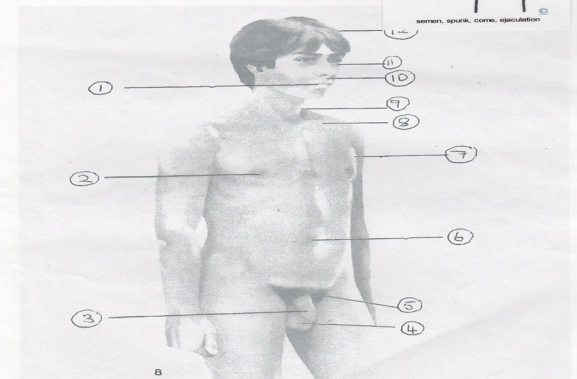
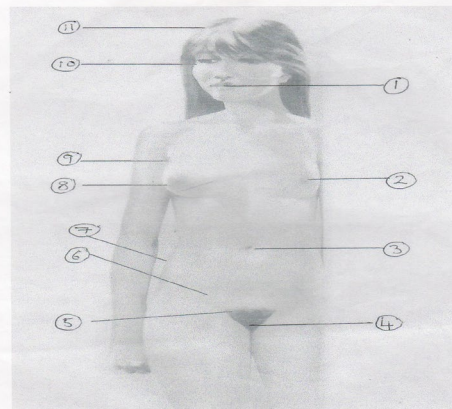
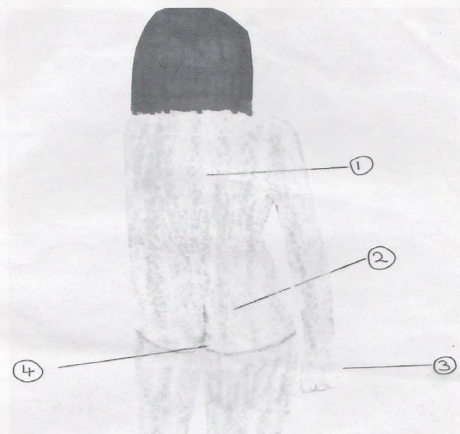
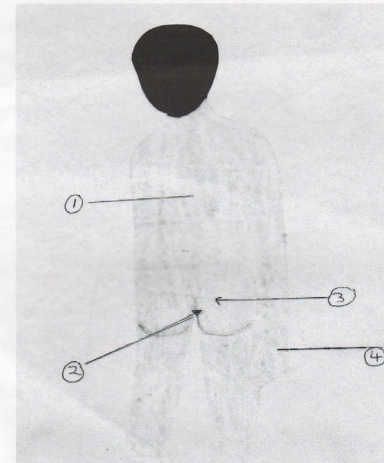




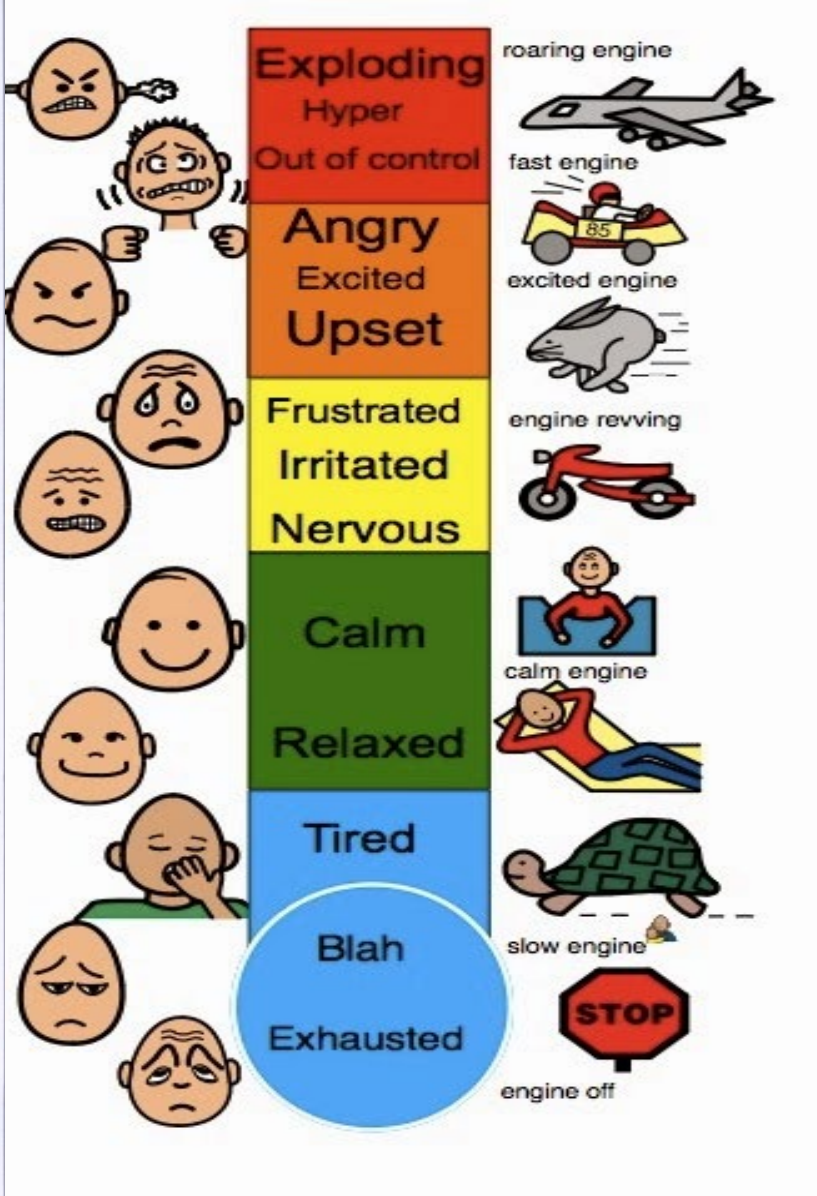
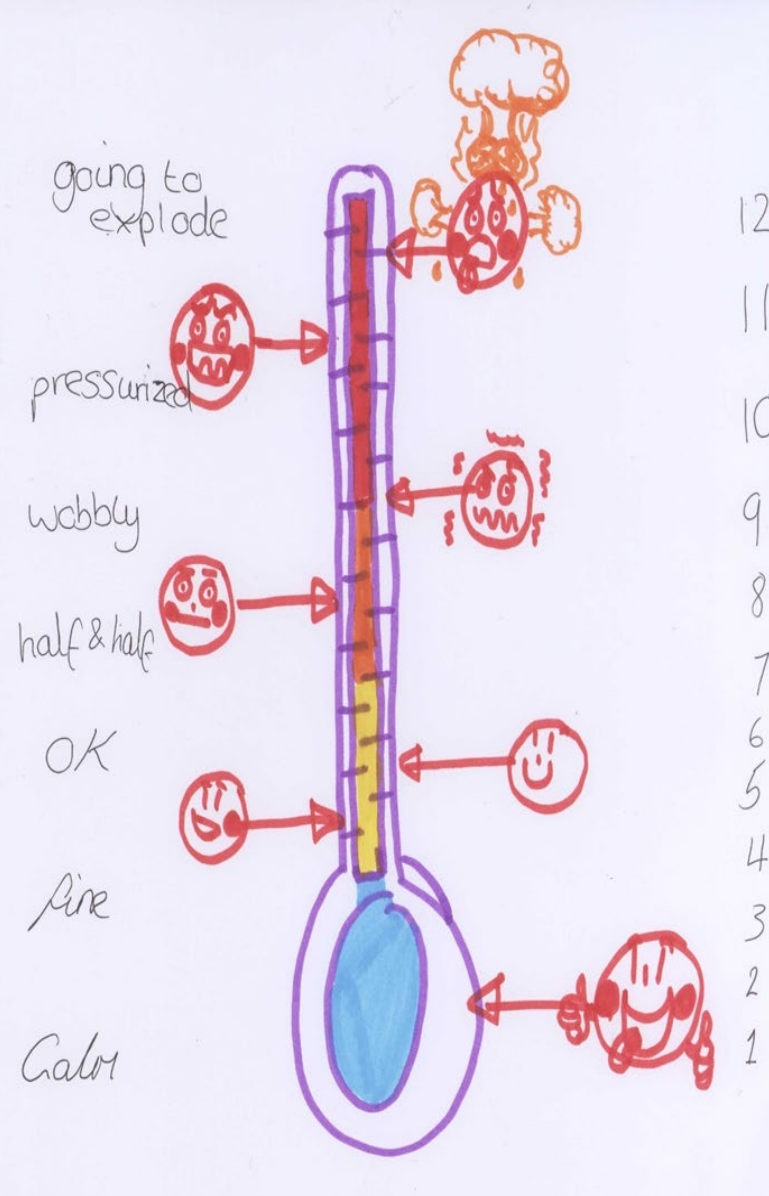
Visuals



he touched
my privates

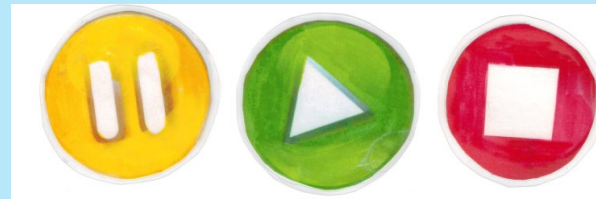
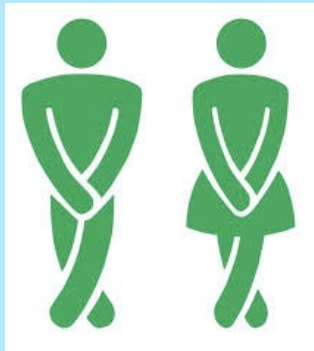


Pointing to indicate stress level



Other aids to help manage stress

Pointing to:



Holding calming object:







Court dogs









gettyimages®
Tuan Tran

Court dogs





Live Link Room



more comfortable



embarrassed



Know the court room
now



anxious

small
room



OK to sit down in
Witness Box



Away from jury



Can see your barristers



more tense



Jury see you in front of
them

WHERE?



near the judge

Reference material to help find an Intermediary and information on vulnerability

- <https://www.theadvocatesgateway.org/toolkits-1-1-1>
- **Toolkit 19: Supporting Participation in Courts and Tribunals**
- Supporting Participation in Courts and Tribunals
<https://www.communicourt.co.uk/welcome-to-the-access-brief/>
- A. <https://www.intermediaries-for-justice.org/> good **film**
which explains the intermediary role....also section for find an intermediary
- <https://theintermediarycooperative.co.uk/>

IFJ Intermediaries for Justice

www.intermediaries-for-justice.org

- Professional body
- Join us



Questions

Contact Details

Dr Catherine O'NEILL

cmoneill8@gmail.com

Catherine O'Neil <chair@intermediaries-for-justice.org>

07956 120239