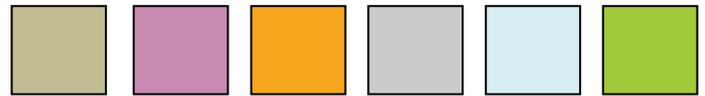
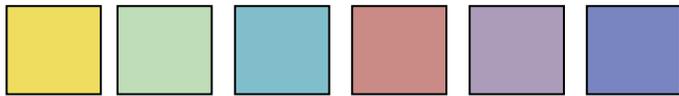




People with Learning Disabilities and the Scottish Criminal Justice System

Information about Prosecution and Defence



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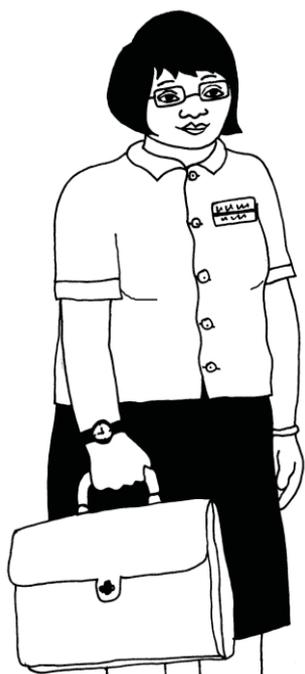
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Information about Prosecution and Defence

“Supporting people with
Learning Disabilities”





This part of the guide talks about the role of the **Procurator Fiscal**.



The Procurator Fiscal is the name of the public prosecutor in Scotland.



When the Police investigate a crime they look for **evidence**. Evidence is all of the information about the crime.



The Police can get evidence by talking to people who know what happened – **Witnesses**.



The Police can get evidence from talking to the person who is **Accused** of the crime.



The Police write a report about all of the evidence.



This report then goes to the Procurator Fiscal.



The report from the Police will show the evidence that the person accused of the crime may be guilty.



If there is enough evidence that the accused person carried out the crime, the Procurator Fiscal will decide what to do.



The Procurator Fiscal needs to think about the **Victim** of the crime.



The Procurator Fiscal needs to think about the **Accused**.



The Procurator Fiscal needs to think about whether it is important to make the accused go to court.





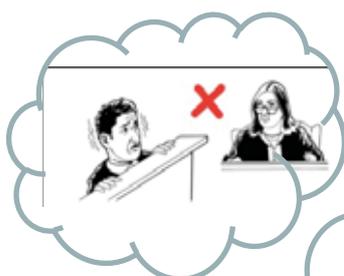
The Procurator Fiscal can decide to bring the person to court.



The Procurator Fiscal will also decide which court the person will have to go to.



The Procurator Fiscal can decide not to bring the person to court but can do some other things:



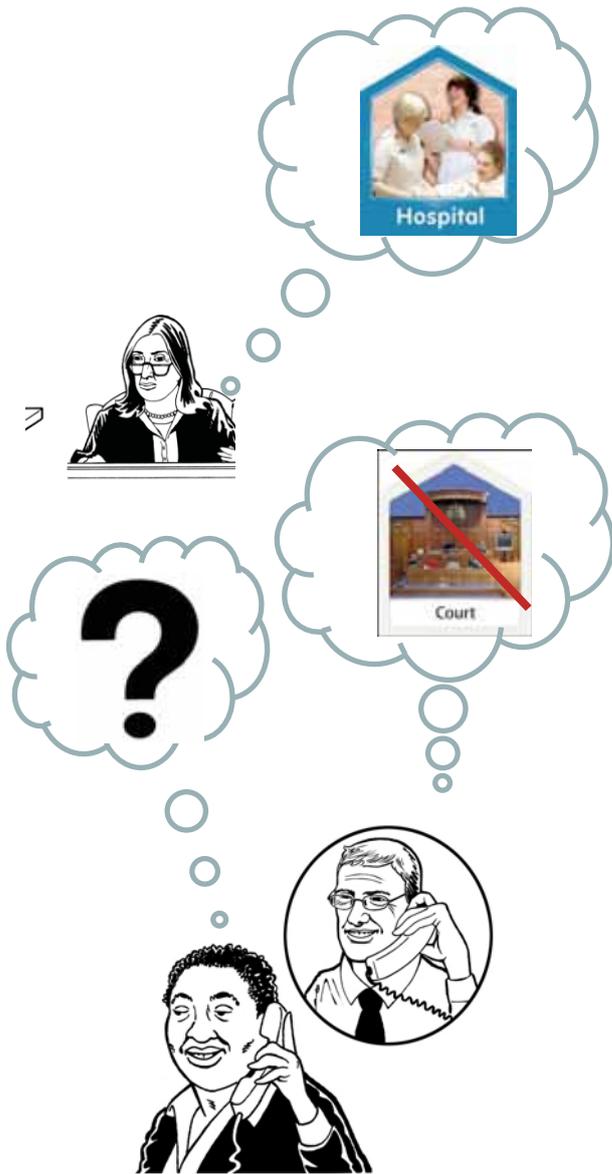
➤ **Give the accused person a warning**



➤ **Tell the accused person to pay some money, this is called a Fine.**



➤ **Tell the accused person to pay the victim some money, this is called Compensation.**



The Procurator Fiscal can ask for help for the accused person. For example, being admitted to hospital to get treatment or getting help from social work. This is called Diversion

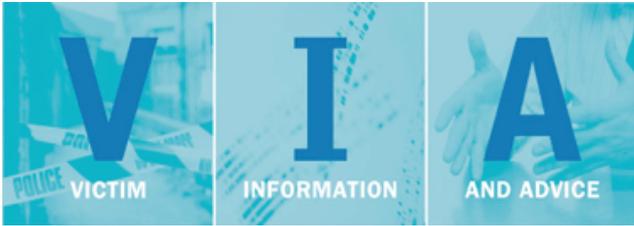
If the Procurator Fiscal decides not to go to court the Procurator Fiscal will tell the **Victim** why the **Accused** isn't going to court.



If the **Accused** person is less than 16 years old they may not go to court.



They may go to the **Scottish Children's Reporter**.



Witnesses or **Victims** who have a learning disability will get help from the **Victim Information and Advice Service**. This is part of the Prosecution Service.



This service helps people with learning disabilities who are **Witnesses** to a crime and people who are **Victims** of a crime. They will tell **Witnesses** and **Victims** what is happening.



It is very important to find out if a victim or witness has a learning disability.



This will mean that they will get the help they need to go to court.



People who have been accused of a crime can have a **Solicitor**.



The solicitor will help the person who has been accused of a crime get ready to go to court.

The solicitor is called a **Defence Solicitor**.



The defence solicitor will see all of the **evidence** that will be used in court.



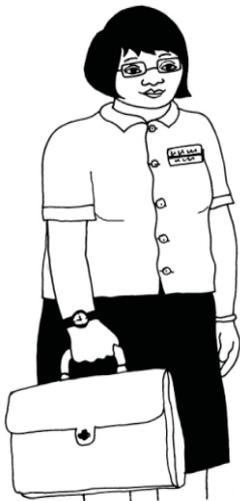
Some people may have a Defence Advocate. The Defence Advocate is there to defend a person accused of a serious crime.



Sometimes the **Prosecution** and **Defence** do not know when someone has a learning disability.



It is very important that the **Prosecution** and **Defence** find out if someone has a learning disability.



Sometimes the **Procurator Fiscal** asks someone called a **Precognition Officer** to speak to **Witnesses**.

This is so that they know what the witnesses might say in court.



Sometimes the **Defence** will ask to speak to **witnesses** about the evidence. It is ok to let them know what happened.



- The **Procurator Fiscal** may think that someone with a learning disability needs help during interviews.



- It would be better if the supporter knew the person well.



- It could be an appropriate adult



- It could be someone already working with the person



- Interviews with someone before they go to court are called Precognition interviews.



- These interviews can help the Prosecution and the Defence find out if someone has a learning disability.



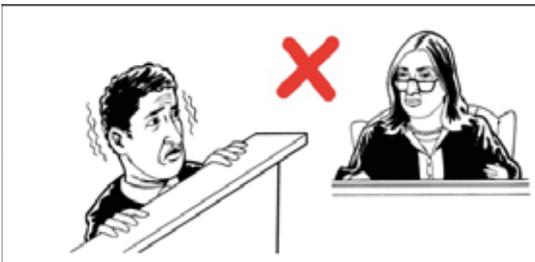
- This may mean that they are a Vulnerable Witness.



- A vulnerable witness is someone who may not be able to understand what is happening to them or answer questions.



- Interviews with the **Defence** can also help to find out if the person is able to go to court.



- Please look at the guide called “**Information about Court**”

More Information and Resources

There is easy to understand information available from some of these organisations:

- Mencap's 'Make it Clear' campaign home page
www.mencap.org.uk/html/ldw/makeitclear/index.asp
- Mencap 'Easy-to-use' pages
www.mencap.org.uk/html/easytoread/easytoread.asp
- List of Books Beyond Words titles
www.rcpsych.ac.uk/publications/booksbeyondwords/bbwtitlesa-z.aspx
- "Being a witness: a guide for child and adult vulnerable witnesses" - A CD Rom that includes useful information about going to court, video clips of witnesses giving evidence in court and using special measures, as well as a virtual tour of a courtroom. This is also available in DVD format.
Published by the Scottish Government
Copies are available by phoning: 0131 244 2213
- "Being a witness – going to court" - A booklet for adult witnesses in criminal and children's hearing court proceedings. Published by the Scottish Government
Hard copies are available by phoning: 0131 244 2213
www.scotland.gov.uk/Topics/Justice/criminal/17416/InformationMaterials
- "Being a witness – the use of special measures" - A booklet for adult witnesses in criminal and children's hearing court proceedings. Published by the Scottish Government. Hard copies are available by phoning: 0131 244 2213
www.scotland.gov.uk/Topics/Justice/criminal/17416/InformationMaterials

- “What happens next?” A DVD resource for people with a learning disability
Published by Lanarkshire ACE, Speak Out Advocacy Project. The DVD is available by phoning: 01355 230202.
- “Victims of Crime in Scotland” - A Scottish Government website with information for victims.
www.scottishvictimssofcrime.co.uk
- “I am a witness in court – a guide for people with learning disabilities” - An easy-read booklet published by the Scottish Government. Hard copies are available by phoning: 0131 244 2213.
www.scotland.gov.uk/Topics/Justice/criminal/17416/InformationMaterials
- British Institute of Learning Disabilities, Advocacy homepage
www.bild.org.uk/04advocacy.htm
- Foundation for People with Learning Disabilities, Advocacy homepage
www.learningdisabilities.org.uk/page.cfm?pagecode=ISRVADAR
- Voice UK, advice for advocacy and self-advocacy groups
www.voiceuk.org.uk/trainequalaccess2.htm
- The UK Advocacy Network (UKAN)
www.ukan.co.uk/index.html
- The New Mental Health Act: An Easy Read Guide
www.scotland.gov.uk/Publications/2007/09/03145057/0



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