



# OPENING THE DOORS OF JUSTICE

for Persons with Intellectual  
Disabilities in Ghana





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Intellectual Disabilities  
in Ghana



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# DISABILITY RIGHTS FUND

*“The Disability Rights Fund (DRF) is a collaboration between donors and the disability community that supports Disabled Persons Organizations in the developing world to take the lead in advocating for the human rights of persons with disabilities at local and national levels, utilizing the mechanism of the Convention on the Rights of Persons with Disabilities (CRPD)”.*

## **Disclaimer:**

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*“A small body of determined spirits fired by an unquenchable faith in their mission can alter the course of history.”*

*Mahatma Gandhi, Former Indian Leader*

*“When you focus on someone’s disability you will overlook their abilities, beauty and uniqueness. Once you learn to accept and love them for who they are, you are subconsciously learning to love yourself.”*

*Yvonne Pierre, The Day My Soul Cried: A Memoir*



## WHO IS INCLUSION GHANA?

Inclusion Ghana, a member of Inclusion International, is a network non-governmental organisation working to reduce stigmatisation and ensure full inclusion of all persons with intellectual disabilities (ID) and their families by advocating for their rights and needs. Inclusion Ghana envisions equal opportunities and inclusion for all persons with ID in Ghana.



Inclusion Ghana's four core service areas are in training, research, education and advocacy.

Inclusion Ghana has many member organisations located around Ghana who work directly with persons with ID. For more information about Inclusion Ghana and our member organisations, including how you can become involved, please contact:



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## FOREWORD

Persons with intellectual disabilities (ID) are all too often denied fair and equal access to justice. For many persons with ID, the justice system is not accessible. Fair treatment as victim, witness or offender, limited communication use and a lack of awareness about laws and services that apply to persons with ID generally are some of the key issues people face.

The ability to access justice is of critical importance for the enjoyment of all other human rights. Someone who feels they have been denied their rights or has been the victim of a crime might turn to the justice system to seek remedy. However, if the justice system fails to accommodate disability related needs and/or discriminates, then there is denial of full access to the justice system and the denial of the rights the person was evoking in the first place. Being denied access, the absence of clear communication or access to information that is understandable will obstruct the exercise of access to justice. To be fully included in society, access to justice is needed for all, also for persons with ID.

The enjoyment of other human rights might also affect the ability to enjoy access to justice in a positive or negative manner. The denial of legal capacity has repercussions for the credibility of persons with ID as witnesses, for example, and thus, for the possibility to file a case and seek remedies. More indirectly, a person with access to quality education might understand and use the justice system in a better way. Furthermore, when the public transportation to the police office or another justice administration office is not accessible, this might hamper access to justice. Access to justice becomes all the more important for persons with ID who are more prone to facing discrimination in the justice system and at the same time are more often victims of violence and thus, more in need of legal protection, such as women and girls with ID.

It is hoped that the content of this booklet, if utilized well, can serve as relevant and reliable material for development-oriented policy actions on behalf of persons with ID.



*Auberon Jeleel Odoom  
National Co-ordinator  
Inclusion Ghana*



## GENDER BIAS

In order to avoid repeatedly using “he/she”, the complainant has been referred to as female throughout this booklet.

## ICONS

The following icons have been used to highlight



Information on a particular section



A frequently asked question



An important point

# Table of Contents

WHO IS INCLUSION GHANA? _____	4
FOREWORD _____	5
PURPOSE OF THE BOOKLET _____	8
WHAT IS AN INTELLECTUAL DISABILITY (ID) _____	9
WHAT IS NOT AN INTELLECTUAL DISABILITY _____	9
WHAT CAUSES AN ID _____	12
WHAT DOES NOT CAUSE AN ID _____	12
HOW MANY PERSONS HAVE ID _____	13
LEVELS OF INTELLECTUAL DISABILITY _____	13
IS THERE A CURE FOR AN INTELLECTUAL DISABILITY _____	16
ATTITUDES TOWARDS PERSONS WITH ID _____	16
DISCRIMINATION _____	17
WHAT LAWS ARE IN PLACE TO PROTECT THOSE WITH ID _____	18
WHAT IS ACCESS TO JUSTICE? _____	23
WHAT ARE THE BARRIERS FOR PERSONS WITH ID _____	23
WHAT CAN BE DONE TO OVERCOME THESE BARRIERS _____	24
COURT PROCEDURES FOR PERSONS WITH ID _____	25
TIPS ON COMMUNICATION WITH PERSONS WITH ID _____	31
USEFUL CONTACT NUMBERS _____	32



## PURPOSE OF THE BOOKLET

Persons with ID are the most marginalised and disadvantaged group in the Ghanaian community. They face numerous challenges ranging from stigmatisation, limited mobility, high dependency, poverty, poor health care and lack of access to education.

Research from all over the world shows that persons with ID are often targeted for abuse. It has also been shown that they very seldom obtain justice. Just like all members of the Ghanaian community, persons with ID deserve to enjoy the full scope of their legal rights and be treated as equals. This booklet will provide you with information about the legal rights that persons with ID are entitled to under Ghanaian law and what to do when a complaint comes to you and you realise the person involved is a person with ID. It is also for those assisting complainants in cases of abuses like members of the Ghana Police Service, Judicial Service Personnel, Social Workers, and Parents of persons with ID. We hope that with the information and guidance in this booklet, we can work towards achieving inclusion and equality in access to justice for persons with ID in Ghana.

Inclusion Ghana is grateful to Disability Rights Fund for its generosity in providing the needed funds to produce this booklet.



**DISABILITY  
RIGHTS  
FUND**



## WHAT IS AN INTELLECTUAL DISABILITY (ID)

From a clinical perspective, an ID involves impairments of general mental abilities (generally recognised as an IQ below 70) that impact adaptive functioning in three areas:

- The conceptual area, which includes skills in language, reading, writing, math, reasoning, knowledge, and memory.
- The social area, which refers to empathy, social judgment, interpersonal communication skills, the ability to make and retain friendships, and similar capacities.
- The practical area, which centers on self-management in areas such as personal care, job responsibilities, money management, recreation, and organizing school and work tasks.

Importantly, a person should experience symptoms during their developmental period, which is usually before the age of 18.

Intellectual disabilities are also described in terms of the degree of disability. A person can have a mild, moderate or severe ID. Just like everyone else in the community, each person with an ID is different.



## WHAT IS **NOT** AN INTELLECTUAL DISABILITY

It is important not to confuse an ID with a mental illness or other illnesses, although persons with ID may also have other illnesses or a physical disability. An ID is **NOT**:

- **a mental illness:** unlike an ID, a mental illness can come and go, and affects a person's perception and mood. Examples of mental illnesses are depression and schizophrenia.
- **any intellectual impairment acquired as an adult:** the definition of an ID is that it develops before the individual turns 18 years of age.

- **dementia:** unlike an ID, dementia is a loss of short-term memory generally associated with old age.



## OTHER NAMES OF INTELLECTUAL DISABILITY

- ID used to be called ‘mental handicap’ or ‘mental retardation’
- In some countries, terms like ‘developmental disabilities’ and ‘learning disabilities’ are used
- People may also be referred to by the name of a specific syndrome, like Down Syndrome, or Fetal Alcohol Syndrome
- The person may also have physical disabilities, for example, deafness, blindness, may be a wheelchair user- and this may be how the person is described. Remember that a person with physical disabilities may not be intellectually disabled!
- The family and the complainant will have their own words- such as “slow”, “special needs”



## WHAT ARE SOME COMMON TYPES OF ID

### *Autism*

Autism is a disorder that is usually first diagnosed in early childhood as it typically appears during the first 3 years of a child’s life. Not all persons with autism have an ID. Just like persons without disabilities, each person with autism is unique in his/her own way. The main signs and symptoms of autism involve communication, social interactions and repetitive behaviours. The cause of autism is not known but early intervention can ensure the person reaches their full potential. There is no cure for autism. Children with autism might have problems talking with you, or they might not look you in the eye when you talk to them. They may have to line up their pencils before they can pay attention, or they may say the same sentence again and again to calm themselves down. They may flap their arms to tell you they are happy, or they might hurt themselves to tell you they are not. Some persons with autism never learn how to talk.

### ***Down Syndrome***

Down syndrome is a set of mental and physical symptoms that result from having an extra copy of chromosome 21. Scientists do not know why this happens but the chance of having a baby with Down syndrome increases as a woman gets older. Persons with Down syndrome accounts for around one fifth of persons with intellectual disabilities. Even though persons with Down syndrome may have some physical and mental features in common, symptoms of Down syndrome can range from mild to profound. Usually, mental development and physical development are slower in persons with Down syndrome than in those without it.

Down syndrome is more visibly noticeable than other IDs. A person with down syndrome may have eyes that slant upward, ears that may fold over a little at the top and their mouth may appear small. Down syndrome cannot be cured, however, many persons with Down Syndrome live productive lives well into adulthood.



### ***Fetal Alcohol Syndrome***

If you are pregnant and drink alcohol, so does your baby. This can hurt your baby's growth and cause life-long physical and behavioural problems. One of the most severe effects of drinking during pregnancy is fetal alcohol syndrome. Fetal alcohol syndrome is a group of problems that can include: intellectual disability, birth defects, abnormal facial features, growth problems, problems with the central nervous system, trouble remembering and /or learning, vision or hearing problems, and behaviour problems. Fetal alcohol syndrome lasts a lifetime. There is no cure. Special School Services can help with learning problems. Routines and consistency at home may help with behaviour problems.



## WHAT CAUSES AN INTELLECTUAL DISABILITY

Intellectual disability can be caused by any condition that impairs development of the brain before birth, during birth or in the childhood years. Several hundred causes have been discovered, but in about one-third of the people affected, the cause remains unknown. The known causes can be categorized as follows:

- ✎ **Genetic conditions** - These result from abnormalities of genes inherited from parents, errors when genes combine, or from other disorders of the genes caused during pregnancy.
- ✎ **Problems during pregnancy** – For example, the use of alcohol or drugs by the pregnant mother can cause ID. Other risks include malnutrition and illnesses of the mother during pregnancy, such as rubella and syphilis.
- ✎ **Problems at birth** – Premature birth, low birth weight and difficulties in the birth process such as temporary oxygen deprivation or birth injuries may cause ID.
- ✎ **Health/environmental problems** – Childhood diseases such as whooping cough, chicken pox, measles and meningitis as well as childhood injuries like a blow to the head or near drowning can cause ID. Lead, mercury and other environmental toxins can also cause ID.
- ✎ **Poverty and cultural deprivation** – Children growing up in poverty are at a higher risk of malnutrition, childhood diseases, exposure to environmental health hazards and often receive inadequate health care. These factors also increase the risk of ID.



## WHAT DOES **NOT** CAUSE AN ID

It is important to note that the following DO NOT cause intellectual disabilities:

- ✎ curses
- ✎ spiritual forces
- ✎ witchcraft (juju)

- ☞ punishment
- ☞ contact with a person with an intellectual disability (ID is not contagious)



## HOW MANY PERSONS HAVE ID

In Ghana, it is difficult to calculate exactly how many people have ID because the rate of diagnosis is low. Along with a lack of trained specialists in Ghana, ID can be difficult to detect because there is no blood test and instead specialists must look at behaviour and development to diagnose.



The World Health Organisations estimates that between 2% and 3% of the world's population has an ID and that this rate is higher amongst poorer communities. In Ghana therefore it is likely that there are around 750,000 persons with intellectual disabilities, constituting the 3rd largest category of persons with disabilities in Ghana.



## LEVELS OF INTELLECTUAL DISABILITY

A description is given of levels of ID commonly used in diagnostic systems, and the implications for court

### Mild (IQ level 50-69)

#### Possible History

- ☞ School failure
- ☞ May have been placed in a special class or other special schooling
- ☞ May be able to read, write and do simple calculations
- ☞ May have physical disabilities as well

#### Potential Everyday skills

- ☞ Self-care skills usually good

- ☹️ May be able to use public transport, tell time and use money
- ☹️ Will need help when faced with life challenges or new tasks
- ☹️ Impaired social judgment may result in vulnerability to exploitation

### Potential Legal implications

- ☹️ Persons with mild ID may cope fairly well in a supportive structure and there is a risk that significant deficits may be overlooked
- ☹️ Usually persons with mild ID can be sworn in as witnesses and testify reliably
- ☹️ They should be seen as vulnerable. Court preparation is necessary and the person may require a simplified oath, an intermediary and care under cross-examination

### **Moderate (IQ LEVEL 35-49)**

#### Possible History

- ☹️ Slow development usually noticed before school- associated physical problems occur more often than with mild disability
- ☹️ May have attended or continues to attend a Special Needs School
- ☹️ Reading, writing, and counting skills are very limited

#### Potential Everyday skills

- ☹️ Need help with self-care (this includes washing, dressing, and eating)
- ☹️ Usually unable to tell time, manage money, or use public transport alone
- ☹️ Often unable to identify potentially dangerous or exploitative relationships

## Potential Legal Implications

- Persons with moderate ID may be able to give reliable testimony, but will need more support than persons with mild ID
- They are often able to differentiate between truth and falsehood, but this needs careful assessment using familiar concepts and concrete examples. A simplified oath is required
- Usually their account is simple, and generally the person is unable to provide times and dates.
- These complainants may be misled on cross-examination, but the risk of this can be reduced by avoiding certain kinds of questions.

## **Severe (IQ level 20-30)**

### Possible History

- Slow development noticed before school-going age, and physical disabilities often present
- May have been placed in a Special Needs School, or may have had no formal schooling
- Usually unable to read, write or count

### Potential Legal implications

- They need even more support in order to testify
- It may be hard to show that the person understands the difference between truth and lies- not because they readily tell lies, but because they often cannot understand the question. This can exclude people from testifying even when they can provide a consistent account of the alleged offence
- Their account of events will be simple, without dates or times, and may lack consistency on the sequence of events
- A complainant in this category will easily be misled by leading or complex questions, but this risk can be reduced
- If found competent as a witness, an intermediary will always be recommended

## Profound (IQ level under 20)

### Possible History

- Physical disabilities are always present and the disability is generally recognized at birth
- The person does not develop the abilities to walk, talk or take care of herself at all

### Potential Legal implications

- Someone falling into this category will not be able to act as a witness
- Court cases will depend upon witnesses and/ or forensic evidence



## IS THERE A CURE FOR INTELLECTUAL DISABILITY

Unfortunately there is no cure, however, early intervention, such as occupational therapy and speech therapy, can have a positive impact on the development of persons with ID and help them to reach their full potential.



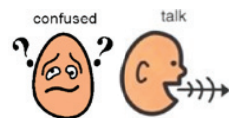
There is unfortunately misinformation in the Ghanaian community that ID is caused by evil spirits and that spiritual healers can cure individuals with treatments that can be quite costly. There is no evidence of success from these treatments and instead Inclusion Ghana emphasises the use of early intervention for persons with ID.



## ATTITUDES TOWARDS PERSONS WITH ID

**Negative ideas about persons with ID may lead to behaviour that violates their human rights**

A common human response to people who are different from us is to feel uncomfortable or uncertain. At worst this may lead to stigma. When people are stigmatized they may be seen as not quite human. They are linked to undesirable characteristics, like moral weakness, or dishonesty.



They are then treated in ways that are rejecting and discriminatory. Persons with ID, like people with psychiatric illness or physical disabilities, are often affected by stigma. Members of the community often use stereotypes or prejudgements of persons with ID to discriminate against them or to abuse them. They often use them to dismiss entirely the value of what a person with an ID has to say or contribute. These are problems that affect persons with ID from accessing justice.

In contrast to this, there is the view that persons with ID are angels, or especially close to God. While this may lead to more respectful treatment, it still makes persons with ID different from the rest of us. Persons with ID are ordinary people, dealing with particular disabilities.

How a question is asked will determine how competent the ID person will be: We would never expect a Twi-speaking person to answer a question in Hausa, but we may fail to adjust our question for a person with ID to make sure we use words she understands, in a simple sentence. We often fail to explain the procedure and requirements of the court, so that the complainant with ID knows what is required of her. When a complainant with ID is not properly prepared for court, and questioned in ways that she cannot understand, she is being denied the right to fair and respectful treatment.

Without meaning to do so, you may overlook the constitutional rights of the complainant with ID. The guidelines in this booklet will help to prevent this



## **DISCRIMINATION**

Discrimination is treating a person, or group of people, less favourably on the basis of an attribute that the person, or group of people has. The attribute might be the person has an ID or their race or their gender.

## **Discrimination can be either direct or indirect.**

- ☞ An example of direct discrimination is refusing to employ a person because they have an ID, or flatly refusing to rent a house or unit to a person with an ID because of her disability.
- ☞ Indirect discrimination is where rules, practices or policies, which appear to be neutral, actually have a disproportionate and detrimental impact on a person or a group of people with a certain attribute – like an ID. For example, insisting that in order to receive free health care a person must complete a complex written application form. This may exclude a person from receiving free health care if they cannot complete the necessary form due to their ID.

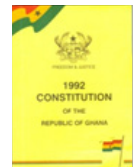


## **WHAT LAWS ARE IN PLACE TO PROTECT THOSE WITH ID**

Under international law, the United Nations **Convention on the Rights of Persons with Disabilities** (CRPD) came into force in 2008 to ensure the rights of persons with disabilities are protected around the world. On 31 July 2012 Ghana ratified the CRPD which means that Ghana formerly agrees that it must follow and enforce the rights contained in the CRPD.

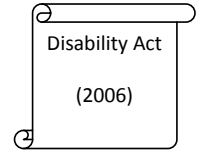


Under Ghanaian law, persons with disabilities have their legal and human rights enshrined in the 1992 Constitution. As with all Ghanaians, persons with ID must be treated equally and be able to access services equally.



The Disability Law was created in 2006 under the 715 Act of Parliament (Disability Law). The Disability Law sets out in further detail the

rights of persons with disabilities and the legal requirements of the government and society generally. This law should contain all the same rights as the CRPD.



## **The Convention on the Rights of Persons with Disabilities (CRPD)**

The purpose of the CRPD is to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”



The CRPD aims to shift thinking about disability from a social welfare concern, to a human rights issue. The focus is no longer on what is wrong with the person. The focus is the accommodations that are needed to ensure the needs of each individual with a disability are met.

The following is a table summarising some important rights in the CRPD:

- Article 5 – Equality
- Article 6 – Women with disabilities to be treated equally
- Article 7 – Children with disabilities to be treated equally
- Article 8 – Government must raise awareness on the rights of persons with disabilities
- Article 9 – Accessibility to all things for persons with disabilities
- Article 10– The right to life
- Article 11– Ensuring persons with disabilities are protected in situations of risk and humanitarian emergencies
- Article 12– Equal recognition before the law
- Article 13– Access to justice
- Article 14– Liberty and security of the person

- Article 15– Freedom from torture or cruel, inhuman or degrading treatment or punishment
- Article 16– Freedom from exploitation, violence and abuse
- Article 17– Protecting the integrity of the person
- Article 18– Liberty of movement and nationality
- Article 19– Living independently and being included in the community
- Article 20– Personal mobility
- Article 21– Freedom of expression and opinion, and access to information
- Article 22– Respect for privacy
- Article 23– Respect for home and the family
- Article 24– Education
- Article 25– Health
- Article 26– Habilitation and rehabilitation
- Article 27– Work and employment
- Article 28– Adequate standard of living and social protection
- Article 29– Participation in political and public life
- Article 30– Participation in cultural life, recreation, leisure and sport

### **The 1992 Constitution of Ghana**

The 1992 Constitution of Ghana sets many important aspects of how Ghana operates as a country. This includes an outline of the basic human rights that all Ghanaians are entitled to. The Constitution makes specific reference to people with disabilities in Article 29. Article 29 states that persons with disabilities:

- ☛ Have the right to live with their families;
- ☛ Have the right to participate in social, creative or recreational activities;
- ☛ Must be free from exploitation, discrimination and abuse;
- ☛ Must have their condition taken into account in any judicial proceedings;
- ☛ Must have access to public places as far as is practicable; and

- Should be given special incentive to engage in business.

## The Disability Act

The Disability Act was designed to ensure Article 29 of the 1992 Constitution of Ghana was clearly set out in law. There are many rights contained in the Disability Act including the following:

- The right to live with family and participate in social, political, economic, creative or recreational activities;
- The right to live where a person chooses;
- The right to be free from discrimination and exploitation;
- The right to have the condition of a person taken into account in judicial proceedings (i.e. necessary accommodations should be made in judicial proceedings);
- The right to access all public places, facilities and services;
- The right to assistance from the Ministry to gain employment and be provided with training;
- The right to free education, where necessary at a special school; and
- The right to free general and specialist health care.

The Legislative Instrument that will bring this law into force has not yet been created. This means that the Disability Act does not have proper effect in Ghana and the rights of persons with disabilities are not protected. At present, current Ghanaian laws do not give the same level of protection as the CRPD explained above.

## What is required of the Ghanaian Government as a result of these laws?

By ratifying the CRPD, the Ghanaian Government is obliged to change the law and introduce policy and practices that allow persons with disabilities all the human rights listed in the CRPD. This has not happened in Ghana. Some examples of what the Ghanaian government may need to do to achieve this include:



- **The right to education:** the Ghanaian government must ensure all students with disabilities are not excluded from the general education system on the basis of their disability, that appropriate materials and techniques are used in education and that education of persons with disabilities fosters their participation in the community and the development of their abilities.
- **The right to health:** the Ghanaian government must ensure all persons with disabilities are provided with access to essential medicines and that the treatments are provided on the basis of the free and informed consent of the person with the disability.
- **The right to access to justice:** the Ghanaian government must ensure the necessary accommodations are made to the judicial process to ensure full access to justice for persons with disabilities.
- **Training:** The government must train relevant employees on disability issues.





## WHAT IS ACCESS TO JUSTICE?

Access to justice is a universal human right. It also contained in Article 13 of the CRPD. Access to justice is defined by the UN Development Programme as:

*“the right of individuals and groups to obtain a **quick, effective and fair response** to protect their rights, prevent or solve disputes and control the abuse of power, through a **transparent and efficient process**, in which mechanisms are available, **affordable and accountable**”*



## WHAT ARE THE BARRIERS FOR PERSONS WITH ID

The **barriers** faced by persons with ID when accessing justice include the following:

- ⌘ **Lack of awareness** – Persons with ID and their supports may have a lack of awareness of human rights. Discrimination and abuse must be recognised before action can be taken;
- ⌘ **Greater dependence** – Persons with ID may have a greater dependence on others to take action;
- ⌘ **Fear of retribution** – Persons with ID may have a fear of retribution, particularly if it is a family member or carer that is carrying out the abuse;
- ⌘ **Difficulties in recognition** – Lawyers, police and others may have difficulty recognising or identifying persons with ID;
- ⌘ **Communication barriers** – Persons with ID may experience communication barriers with lawyers, police and the Court;
  - Describing incident
  - Understanding advice
  - Being a witness
- ⌘ **Stigma and stereotyping** – Stigma and stereotyping towards persons with ID undermine their ability to participate in legal processes, for example that:

- They cannot be truthful
  - That they are not a reliable witness or do not have legal capacity
  - That they may be more promiscuous and consenting to abuse/violence
  - That their intellectual disability is caused by spirits and their abuses are not worthy of being pursued
- ✦ **Written processes** – There is a reliance in legal proceedings on formal written on formal written process; and
  - ✦ **Complex processes** – Legal proceedings can be complex and stressful.



## WHAT CAN BE DONE TO OVERCOME THESE BARRIERS

Accommodations can be made to ensure that persons with ID enjoy full and inclusive access to justice. The accommodations should be made, where necessary, by all involved in the access to justice process, including parents, social workers, policy, lawyers and judges. These accommodations can include:

- **Improved education** on the rights of persons with ID for all people and specifically persons with ID and their parents;
- **The increased use of verbal communication** over written in judicial process for persons with ID;
- The production of **easy read materials** on judicial processes;
- The use of **communication passports** where appropriate;
- **Additional time** afforded to ensure persons with ID understand judicial processes;
- The use of ID **trained investigators** to assist with police investigation;
- **Trained facilitators** to assist persons with ID to understand the court process and to simplify questions and give support where needed;

- Clearly formulates government policy regarding **legal capacity and guardianship**;
- Introduction of **supported decision making processes**; and
- **Adaptation of the court room**, e.g. through holding proceedings in a more informal setting or with fewer people.

Every person in Ghana has a role to play to ensure that the rights of persons with ID are respected and this vulnerable and silent group enjoys full inclusion in the community.



## COURT PROCEDURES FOR PERSONS WITH ID

### 1. Competence To Act As A Witness

Using interview and visual materials, the various aspects of competence are assessed. This involves the ability to give account of the alleged offence, and the understanding of court procedure, especially the special responsibility to tell the truth.

### Findings

- Often the complainant's narrative account is simple, or may include seemingly irrelevant information
- Often there is discomfort about referring to genitals and sex, reflecting lack of sex education and confidence in this area
- While intellectually disabled complainants are more likely to be compliant and suggestible, this vulnerability can be reduced with court preparation and appropriate questioning through an intermediary
- Many complainants with ID struggle to grasp that they can ask for a question to be repeated or rephrased, and that they can say that they do not know the answer to a question. Most persons with ID do not believe that they have rights, and feel shame about not understanding

- There is very little knowledge about court procedure and requirements
- Many complainants with ID are able to differentiate truth from falsehood when presented with examples within their understanding. They may require a simplified oath

## 2. Obtaining the Account of the Alleged Offence

Once you think the person understands what is required of her, obtain her permission to proceed. Let her know that the information is confidential as far as possible but it will have to be shared with justice personnel

### Explain the importance of telling the truth

- ☞ You need to emphasize the importance of telling the truth. It is better to do this at the beginning- she may think you do not believe her if you raise this topic when she has already given her account
- ☞ The importance of telling the truth needs to be spoken about sensitively and without accusation- remember that persons with ID are often treated as unreliable witnesses simply because they have a disability
- ☞ It is useful to say that everybody who speaks to the police, or speaks in court has to promise to tell the truth
- ☞ Part of telling the truth is also saying when she does not know the answer to a question. It is helpful to explicitly say that, this is acceptable, as some persons with ID try very hard to give the ‘right answer’ instead of saying ‘I don’t know’
- ☞ Explain that while her job is to tell the truth, your job is to be sure she understands you. Make it clear that it would really help if she tells you when you should explain something.

### Narrative Account

- ☞ Ask the complainant what happened
- ☞ Questions at this stage should simply be ‘what happened next?’
- ☞ Allow the person to take her time
- ☞ Accept information that may seem irrelevant

- ☞ Do not comment on inconsistencies or small details at this stage
- ☞ Make sure you have understood by using the person's own words
- ☞ Support the complainant if she struggles to get started – often a family member will urge the person to speak. Here it can be important to explain that you understand that it is hard speaking about this to a stranger
- ☞ Do not rephrase ambiguous information- rather ask her to tell you a bit more about the topic
- ☞ If the person seems embarrassed talking about for instance genitals, show that you understand that we do not usually talk about these parts of our bodies with a stranger, but it is important to know what law has been broken
- ☞ Let her know that any word she uses in place of another for instance genitals are acceptable

### Open- ended questions

- ☞ Very often questions are required to obtain more information or to clarify
- ☞ This may particularly be the case with complainants with ID, who may not understand what aspects of events are important in law
- ☞ Begin with open-ended questions, for example, 'tell me more about what happened when you were in the room with X?'
- ☞ Make it clear that you would accept it if the person does not know or cannot remember
- ☞ Ask one question at a time and keep your language simple
- ☞ Avoid questions beginning with 'why'- these may be felt as judgmental
- ☞ Avoid repeating the same question – the complainant may respond by trying to give you what she thinks you want.

Rather rephrase, or come back to the question if you did not understand

- ☛ Make sure the person understands why you need to ask these questions

### Specific Questions

- ☛ You may need to ask specific questions in order to clarify inconsistencies or confusing parts of the narrative account
- ☛ Great care is needed here. You may also notice that the person is tending to say 'yes' whenever you ask a 'yes' or 'no' question- this is called 'acquiescence'
- ☛ In these circumstances, try to avoid 'yes' or 'no' questions
- ☛ It may help to tell the complainant that you know she is trying to be helpful, but you need her to listen to the questions carefully, because they might be tricky
- ☛ You might feel that the complainant is giving you the answer she thinks you want- this is called 'suggestibility'
- ☛ In these circumstances, remind her that she must listen carefully, and she must say if she does not understand, or if she does not know the answer
- ☛ Think about how you are asking the question
- ☛ You may be asking a leading question, making the person feel her response is not acceptable. This two situations may lead to suggestibility
- ☛ Return to open ended questions whenever you can

### Check that you have understood

Use the complainant's own words to ensure your understanding of her account is correct

### Explain what would happen next

- ☛ Ensure that the complainant understands the next step

- ☞ If you are not able to continue with the case, or if you know you will be away, tell the complainant and her family. If possible tell them who will be taking over

### 3. Court Preparation

In thinking about court preparation of a complainant with ID it is important that you:

- ☞ **DO NOT** take responsibility for the complainant 'doing well' or the accused being convicted- all we can do is to try to ensure that our client has the same opportunity in court as anyone else would have
- ☞ **DO NOT** coach the complainant on her account of the alleged offence- this is contamination of evidence
- ☞ **DO NOT** panic! This is not complicated. You will simply take the complainant to see the court and meet some of the personnel. You will plan what information she needs through discussion with a psychologist, and the prosecutor
- ☞ **DO** remember that members of the family may also need to testify and may also need support

Court preparation may be needed even if the complainant has been found incompetent as a witness, as the magistrate/judge may wish to interview the complainant in order to evaluate competence him/ herself

Information about the court room , personnel and procedure that the complainant and her family may need:

- ° **Where** the case will run- court or in a separate room with an intermediary. It will be important to discuss this with the prosecutor. The psychologist's report will often recommend an intermediary. The complainant may be consulted about this too
- ° **Where** she and her family will wait- usually in a room away from the accused and his family or friends

- **What** the process will be- keep the information simple
- **Who** will be involved: it is useful for the complainant to know that there is a magistrate /judge whose job it is to decide after hearing from everyone, and that there are two lawyers, one helping her to give her account and one will be helping the accused. Usually the court is closed to the public and only those directly involved may hear the proceedings. If the complainant is likely to appear in the courtroom, you will need to explain that the magistrate/ judge and the lawyers wear black robes, and it is useful if the complainant is shown where people would stand or sit, including the accused
- **How** she needs to behave: it is useful to explain that the proceedings are recorded, so she is encouraged to answer out aloud. If she is in court with the accused, she does not have to look at him, and may speak facing the magistrate

Information about her **rights and responsibilities** in court:

- The complainant needs to know that EVERYONE has to promise to tell the truth in court, and that people who tell lies in court may be punished
- She has the right to say when she does not understand a question, or does not know the answer- and in fact this is part of her responsibility to tell the truth
- Shame about having intellectual limitations makes it much more difficult for a person with ID to ask for clarification than a non-disabled person. A psychologist's report and evidence aims to alert the court to questions that are likely to be confusing

#### 4. Support After The Case Has Been Finalized

- If the case has not resulted in a conviction, it is important to assist the complainant and the family with their feelings about this

- The support of family and friends is crucial
- You may need to liaise with the prosecutor to answer questions that come up for complainant or the family sometime after the case
- Even if the case resulted in a conviction, there may be complicated feelings as the accused is almost always well known to the complainant and her family
  - She may feel she is to blame for hardships experienced by the perpetrator's family if she goes to prison
  - It may be useful to emphasize the importance of standing up for one's rights, and that protecting one's rights often protects others as well



### TIPS ON COMMUNICATION WITH PERSONS WITH ID

An ID may affect the way a person learns and communicates. By adjusting your communication style to suit the individual you can make a difference to the capacity of the person to understand what you say and provide you with information.

While each person is unique, the following may assist your communication with a person with ID:

- allocate more time than normal to communicate and resist the temptation to complete the person's sentences;
- confirm your understanding of what the person has communicated;
- allow the person to speak at their own pace and to tell their story before you start asking questions;
- use simple words and short sentences;
- ask one question or give one piece of information at a time;
- ask open ended questions;



- be aware that the person might need breaks;
- encourage the person to let you know if they do not understand any question, information or advice;
- preference communication in person, rather than in writing or on the phone; and
- where available, the use of pictures in communication or communication passports can also assist.



**If my rights, or the rights of someone I know, have been breached under the CRPD or the Disability Act, what should I do?**

If you or someone you know has been discriminated against for having an ID you have the right to seek justice. If you would like assistance with this process please contact the Inclusion Ghana office in Accra. We can recommend lawyers and organisations that can support you in this process.



 **USEFUL CONTACT NUMBERS**

**Autism Awareness Care and Training**  
 Email address: aactghana@yahoo.co.uk  
 Telephone Number

0244 325919  
 0574 511939

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**AwaaWaa2**  
 Email: awaawaa2children@gmail.com  
 Telephone Number

0244 028346

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**Best Buddies**  
 Email address: ghana@bestbuddies.org  
 Telephone Number

0244 815710

**Better Life for Women Association**Email address: [betterlifeformen@rocketmail.com](mailto:betterlifeformen@rocketmail.com)Telephone Number 0246 331266  
0274 441927

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**Better Life Trust Foundation**Email address: [betterlife.foundation@rocketmail.com](mailto:betterlife.foundation@rocketmail.com)Telephone Number 0206 102695

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**CLED Ghana**Email address: [clcdghana@gmail.com](mailto:clcdghana@gmail.com)Telephone Number 0249 199499  
0262 626182

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**Echoing Hills Village**Email address: [ehvghana@yahoo.com](mailto:ehvghana@yahoo.com)Telephone Number 0244 897463  
0244 216286

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**Education Solutions 4 Kids**Email address: [educationsolutions4kids@gmail.com](mailto:educationsolutions4kids@gmail.com)Telephone Number 0247 228897  
0248 100004

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**Inclusion Ghana**Email: [info@inclusion-ghana.org](mailto:info@inclusion-ghana.org)Telephone Number 0302 243291  
0208 151523

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**Kekeli Foundation**Email address: [kekeliinc@gmail.com](mailto:kekeliinc@gmail.com)Telephone Number 0278 481406  
0206 112747

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**Kids and Single Parents Care Foundation**Email address: [kspcfoundation@yahoo.com](mailto:kspcfoundation@yahoo.com)Telephone Number 0244 265762  
0265 229411

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**Mission of Hope for Society Foundation**

Email address: hopeforsociety@yahoo.com

Telephone Number

0208 500875

0246 272829

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**Reintegrating Society of Physically and Mentally Challenged**

Email address: risopam@gmail.com

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0548 875990

0249 740924

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**SAPID**

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0243 250366

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**Special Attention Project**

Email address: sapghana@gmail.com

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0206 526444

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**Talent Search International**

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