



Focus on Justice: FASD in Youth Courts

Addressing Communication Issues






FASDCAN
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LAW

TALKING/DOCUMENTS



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Most justice processes, services and supports are **talk-based**



How do you **participate** in, and **benefit** from processes, services and supports that are provided *through* talking if talking/listening/concentrating/understanding is tricky for you?




What needs to be in place?
What does **everyone** need to do differently?

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Understand

Express



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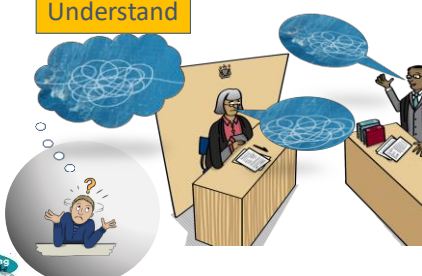
How I explain the Communication Assistant role



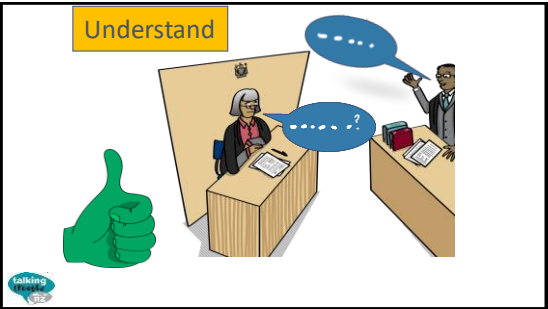
This is about **YOU + FAIR**
Stay calm and concentrate
Say what you need to say
Listen and understand what is going on
Me and **YOU** together -
What helps?
What gets in the way?
What do we need **EVERYONE** to do?

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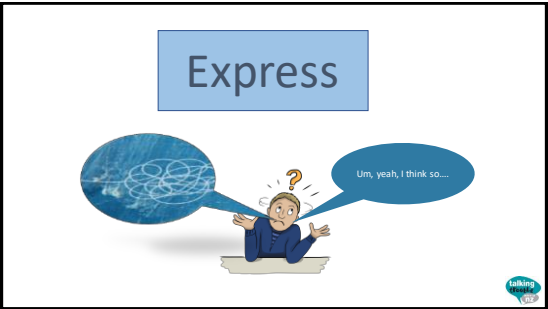
Understand



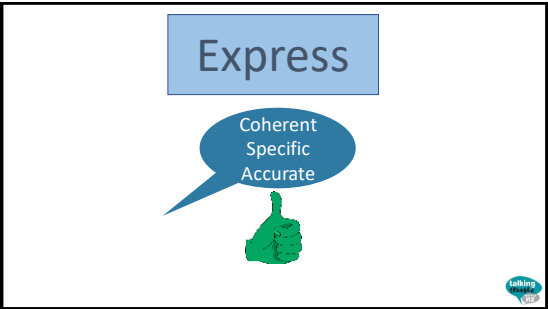
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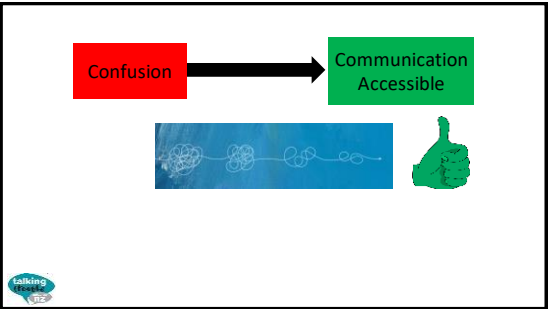
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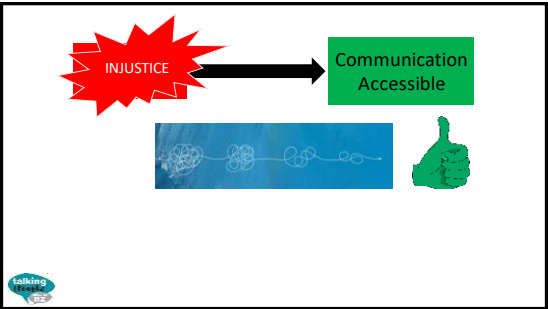
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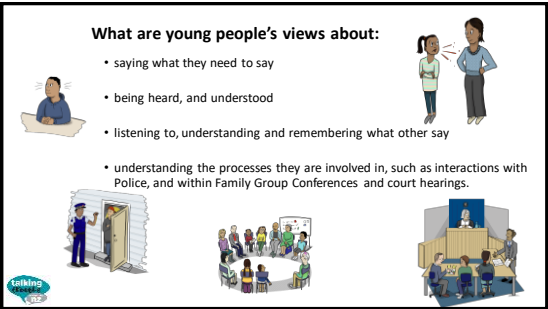
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Youth Voices about Youth Justice animation




Students and staff from the NZ Animation College used some of the quotes gathered in the interviews with young people with experience of youth justice settings to create this animation.

This animation can be viewed on our website
<http://talkingtroublenz.org/youth-voices-about-youth-justice-report/>

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Youth Voices about Youth Justice

Listening to young people's experiences of communication within the youth justice sector in New Zealand



Our report:
<http://talkingtroublenz.org/assets/publications/youth-voices-about-youth-justice/>

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How we are interested in how people talk in places like court, family group conferences, with police. What do you think about talking listening and understanding in those places?

It's hard
Tell me more
I don't know the words to say
Mmmmm
Like I have what I want to say and then they will just start saying other shit and then I can't say what I wanted to say cos I didn't know what they were going say
Mmmmm
It's just ...goes down the toilet and I just don't even know
Oh
And I just start getting mad
So how do you feel in that kind of situation?
I start getting anxious

Then L... then you ...it's not good when I get anxious cos I just lose my shit, like that I go from 0-100 real fast, like super fast
Mmmmm
I'll take on anyone. I don't care
And so has that happened to you, in what situation?
Court
Yeah
Family group conference"

Kedge, S. & McCann, C. (2020). Report for Kingslea School Language and communication skills among young people in a youth justice residence. http://www.kingslea.school.nz/wp-content/uploads/2020/07/Kingslea_Talking_Trouble_report.pdf

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Youth Voices about Youth Justice
Listening to young people's experiences of communication within the youth justice system in New Zealand
<http://talkingtroublenz.org/assets/publications/youth-voices-about-youth-justice/>

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Report for Kingslea School Language and communication skills among young people at a youth justice residence

Young people told us that it is **MORE CHALLENGING** to talk when adults:

- Use big, flash words and talk for a long time.
- Use sentences that were too long and complicated.
- Expect them to read things that were too complicated for them to understand.
- Expect them to concentrate for a long time or expected to deal with difficult topics that they didn't really understand.

Some young people say that:

- That stuff makes them feel uncomfortable and confused - they are unclear about what they are being told and what they have to do.
- It can be hard to speak up and say what they want to say sometimes, and to explain complicated information.
- They get frustrated and stressed when communication was difficult, but adults didn't always realise that communication problems were the reason for them getting upset, angry or why they sometimes stayed quiet.

Great article: Youth (in)justice
Snow & Powell (2011)
Trends and issues in crime and criminal justice No. 435

<https://www.kingslea.school.nz/wp-content/uploads/2020/07/Kingslea-Talking-Trouble-report-final.pdf>

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Dr Kelly Howard's research about the use of CAs in NZ

"The seriousness of the charges was my concern. And I just needed [my son] to understand everything that was going on. What the lawyers were talking about, what the lawyers and the judges were talking about, so that he understood every part of what was happening through that whole process. Because this was his life. His life. A big chunk of his life" (whānau 2).


[Communication Assistance in the New Zealand youth justice system \(wixsite.com\)](https://www.talkingtroublenz.org/assets/publications/communication-assistance-in-the-new-zealand-youth-justice-system-wixsite-com/)

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About 60%

of young people in the criminal justice system have an oral communication difficulty

(Bryan et al. 2007, Snow et al. 2012, Lount et al. 2017)



There are strong association between behavioural difficulties and oral language difficulties

Snow, P. C. (2019). Speech-Language Pathology and the Youth Offender: Epidemiological Overview and Roadmap for Future Speech-Language Pathology Research and Scope of Practice. Language, Speech and Hearing Services in Schools 23.90, 324-339 DOI:10.1044/2018_LSHS-18-00272

Snow, P. C., Eaton-Rosen, E., Bryan, K., & Beeke, S. (2021). Supporting Young Offenders to Communicate in the Youth Justice System: A Systematic Review. Speech, Language and Hearing 24(2), 87-104 DOI:10.1080/2050571X.2021.1889673

Kedge, S., & McCann, C. (2020). Report for Kingia School Language and communication skills among young people at a youth justice Talking Trouble Aotearoa NZ. <https://www.kingia.school.nz/wp-content/uploads/2020/07/Kingia-Talking-Trouble-report-final.pdf>

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2018 paper – 98 Sentenced Young People held in detention

“We identified rich diversity of languages, and multilingualism was common. Most young people for whom English was not their first language demonstrated difficulties in SAE (Standard Australian English) competence. Further, nearly one in two young people were identified with language disorder – over half of whom had language disorder associated with FASD.”


2021 Systematic review
Differing findings from different studies but lower language and communication skills in the alcohol exposed population

Banksia Hill Western Australia Telethon Kids studies

Kippin et al (2018). Language diversity, language disorder, and fetal alcohol spectrum disorder among youth sentenced to detention in Western Australia. In International Journal of Law and Psychiatry, 61, 40-49

Kippin et al (2021). Oral and written communication skills of adolescents with prenatal alcohol exposure (PAE) compared with those with no/low PAE: A systematic review. In International Journal of Language and Communication Disorder 56 (4), 694-718

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What needs to happen to make sure tamariki/rangatahi/adults and whānau.....

Know what is going on


- What is going to happen
- What just happened
- What's going to happen next?
- The communication is pitched at the right level for them

Can have a say / VOICE

Can enact their rights and have tino-rangatiratanga/self-determination

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Remove the ‘blah’



BLAHOMETER

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Not a ‘nice to have’

McLeod, S. (2018). **Communication rights: Fundamental human rights for all.** International Journal of Speech-Language Pathology, 20 (1). <https://www.tandfonline.com/doi/full/10.1080/137549507.2018.1428687>

Oranga Tamariki Act

- In a manner and a language...

Lundy, L. (2007). ‘Voice’ is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child. <https://hubnanog.ie/participation-framework/>

SPACE

How: Provide a safe and inclusive space for people to express their views

VOICE

How: Provide appropriate information and feedback to ensure all people's views are heard

AUDIENCE

How: Ensure that people's views are taken seriously and acted upon where appropriate

INFLUENCE


How: Ensure that people's views are taken seriously and acted upon where appropriate

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Legislation requires clear communication

- Oranga Tamariki Act (1989) (changes from 1 July 2019) requires health, education, social and legal services to be provided in an **accessible manner**
- Section 10 and 11 of the Act – Duties of Court and Counsel

11(2)(aa) “Except where section 10 (relating to proceedings) applies, the child or young person must be given reasonable assistance to understand the reasons for proceedings or process, the options available to the decision-maker, and how these options could affect them; and....”




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Changes are needed to improve the chance of effective communication for everyone

Judge Taumaunu's Nov 2021 paper on Te Ao Mārama
<https://www.districtcourts.govt.nz/media-information/media-releases/11-november-2020-transformative-te-ao-marama-model-announced-for-district-court/>

Emily BRUCE (2021). UNDERSTANDING AND BEING HEARD: EXPLORING THE RIGHT TO PARTICIPATE IN THE NEW ZEALAND YOUTH COURT. Masters Thesis, Victoria University of Wellington.



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What is a Communication Assistant?

- Court-appointed. Officer of the Court
- Neutral and impartial
- There to provide advice about, and to facilitate communication between a vulnerable witness/defendant and the court
- Specialised skills in assessing and intervening to enable more effective communication. In NZ, role undertaken by speech-language therapists



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MOJ Communication Assistant Quality Framework

Published July 2021



In NZ CAs are appointed under s80 Evidence Act for prosecution witness + defendants

<https://www.justice.govt.nz/about/lawyers-and-service-providers/service-providers/communication-assistance/>



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Young person in the Crossover Court

- Assisting Lawyer for Child to gather the Young Person's views about the plan

Young person in the Youth Court

- Assisting the Youth Advocate
 - Explain charges, disclosure, options
- Courtroom
 - Process, understand discussion, understand outcome/expectations

Young person – Judge Alone trial

- Assistance with taking of instruction
 - Understanding charge/evidence/process/options
 - Expressing their account to counsel
- Following the proceedings
- Giving evidence



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Family Group Conference (FGC)

- Participation – understanding/expectations
- Assist all present to express what they need to
- Ensure the YP can give their views
- Recap the plan – visual version

Police interview

Parole Board

Others' assessments

Speech-language therapy

System-wide projects




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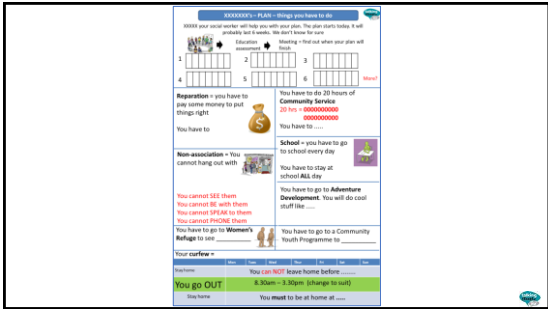
Young person's feedback after communication assistance for FGC & court hearings.....

"I want to say thank you for helping me to understand what's going on, like what's happening in Court, I reckon I wouldn't be here now if I didn't understand all that"

"I know that I can know stuff now so that's mean"



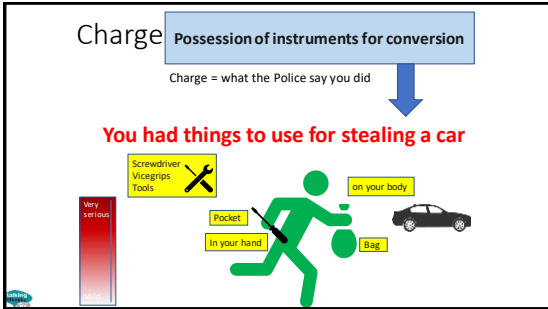
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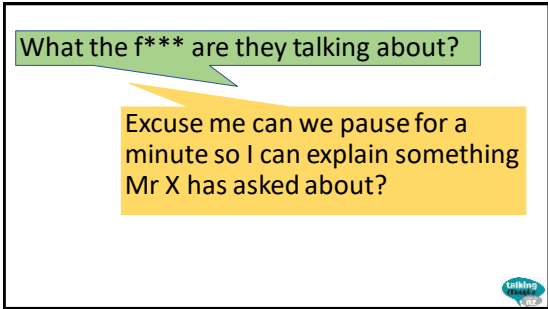
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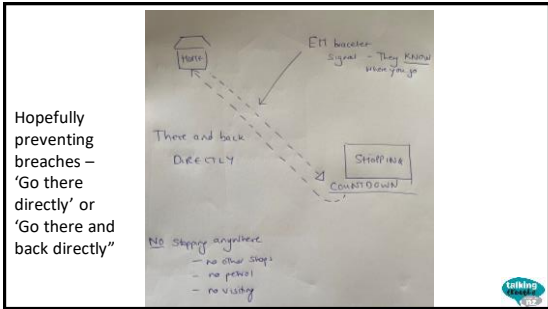
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Check understanding

DON'T SAY	TRY SAYING
<ul style="list-style-type: none">• That all makes sense, doesn't it?• Do you understand?• Is that clear?• Do you know what I mean?• Are you following me?	<ul style="list-style-type: none">• I'm not sure if I said that clearly. What did I just say?• So, tell me, what do you need to do?• What do we need to write down to remember?• What does that mean for you?

Yep, all good

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What communication demands do your conversations, processes, forms, programmes etc. make on the people who access your services?

What do children, young people and whānau need to be able to understand and do to effectively take part at each step in the process?

Diagram illustrating communication demands: understanding, time, date, future, past, literacy, self-regulation, listening, speaking, remembering, agency, empathy.

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Actions to take to improve communication accessibility in legal spaces

Two resources to download
<https://talkingtroublenz.org/links-and-resources/>

Good Communication Practice in Family Group Conferences (FGCs)

Helping everyone to understand, to participate, and to have their say

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Communication Assistants

ALL the workforce

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Practitioners who can identify when someone has speech, language, and communication needs **and** can adapt their communication to effectively meet those needs are more likely to facilitate:

Rights being upheld.

- ✓ Understanding
- ✓ Participation
- ✓ Rangatiratanga

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Talking Trouble Aotearoa NZ

Social Enterprise
Speech-language therapists / Communication assistants

Court-appointed Communication assistance

- Defendant, complainant, witness
- Youth, Crossover, District & High Court
- Family Court

Communication assistance

- Family Group Conference
- EVI (Evidential Video Interview)
- Parole Board

Consultation & research

- Youth Voices, Kingslea, Protection Orders
- Forensic Sexual Assault Ax team
- Submissions to Govt

Workforce development

- Oranga Tamariki
- Judges & lawyers
- Police & Corrections
- Anyone who is interested

SLT
Building communication skills to enable:

- Relationships
- Managing emotions
- Work or jobs
- Expressing your point of view
- Goal planning

Interventions that are underpinned by Te Tiriti O Waitangi principles
Honouring everyone's cultural and language backgrounds

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Kelly Howard NZ research on CAs

- <https://kellyhoward21.wixsite.com/youthjustice>

Recent UK research on intermediaries – John Taggart (2021) ‘I am not beholden to anyone... I consider myself to be an officer of the court’: A comparison of the intermediary role in England and Wales and Northern Ireland *The International Journal of Evidence & Proof* 15(2)

Howarth et al (2021) paper: Supporting Young Offenders to Communicate in the Youth Justice System: A Scoping Review. *Speech, Language and Hearing* 24(2)

Snow, P.C. & Powell, M.B. (2015). Youth (In)justice: Oral language competence in early life and risk for engagement in antisocial behaviour in adolescence: Trends & Issues in Crime and Criminal Justice, 435. <https://jcrs.deakin.edu.au/handle/10300/9412/powell-youthjustice-2012.pdf>

Professor Pamela Snow's comprehensive paper looking at YJ and language: Snow, P. C. (2019). Speech Language Pathology and the Youth Offender: Epidemiological Overview and Roadmap for Future Speech Language Pathology Research and Scope of Practice. *Language, Speech, and Hearing Services in Schools*. <https://doi.org/10.1044/2018.130103.CSLS.18.0027>

The Journal of Clinical Practice in Speech Language Pathology special edition on youth justice March 2019. https://www.speechpathologyaustralia.org.au/2019webinars/Publications/Journal_of_Clinical_Practice.aspx

Dame Joyce Paterson and Richard Woolfon have produced an excellent, practical book about the Intermediary scheme in England and Wales ('Intermediary' is the term used there for the equivalent of our NZ Communication Assistants). Paterson, J. and Woolfon, R. (2015). *Intermediaries in the Criminal Justice System: Improving Communication for Vulnerable Witnesses and Offenders*. <http://www.routledge.org/kelby/j111107326>

Short e-book very accessible. Baden (2017) <https://www.thedocket.org/ky/11/1107326> *They Just Don't Get It: Communication and the Work of an Intermediary with Vulnerable People in the Justice System*

The Advocates' Gateway website from the UK provides excellent material and practical advice and information for legal professionals about addressing the needs of vulnerable populations in legal contexts. <https://www.thedocket.org/ky/11/1107326>

NZ resource provides specific guidelines for our context, including a guideline about Communication Assistants. <https://www.benchmark.org.nz/>

McLeod, S. (2018). Communication rights: Fundamental human rights for all. *International Journal of Speech-Language Pathology* 20 (1). <https://www.tandfonline.com/doi/full/10.1080/17513757.2018.1426882>

<https://justiceintermediary.org/>

Advocacy for Vulnerable People and Children National Training Programme: The 20 Principles of Questioning A Guide to the Cross Examination of Vulnerable People and Children <https://www.justiceintermediary.org/>