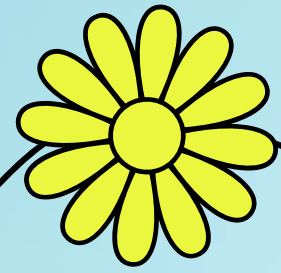


# Intermediaries Working with Mental Health in Justice Settings



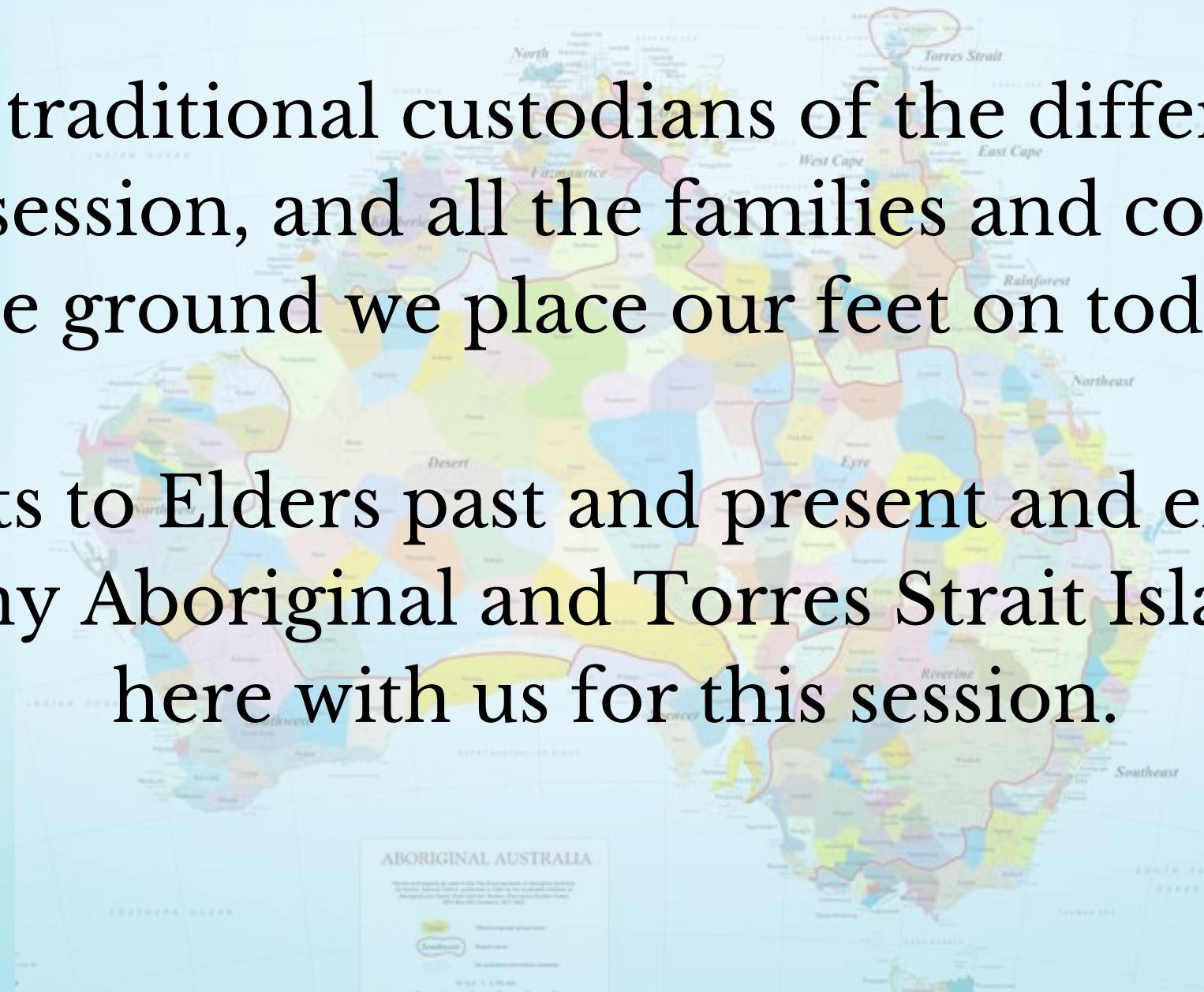


# Acknowledgement of Country



We acknowledge the traditional custodians of the different lands we are each located on during this session, and all the families and communities with links to the ground we place our feet on today.

We pay our respects to Elders past and present and extend that deep and genuine respect to any Aboriginal and Torres Strait Islander peoples present here with us for this session.

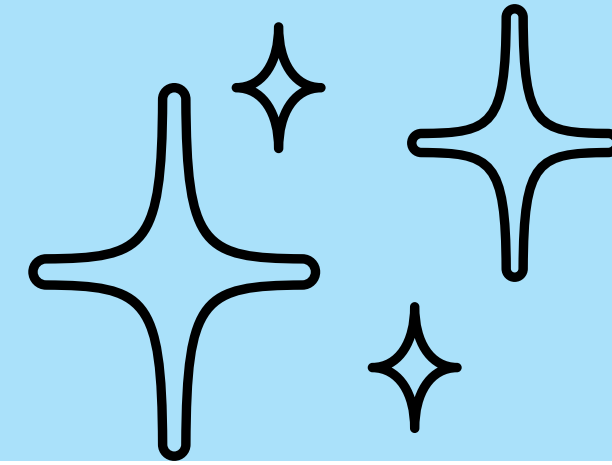




# **Welcome back!**

Any comments or feedback after Day 1?

# Agenda: Day 2



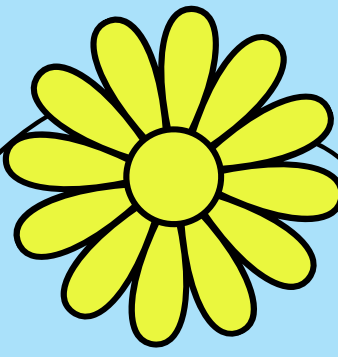
- ♥ Legislation about mental health
- ♥ Assessment considerations and recommendations
- ♥ Case studies and breakout rooms
- ♥ Intermediary court reports
- ♥ Working with witnesses at court
- ♥ Vicarious trauma and self-care



**It's Myth Busting time!**

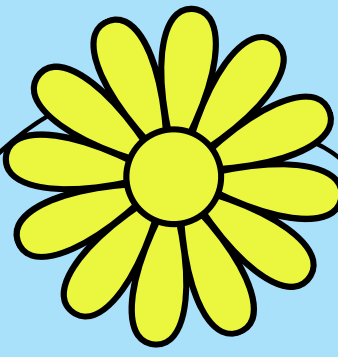


# Mental health mythbusting



**Myth:** People with psychotic disorders are unable to provide coherent evidence.



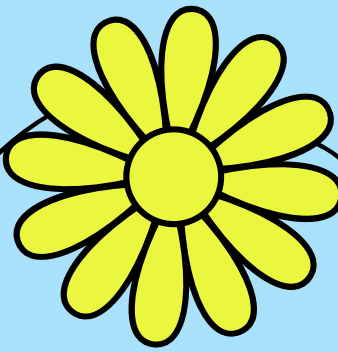
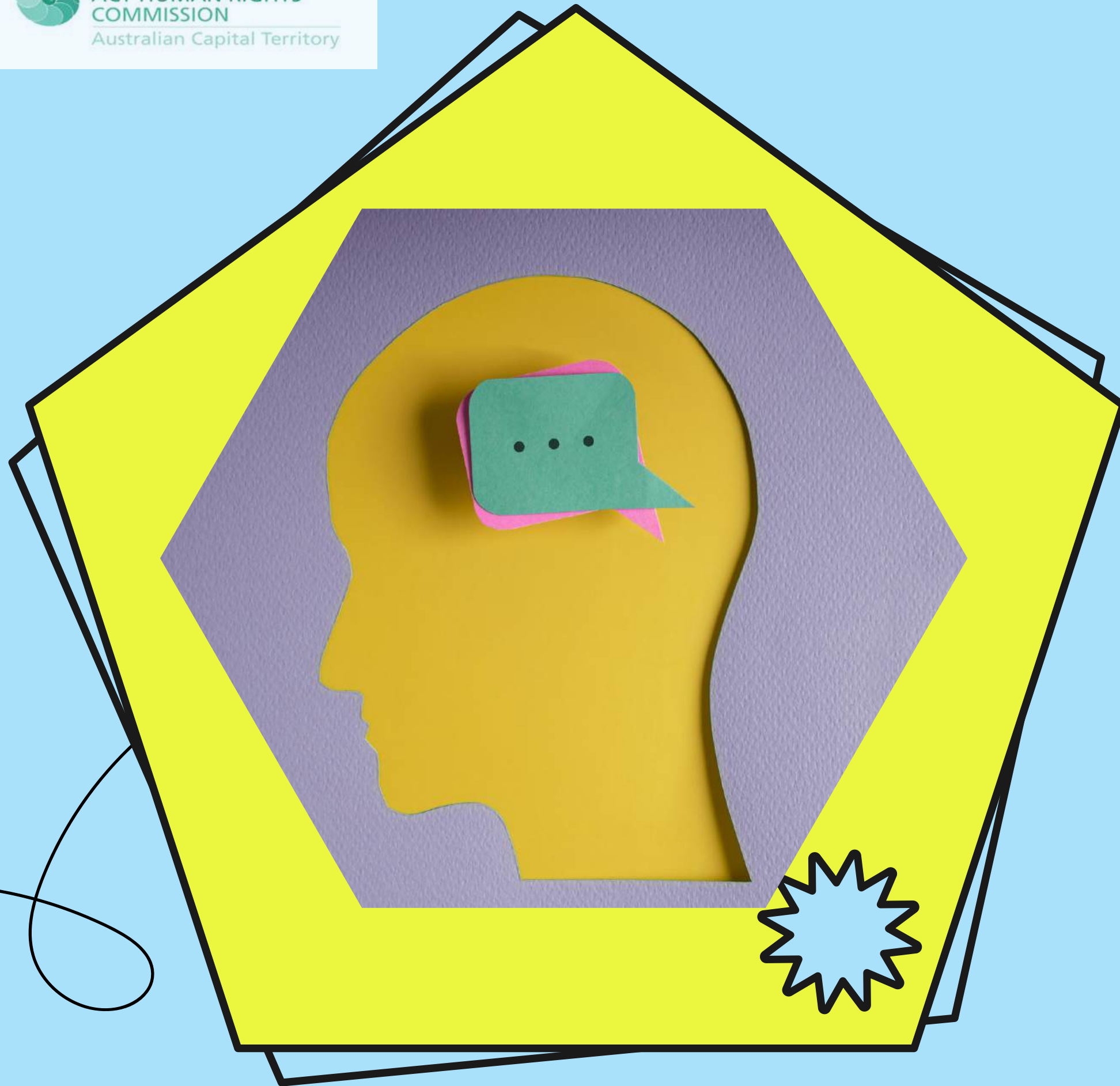


# Mental health mythbusting



**Myth:** People with psychotic disorders are unable to provide coherent evidence.

**Fact:** Psychosis comes in phases, and not every person diagnosed with a psychotic disorder will experience psychosis all the time. Individuals can also develop deep insight into their symptoms, reducing the impact on their functioning.

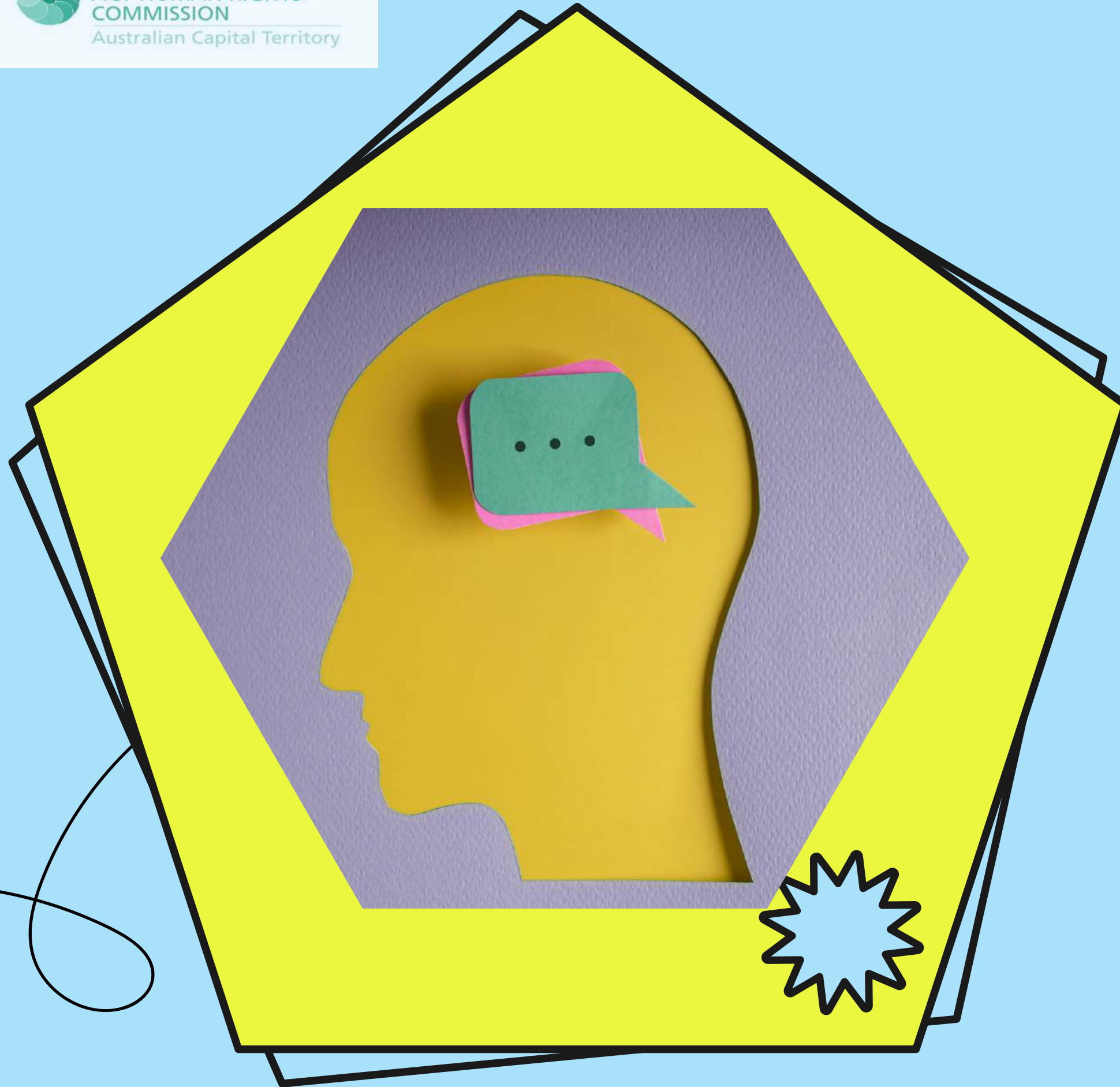


# Mental health mythbusting

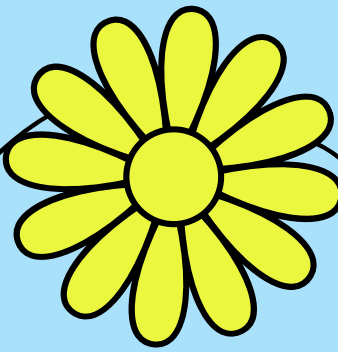
Myth: People are born with mental illness.







# Mental health mythbusting

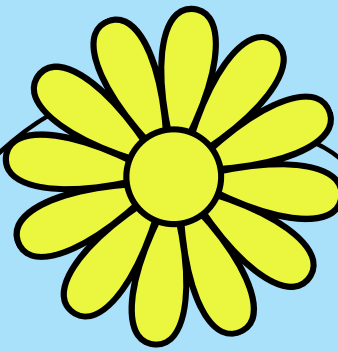


**Myth:** People are born with mental illness.

**Fact:** There are many different reasons that people can develop mental illness or mental disorders.

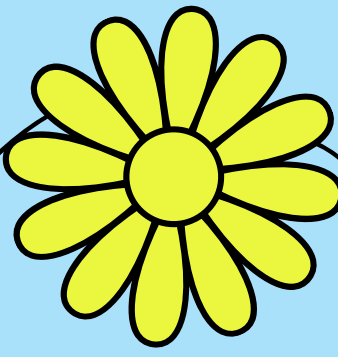


# Mental health mythbusting



Myth: People can ‘snap out of’ mental ill-health if they try hard enough.





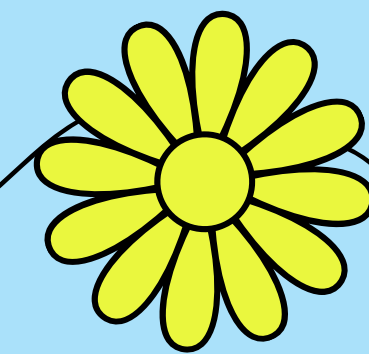
# Mental health mythbusting

**Myth:** People can ‘snap out of’ mental ill-health if they try hard enough.

**Fact:** Mental illness is complex and involves biological, psychological, and environmental processes. Treatment for mental health often includes therapy, medication, or a mix of both.

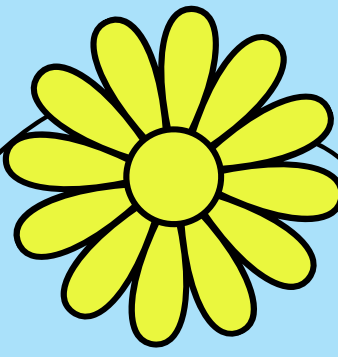


# Mental health mythbusting



Myth: People with mental illness  
have low intelligence.

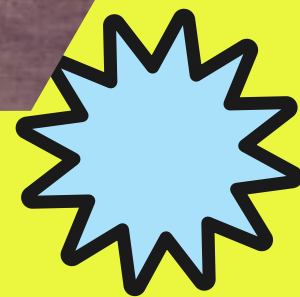




# Mental health mythbusting

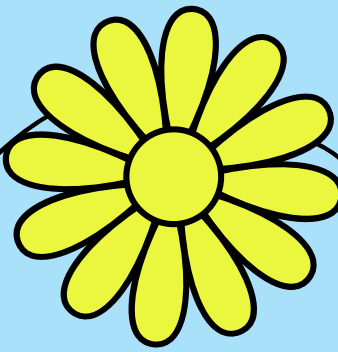
Myth: People with mental illness have low intelligence.

Fact: Mental illness can strike people of all ages, genders, cognitive abilities, and backgrounds.

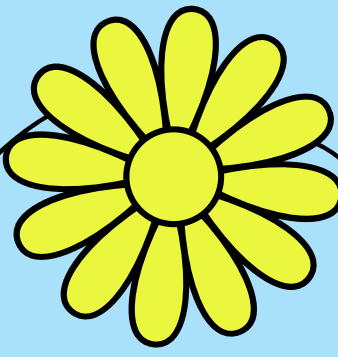




# Mental health mythbusting



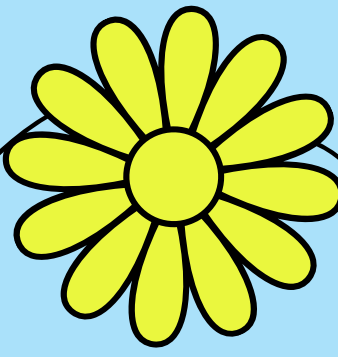
Myth: People with a mental illness  
are dangerous and violent.



# Mental health mythbusting

Myth: People with a mental illness are dangerous and violent.

Fact: While it is true that some mental conditions are a risk factor for violence, such as those that involve losing contact with reality, those that lead to substance use or those that lead to social isolation, mental illness is never the sole cause of violence.

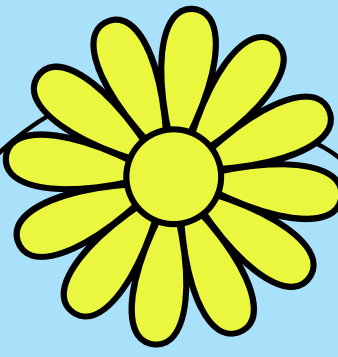


# Mental health mythbusting

Myth: Poor mental health is not an issue for teenagers.







# Mental health mythbusting

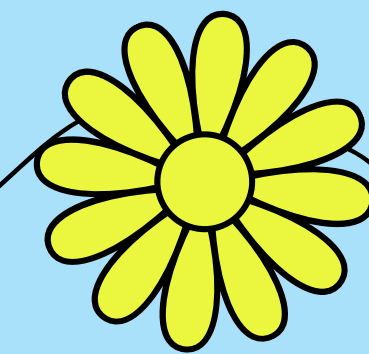
**Myth:** Poor mental health is not an issue for teenagers

**Fact:** Poor mental health is a significant issue for teenagers. Factors such as academic pressure, hormonal changes, social dynamics, and navigating transitions and role changes can impact mental health. Poor emotion regulation skills can also lead to using maladaptive coping strategies (e.g. self-harm).



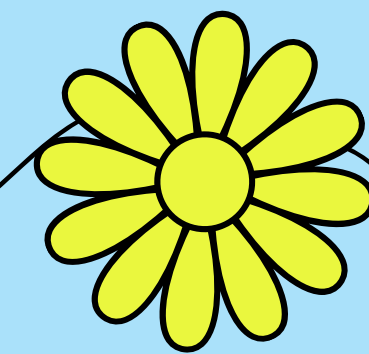


# Mental health mythbusting



Myth: Only people with mental illness need to take care of their mental health.

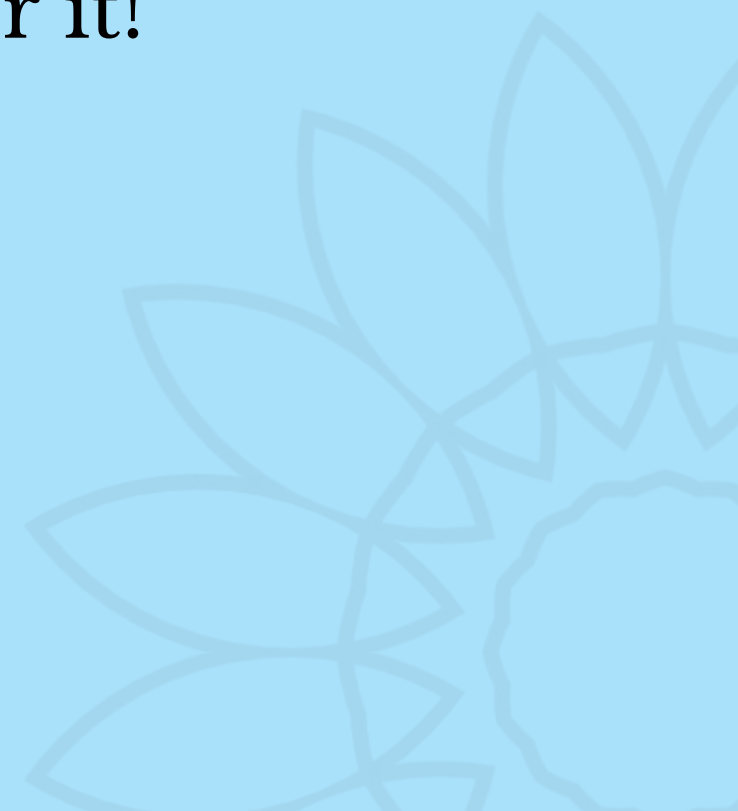




# Mental health mythbusting

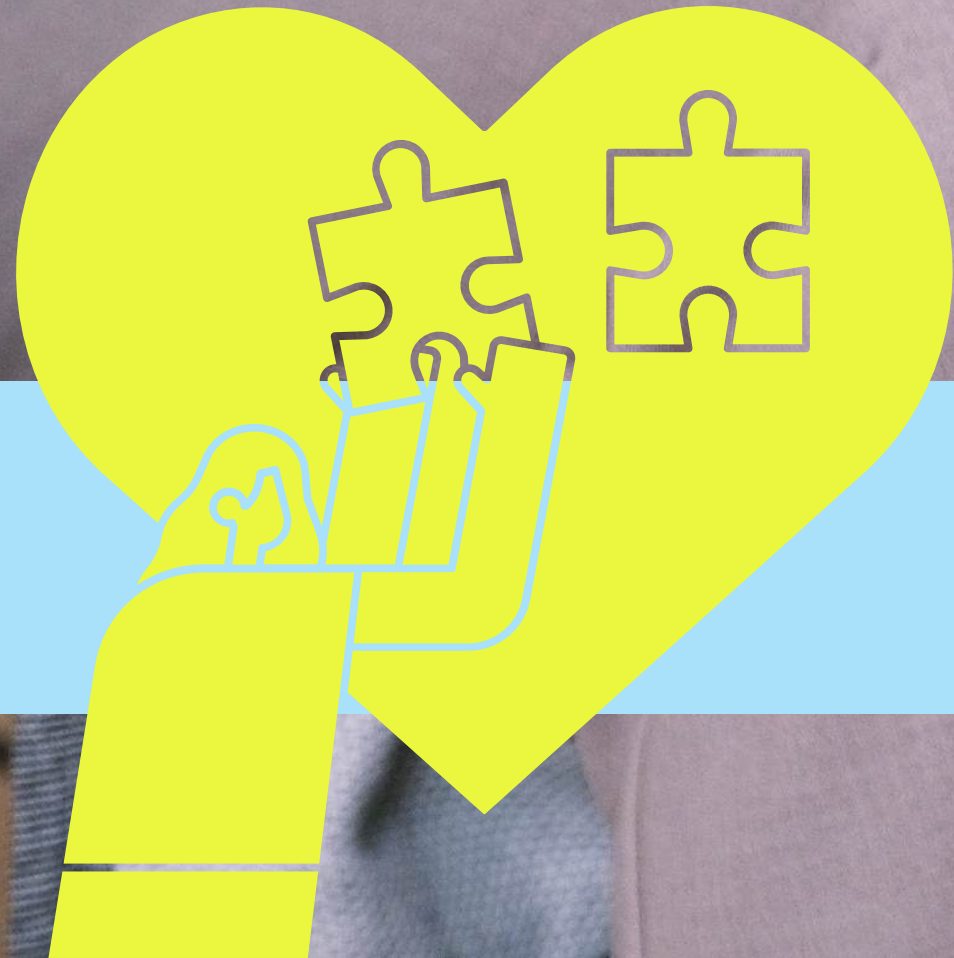
**Myth:** Only people with mental illness need to take care of their mental health.

**Fact:** We all have mental health, and we all need to look after it!





ACT HUMAN RIGHTS  
COMMISSION  
Australian Capital Territory



# Mental health legislation

# *Mental Health Act 1983 (UK)*

An Act to consolidate the law relating to mentally disordered persons.

Application of Act: 'mental disorder' (s 1)

'Mental disorder' means any disorder or disability of the mind; and 'mentally disordered' shall be construed accordingly

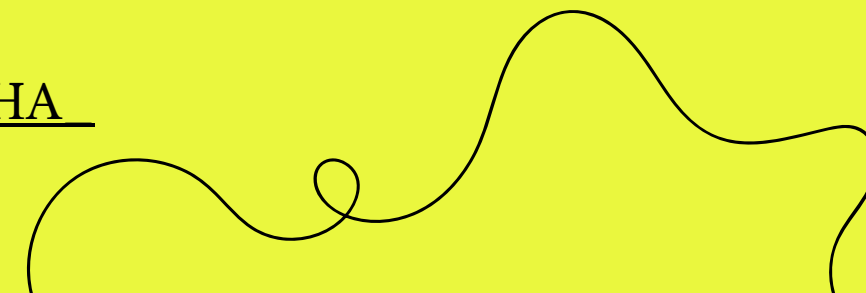
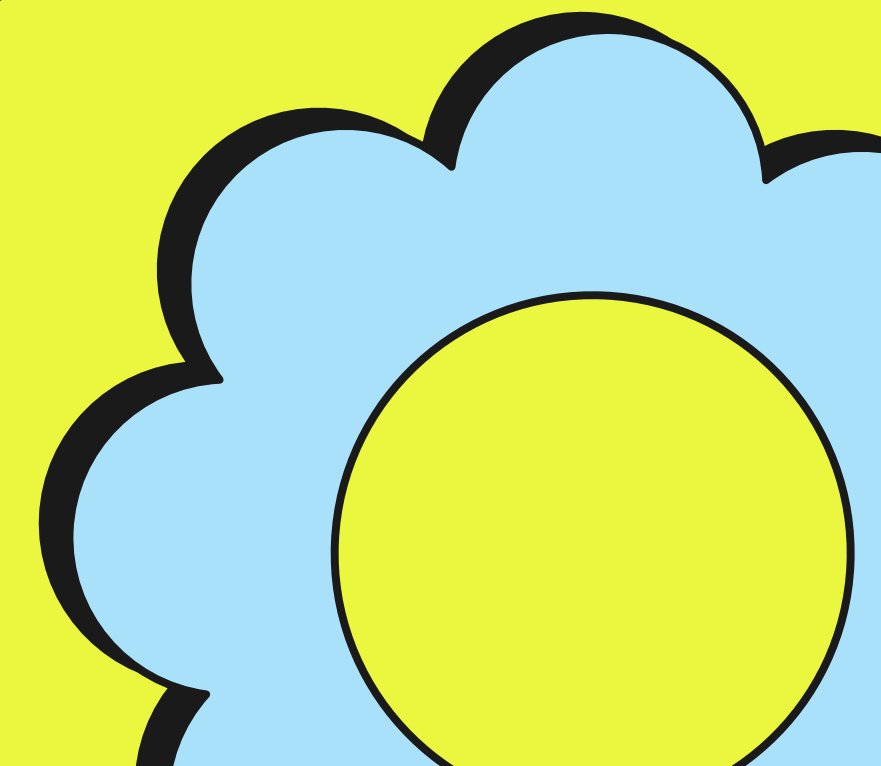
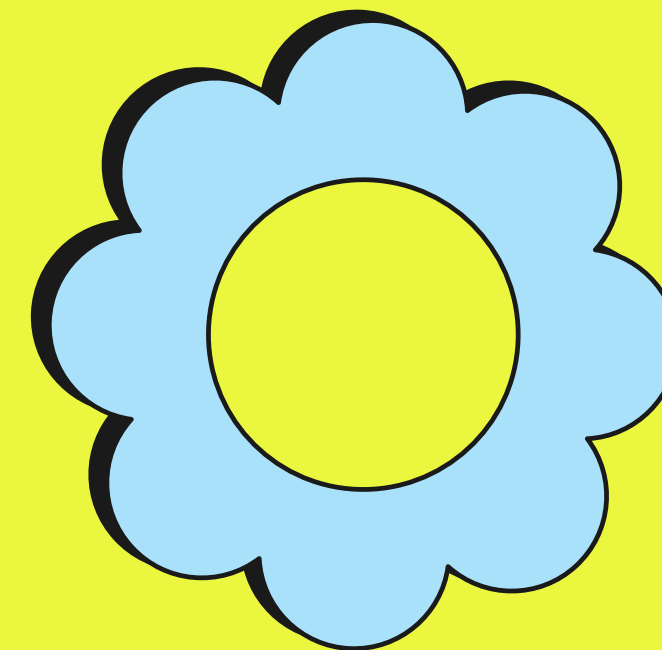
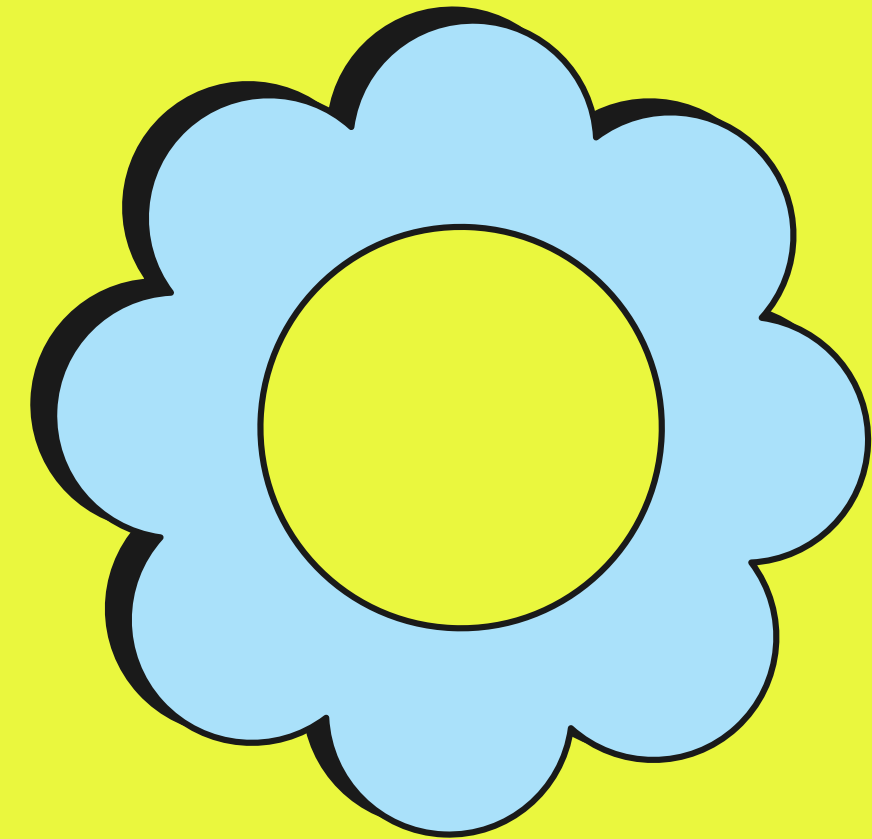
'Learning disability' means a state of arrested or incomplete development of the mind which includes significant impairment of intelligence and social functioning

A person with learning disability alone shall not be considered by reason of that disability to be:

- Suffering from mental disorder for the purposes of the particular provisions outlined at s 2B of the Act
- Requiring treatment in hospital for mental disorder for the purposes of the provisions mentioned in the Act, unless that disability is associated with abnormally aggressive or seriously irresponsible conduct on their part
- Guardianship and community treatment orders

Dependence on alcohol or drugs is not considered to be a disorder or disability of the mind

[https://assets.publishing.service.gov.uk/media/5a80a774e5274a2e87dbb0f0/MHA Code of Practice.PDF](https://assets.publishing.service.gov.uk/media/5a80a774e5274a2e87dbb0f0/MHA_Code_of_Practice.PDF)



# *Mental Health Act 1983 (UK)*

The five overarching principles are:

**Principle 1: Least restrictive options and maximising independence**

An individual should not be detained under the Act where it is possible to treat them safely and lawfully without doing so. Their independence should be encouraged and supported however possible, with a focus on promoting recovery wherever achievable.

**Principle 2: Empowerment and involvement**

Individuals should be fully involved in decisions about their care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are made which do not align with the views expressed, professionals should explain the reasoning behind this.

**Principle 3: Respect and dignity**

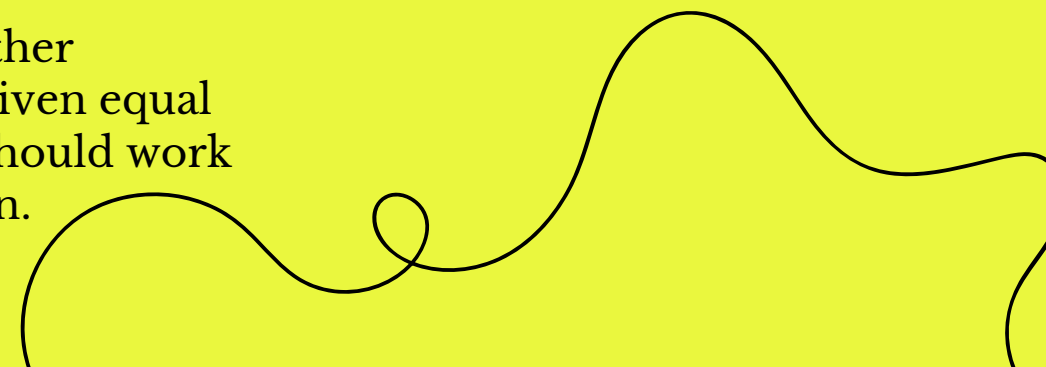
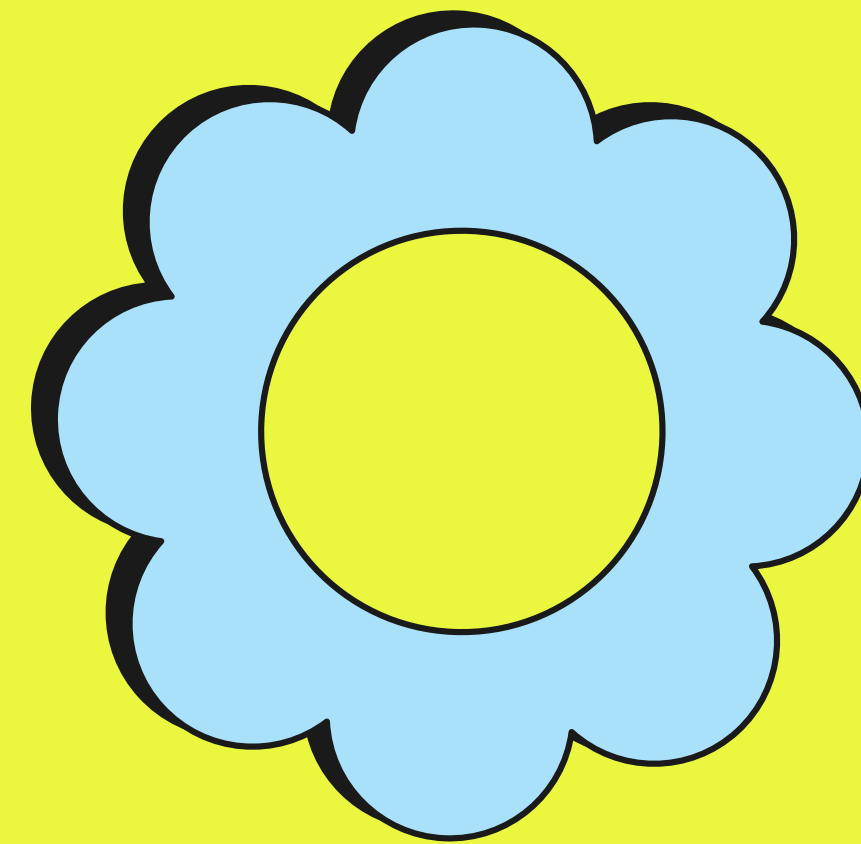
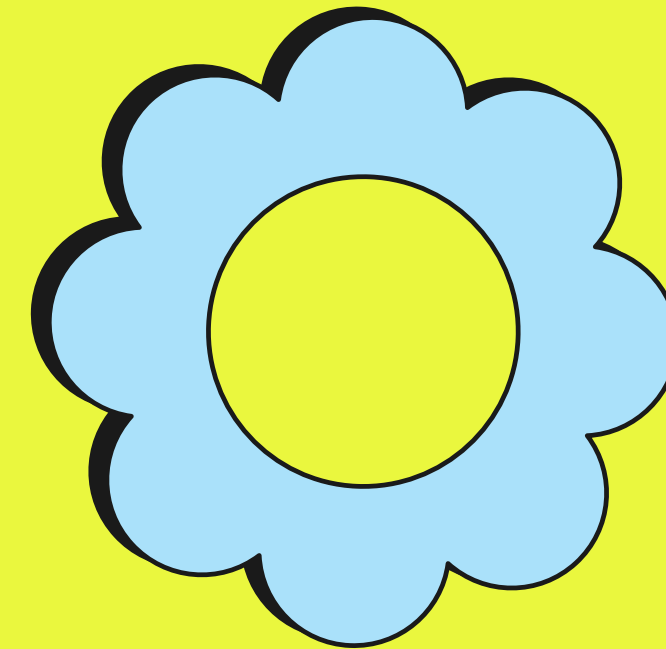
Individuals and their supporters and carers should be treated with respect and dignity and listened to by professionals.

**Principle 4: Purpose and effectiveness**

Decisions about care and treatment should be appropriate and bespoke to the individual. There should be clear therapeutic aims, and a recovery focus. Treatments should be performed to current national guidelines and current best practice guidelines.

**Principle 5: Efficiency and equity**

Providers, commissioners and other relevant organisations should work together to ensure the provision of quality mental healthcare services and that this is given equal priority to the provision of physical health and social care services. Services should work collaboratively to enable timely, safe and supportive discharge from detention.



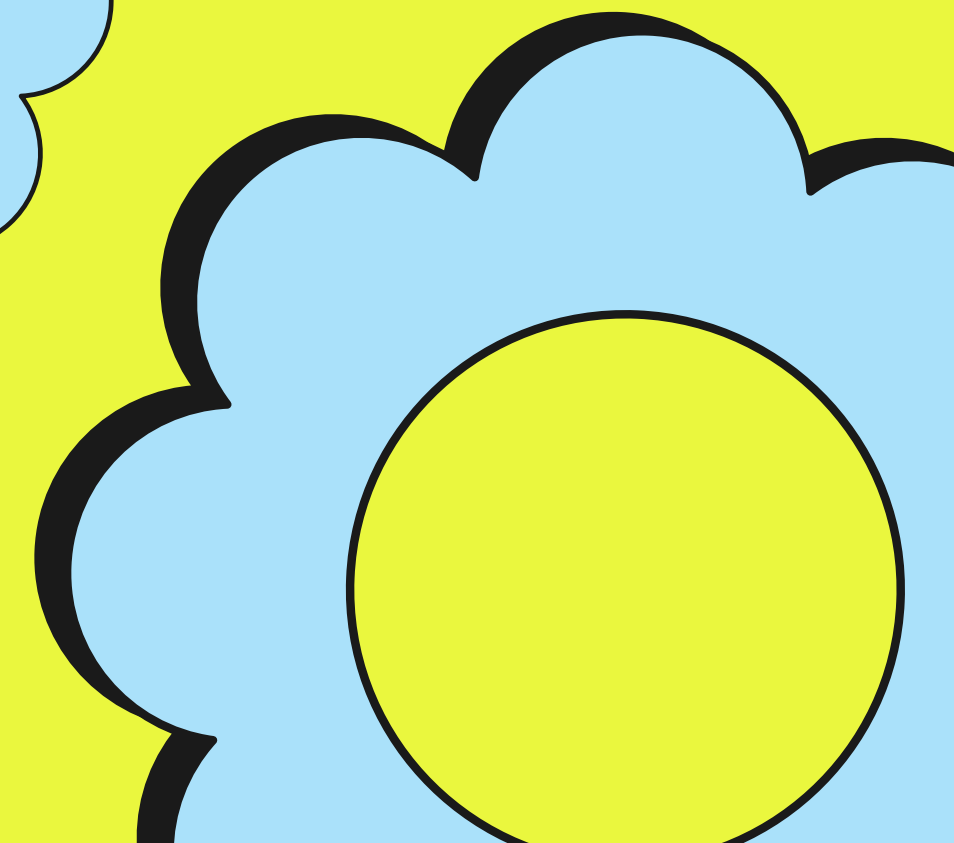
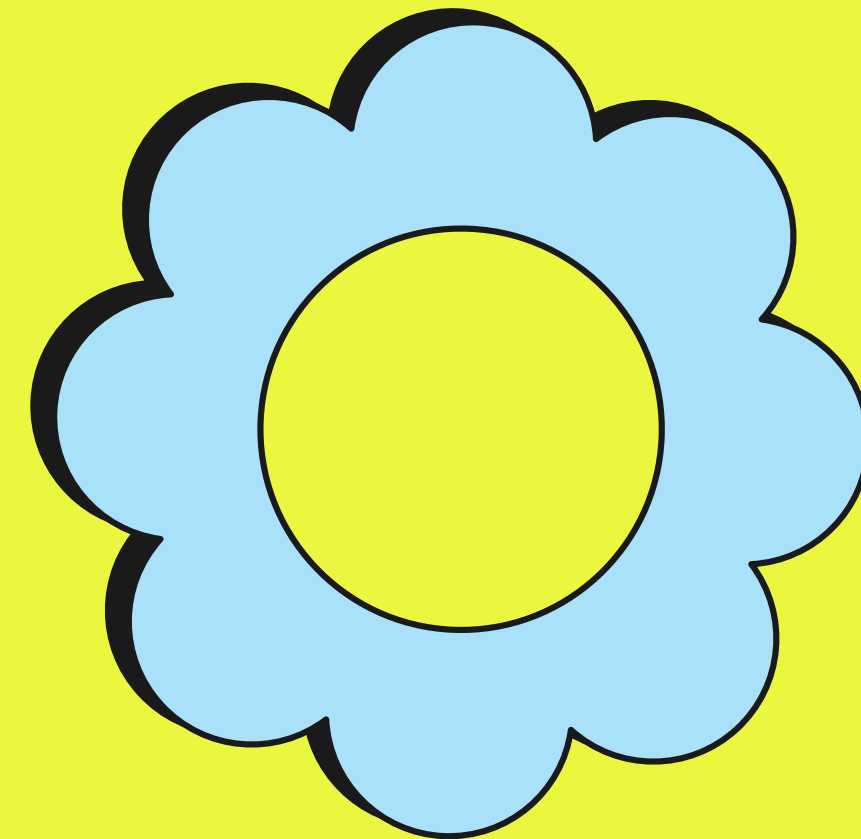
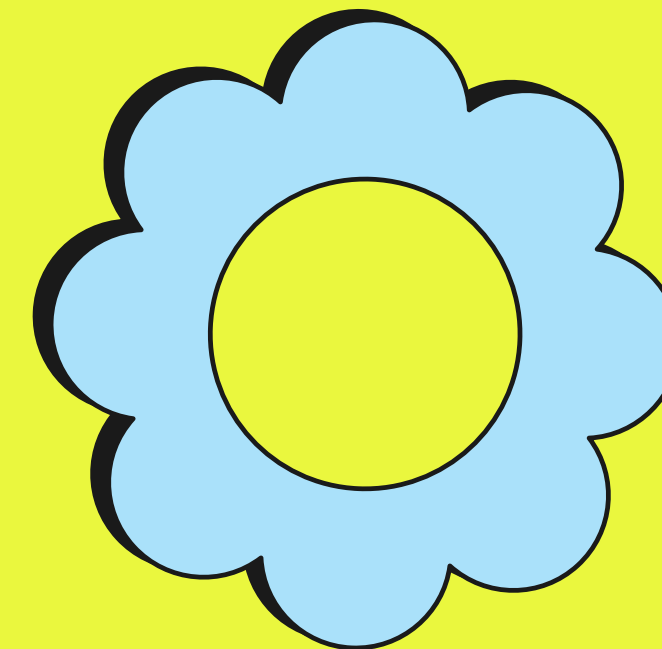
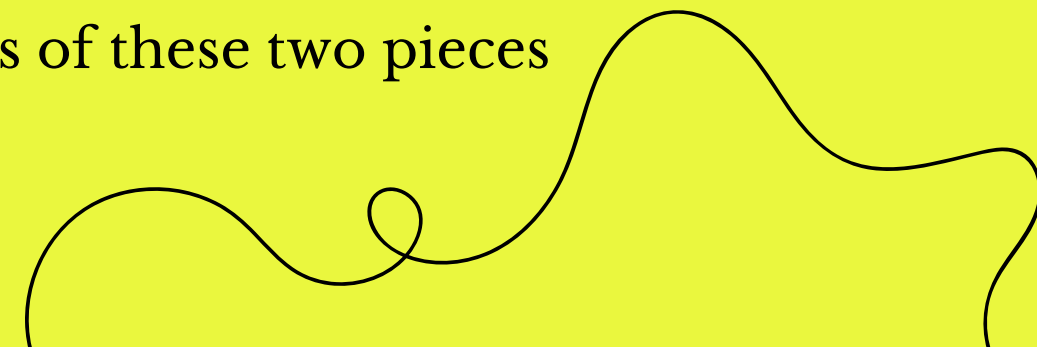
# *Mental Health Capacity Act 2005 (UK)*

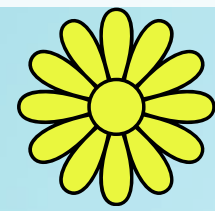
An Act to make new provision relating to persons who lack capacity; to establish a superior court of record called the Court of Protection; to make provision in connection with the Convention on the International Protection of Adults; and for connected purposes.

- **Principle 1:** A presumption of capacity
- **Principle 2:** The right to be supported when making decisions
- **Principle 3:** An unwise decision cannot be seen as a wrong decision
- **Principle 4:** Best interests must be at the heart of all decision making
- **Principle 5:** Any intervention must be with the least restriction possible

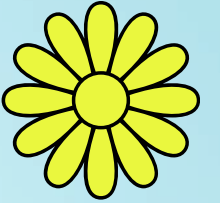
In your breakout rooms, discuss:

How can intermediaries promote the principles of these two pieces of legislation within the scope of their role?





# Mental health legislation in the ACT and NZ



## *MH Act 2015 (ACT)*

Contains 14 principles

Objects of the Act include:

- Promote the capacity of people with mental illness to determine and participate in their assessment and care
- Least restrictive care
- Respecting rights, dignity and needs
- Participation in communities of their choice and accessing care within these communities
- Improvements to mental health promotion

## *MH Compulsory Assessment and Treatment Act 1992 (NZ)*

Outlines the circumstances in which a patient is required to have compulsory assessment and treatment  
Sets out patients' rights when they are being assessed or treated

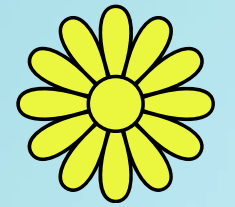
Emphasises:

- Community-based care, admission to hospital occurring only when necessary
- The importance of respecting patients' cultural values and beliefs
- Consultation with patients' family or whānau (family)

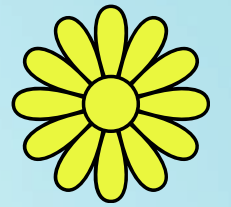




# **Assessment Considerations and Recommendations**



# What's so challenging about engagement?



1

## Navigating sensitive topics

Witnesses will:

- Be questioned about distressing, sensitive or intimate topics
- Need to hear and understand details relating to such topics
- Speaking about sensitive topics in unusual forums

2

## Checking information or being given an alternate version of events

In police interview, inconsistencies may be asked about and details clarified or challenged

This is also true at court, the witness' version of events may be directly challenged (as per the rule in *Browne v Dunn*)

3

## The show must go on...

Comprehension of information and the ability to provide evidence will be impacted by emotional state and an individual's mental health

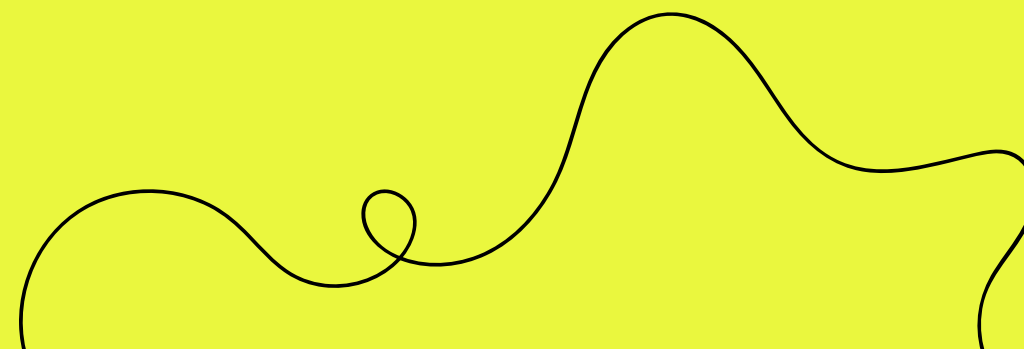
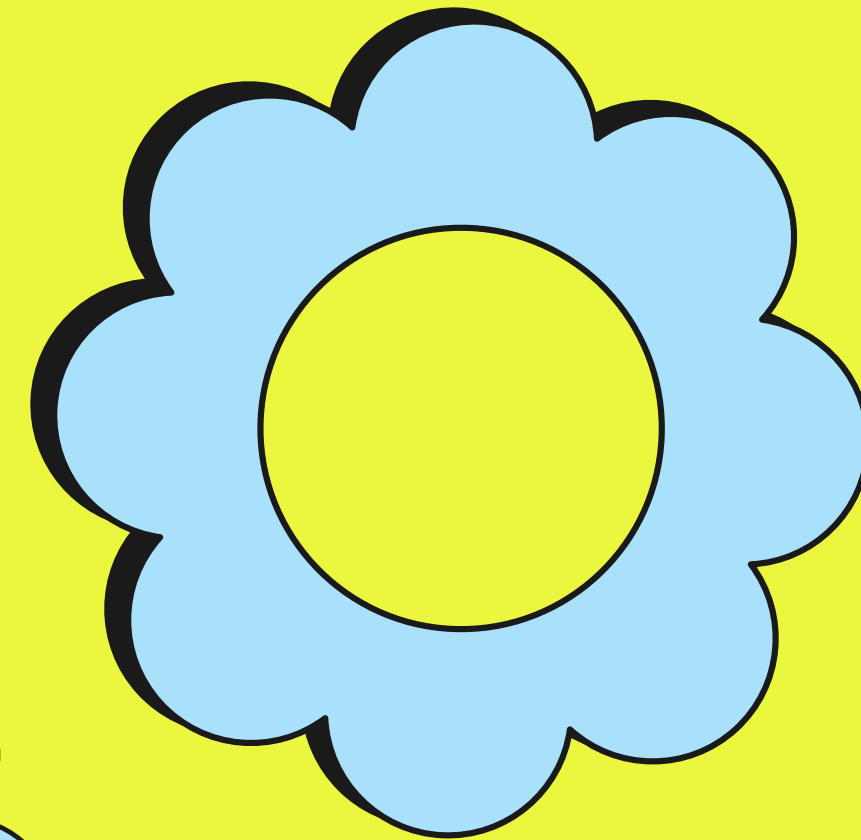
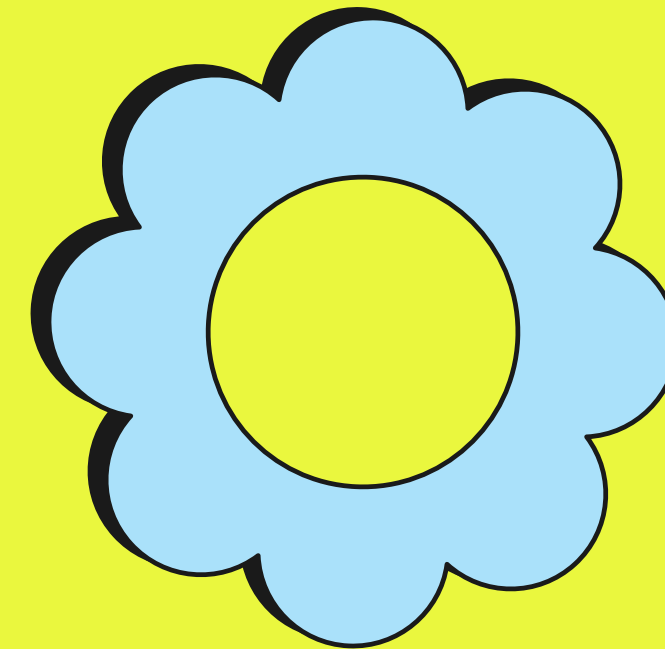
In the interests of justice, questions need to be asked and cases must be put

Expectations relating to legal processes

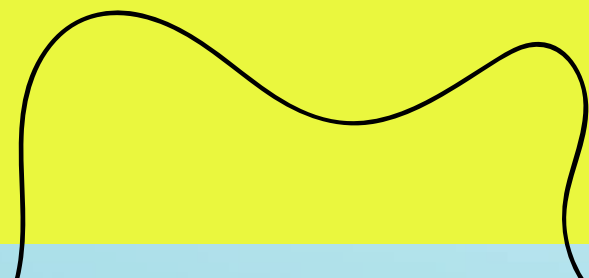
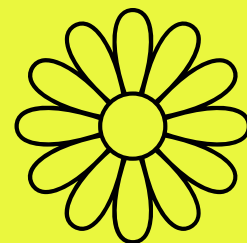
# Resilience factors

A person's ability to advocate for themselves is dependent upon a range of factors, including:

- Age
- Gender
- Cultural background
- Language preferences
- Lived experience regarding the consequences of being assertive
- Previous experience with judicial systems and authorities
- Trauma experiences
- Acute stress
- Impacts of mental ill-health



# Considerations for participation and questioning

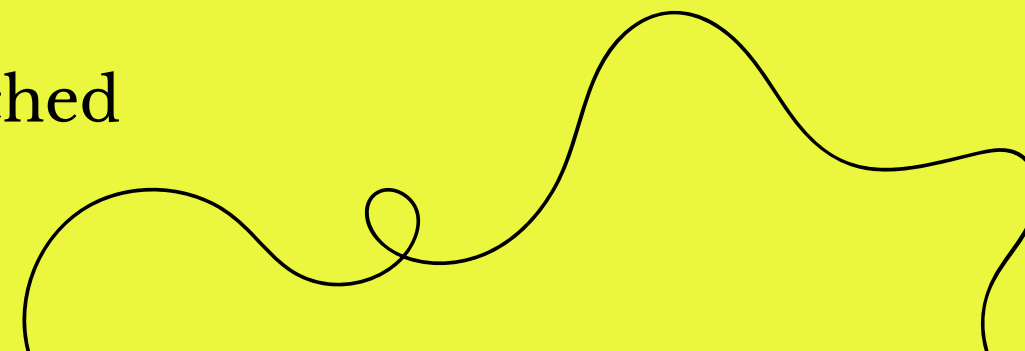
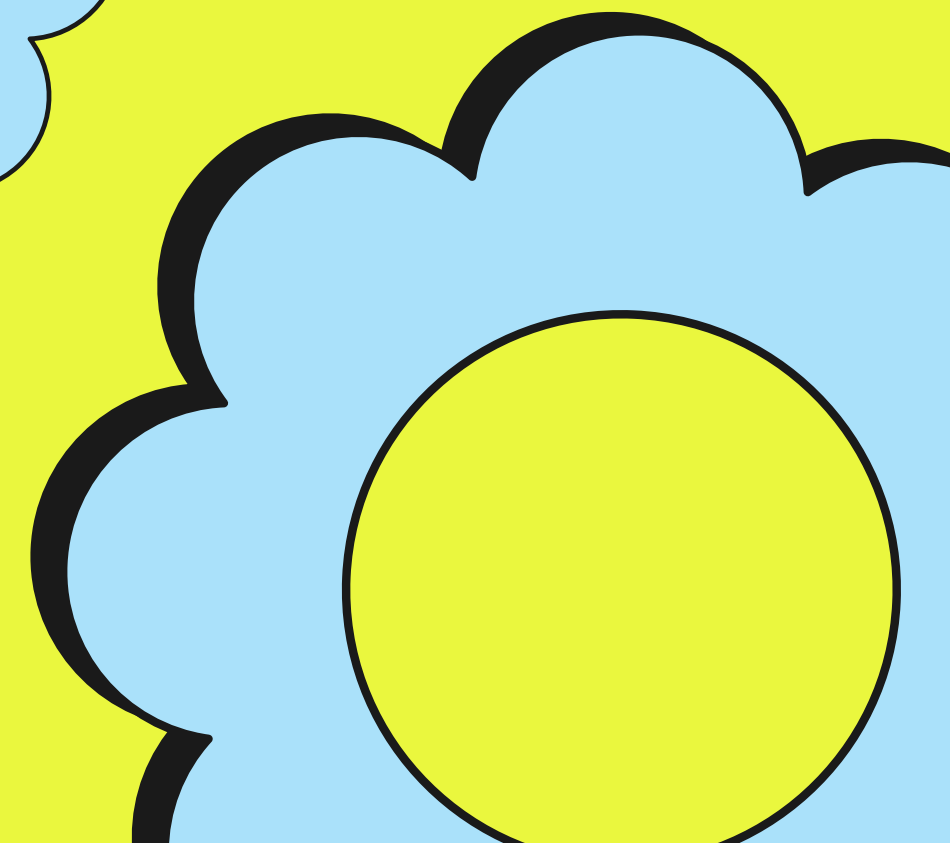
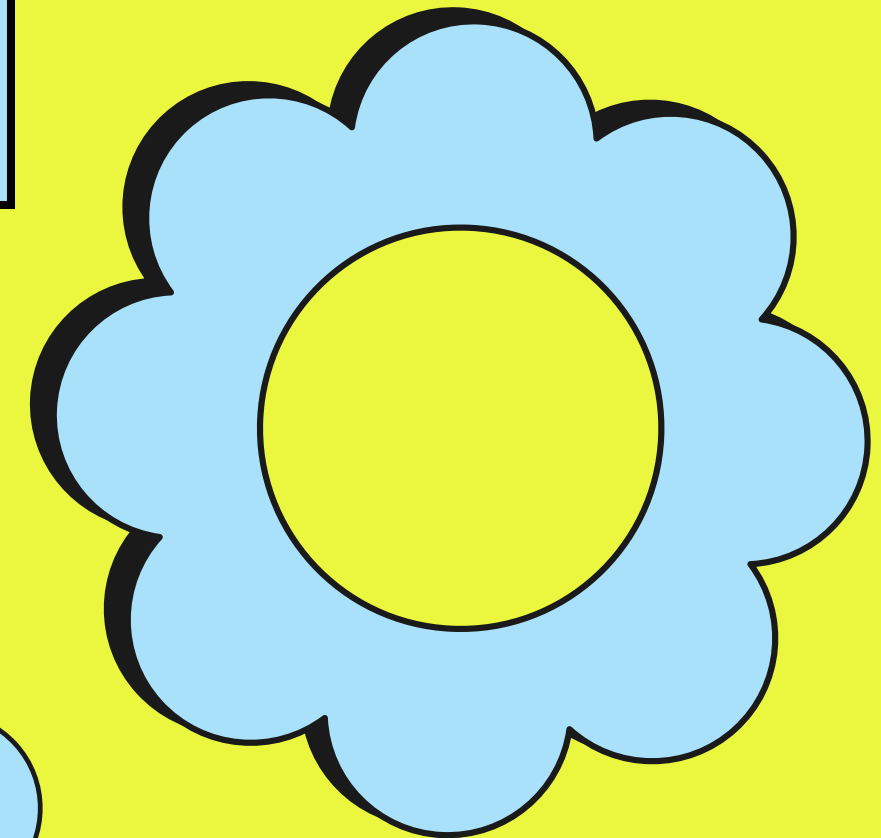
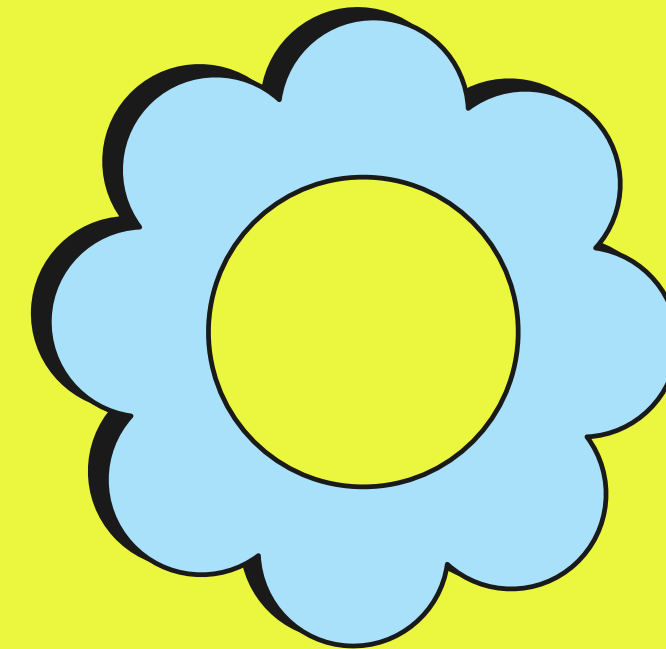


- Clarifying information which appears to be ‘common sense’ - Jade case example (‘Can you just get to the point?’)
- The use of tag and assertion questions
- Gender of questioner
- Tone of voice
- Schedule for processes or questioning
- Disagreeing with people in authority
- Asking for clarification when uncertain
- Appropriate rapport building - Victorian case law about ‘open justice’
- Witnesses are individuals, and so are other stakeholders!
- The views of stakeholders about witnesses who openly disagree with processes or suggestions, or appear to be ‘difficult’

# Considerations for questioning

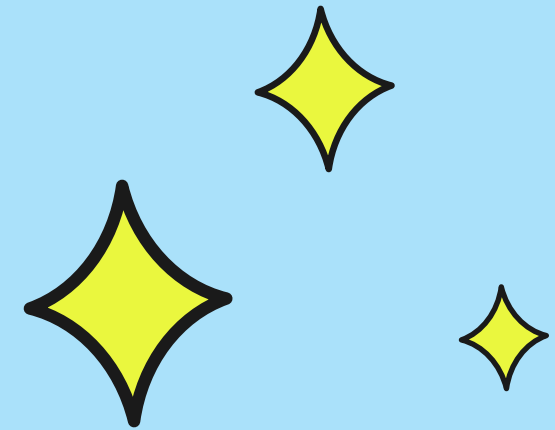
## Cross-examination:

- Customary approaches to putting an argument often rely on complex question forms
- It is difficult to predict what evidence may be led and how evidence will be led (sharing of draft questions)
- When is enough, enough?
- High stress situations and impact to communication
- Contradictory statements can be triggering
- A delicate balance is required to replicate the court context during assessment and ensure a trauma-informed approach
- Using breaks effectively, for example, before arguments are put or after each allegation is broached
- Assessing options which work for the individual



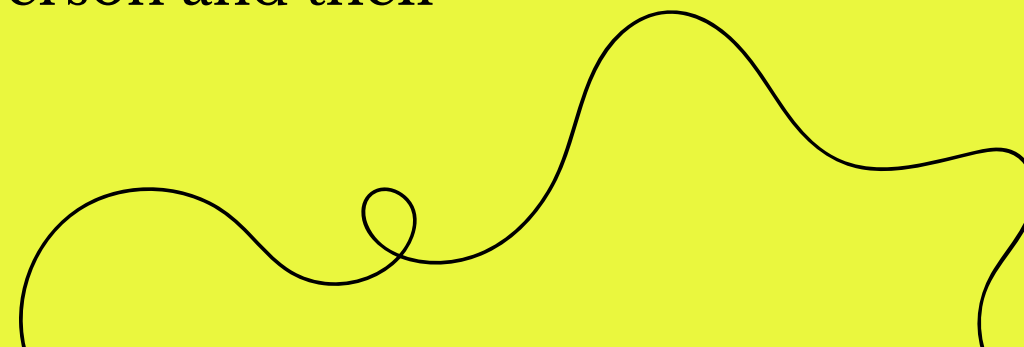
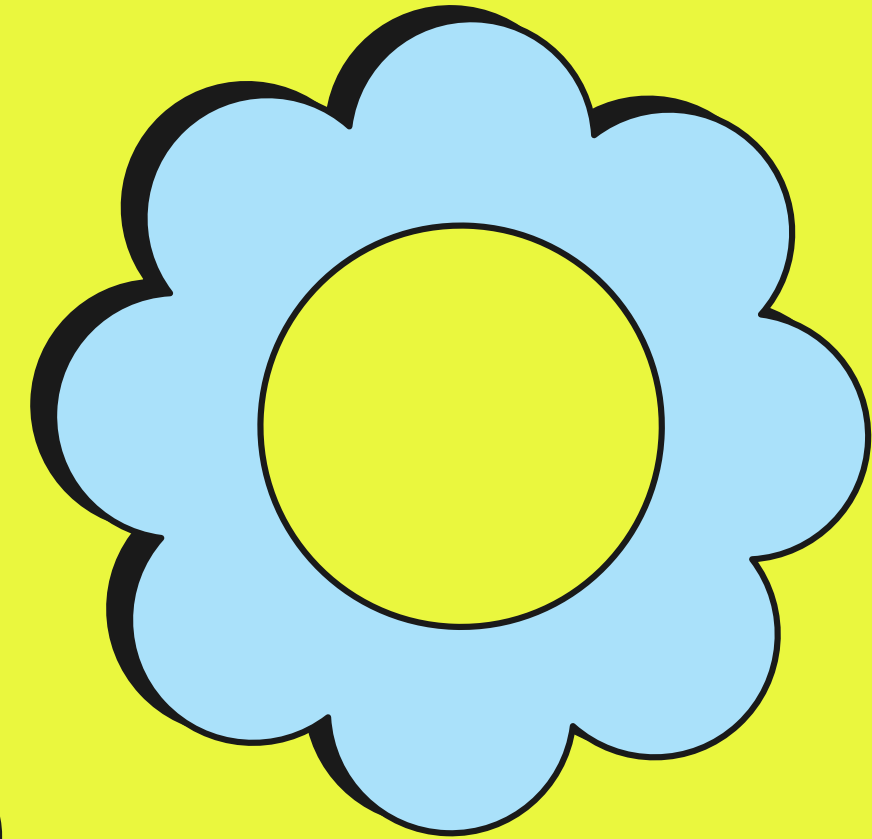
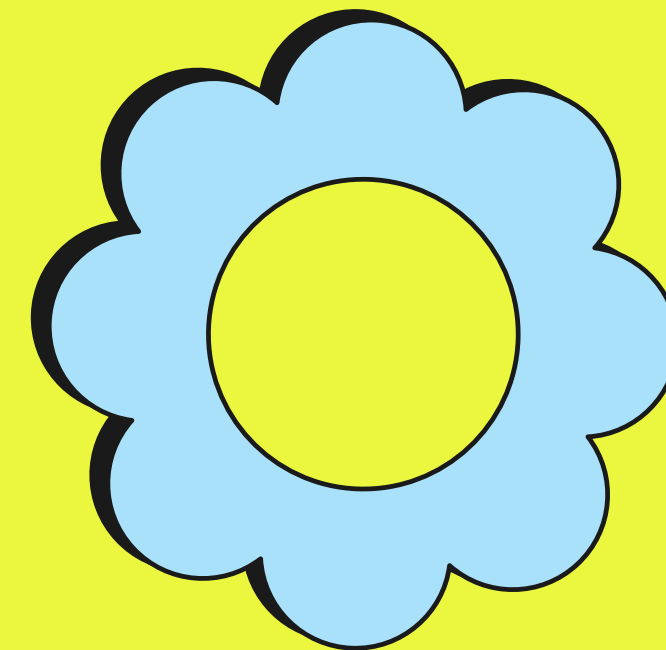
# The term 'assessment' can be loaded

— Think about how you explain your role



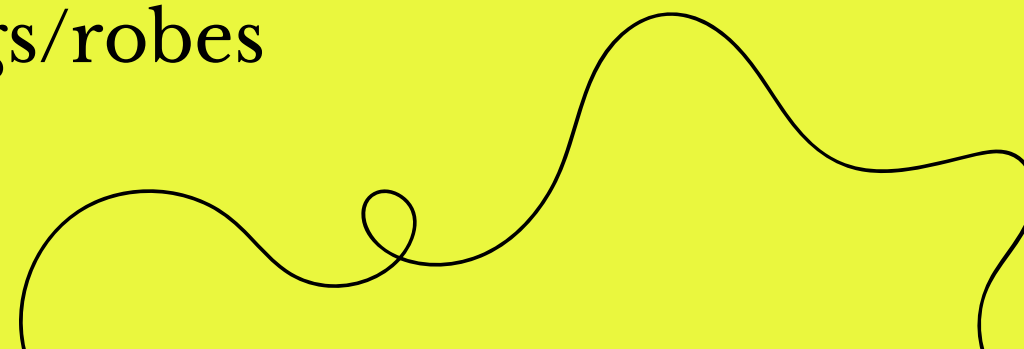
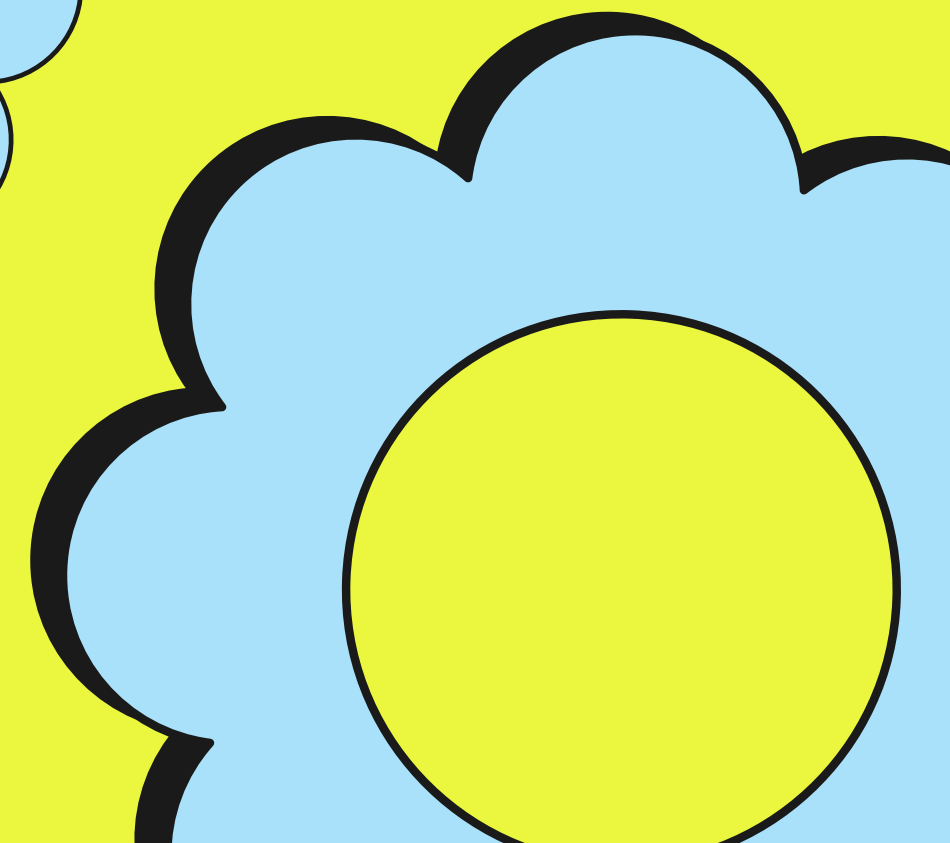
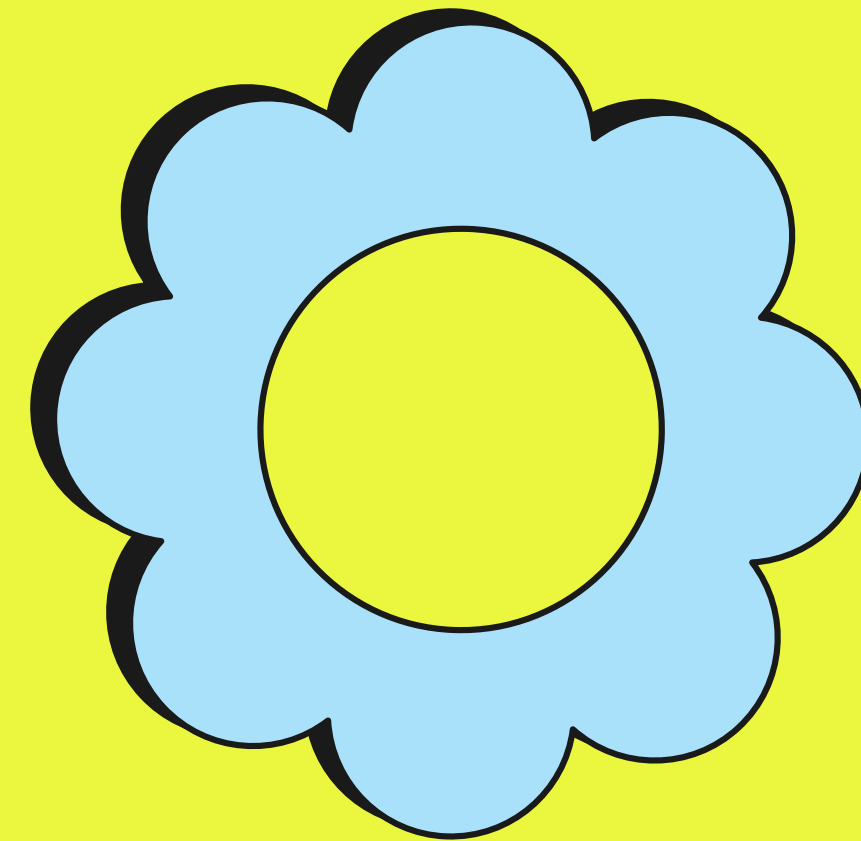
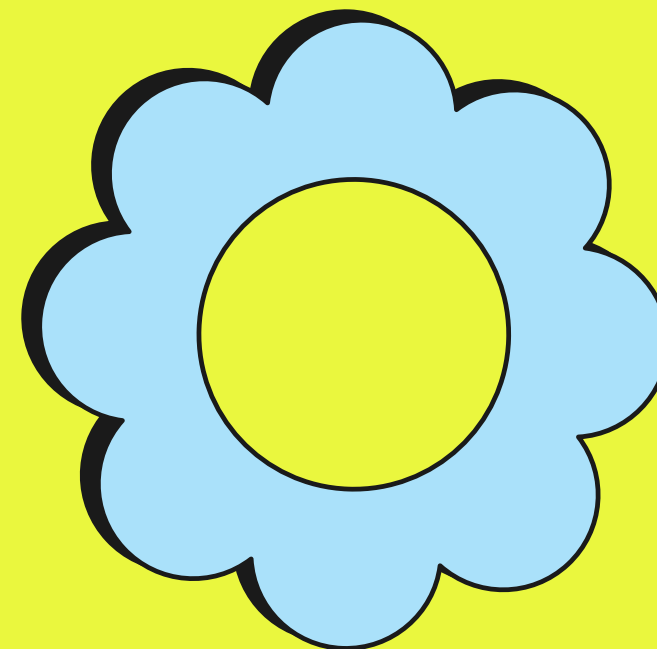
# Assessment approaches and resources

- Rapport, rapport, rapport!
- Effective self-talk
- Appear open and relaxed
- Respect personal space
- Non-threatening behaviour
- Non-verbal listening
- The individual is an expert of their own communication
- Focus on strengths
- Authenticity
- Explain your role and process
- Explain why engagement may be helpful
- Transparency - be honest about what you can/cannot do ('and' not 'but')
- Give choices where possible
- Act in validating ways - don't ignore the person and their expressions
- Reflect accurately
- Ask for feedback



# Other practical strategies

- Consider the amount of people in the room
- Familiarisation with spaces
- Comfortable space to engage and give evidence or participate from (for example, giving evidence from a neutral, private space)
- Medication regimes - including non-compliance
- Undiagnosed mental health
- Using appropriate and non-offensive language
- Focus items and emotion regulation items
- Distraction-free zone - crowding and noise free
- Refocusing on topic gently
- Plain clothes - no uniforms or wigs/robes







**See you in 20 minutes!**



# **Time for some Case Studies!**

# ADHD

## Three subtypes of ADHD:

### Inattentive

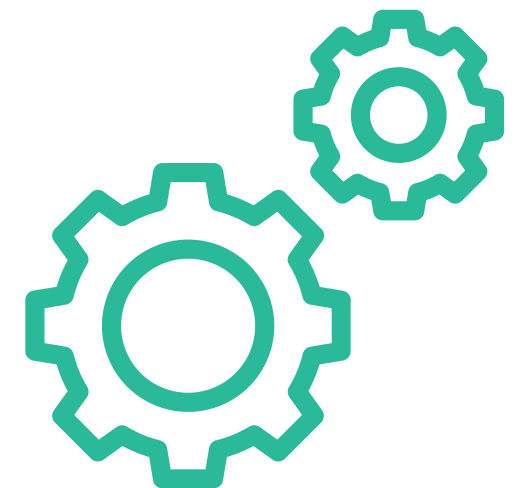
- Careless mistakes, sustaining attention, zone out, poor listening, organisation problems, gets sidetracked, doesn't follow through on tasks, distractible, forgetful, loses items
- Note: It is not difficulty paying attention, but difficulty regulating attention (hyperfocus!)

### Hyperactive

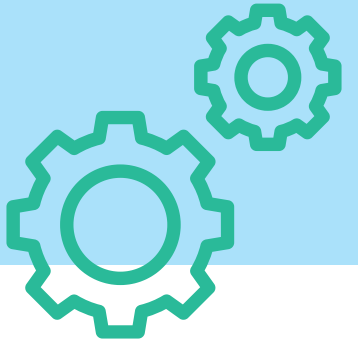
- Fidgets, leaves seat, restless, 'on the go', talkative, trouble with turn-taking, difficulty awaiting turn, interrupts others

### Combined

- Both inattentive and hyperactive



# ADHD



The ADHD brain works best under 'nice' conditions

**N**

## Novel

New, different, change to routine, new format, new location, new topic

**I**

## Interest

Incorporate their interests and hobbies, or make it personally meaningful

**C**

## Challenge & Competition

Gamification, technology, checklists, countdowns, race against clock or another person

**E**

## Emergency

Firm deadlines, urgency, external accountability, imminent need

# Why are ADHD diagnosis rates going up?

Changes to the DSM criteria

Advances in research

Increased awareness  
(healthcare professionals)

Symptoms manifest  
differently with age

Increased awareness  
(general public)

Improved diagnostic tools

Decreased stigma

Autism / ADHD comorbidity



# Case study 1

## Emma

### Police interview

Emma is 24

Emma's communication needs include:

- Mild learning disability
- ADHD
- Post-traumatic stress disorder

Emma may experience seizures when distressed, and experiences facial tics

Emma identifies as non-binary (pronouns: they, them, their)

Emma will be participating in a police interview as a complainant

The allegations pertain to sexual assault

Consider how you would

- Approach rapport building with Emma
- Assist police to build rapport
- Approach your assessment
- Convey your recommendations to Emma and police

What are your initial thoughts about facilitating best communication during the interview?

# Case study 1

## Emma

### Police interview

Interviewing officers implement your recommendations, including that the interview takes place:

- On a separate day to the assessment
- At a location where Emma can be assisted by medical professionals if needed (hospital)

Emma presents as very nervous and anxious on the day of interview

Their hands are shaking, and their voice is lowered and trembling

Emma states that they feel they might not be able to say what happened (regarding the allegations) out loud

They also advise they did not have a good rest overnight and have not eaten or had anything to drink that day

#### Consider

- What you will do with the additional information you receive
- How all stakeholders can work together effectively - what would you suggest?
- What else is important in this situation

# Case study 1

## Emma

### Court

During the police interview, Emma:

- Has several seizures - some are mild, but others are more severe
- Requires breaks and medical attention in order to continue their participation, but initially tries to decline this assistance
- Presents with a high level of distress (teary, pressing their fingernails into the palms of their hands, leaving the room), particularly when questioning centres around sensitive details
- Wrote down words and short sentences in response to some questions
- Needed the purpose of questioning explained to them

Emma's matter is progressing to court

You are able to undertake an additional assessment before writing your court report

#### Consider

- How you will approach your assessment
- What communication or other aspects would you ensure are covered comprehensively?
- The recommendations which might be helpful



# Case study 1

## Emma

### Court

Emma will be required to provide their evidence over 2 days

The court has appointed a medic to be present, in case Emma experiences seizures

Emma's emotional state at court appears to be impacted by:

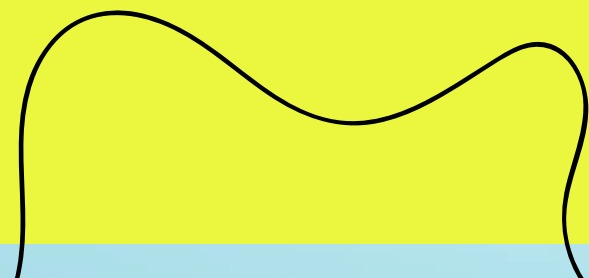
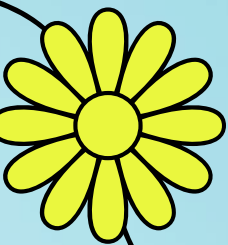
- Incorrect references to their pronouns
- Questioning about their identity
- Questioning which feel repetitive
- Contrary evidence being put to them
- The medic's presence - Emma does not feel the medic is a good fit for their needs
- Particular questioning styles which do not follow the intermediary's recommendations ('I suggest to you...')
- 'Court time'

This results in Emma yelling at parties and the judge, punching a wall, leaving the room more than once, becoming non-communicative at times

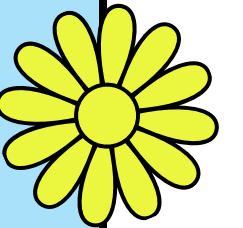
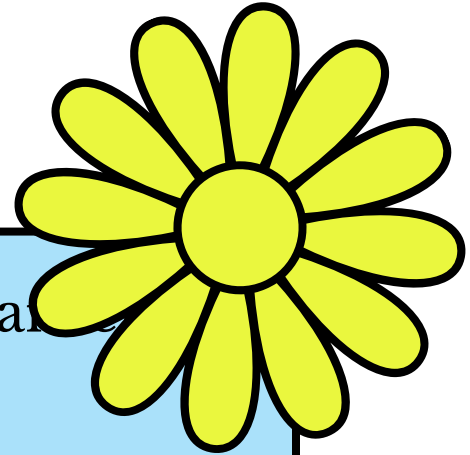
The medic attempts to give Emma advice about managing their emotional state and advises the intermediary to say/do things which the intermediary does not think will be helpful

Emma experiences continual facial tics throughout questioning and has one significant seizure (5 minutes in length) where they fall to the floor

What could you do in this situation? Consider all of the above!



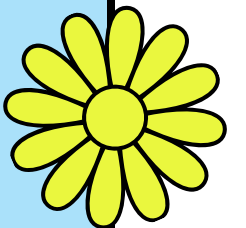
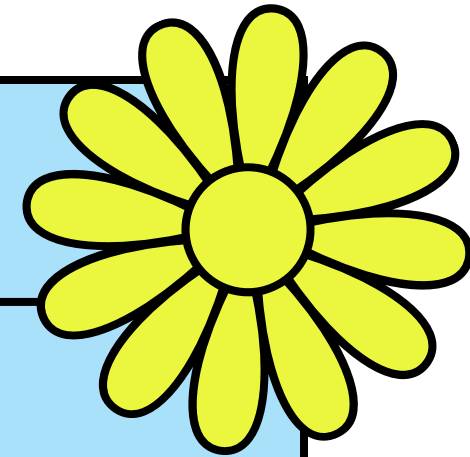
# Outcomes for Emma



<b>Interview arrangements</b>	<p>Consider timeliness of evidence capture and ensuring Emma is well enough to participate meaningfully</p> <p>Assessment and interview took place on separate dates</p> <p>The interview took place in a hospital, where medical staff were able to assist</p> <p>Appropriate space in the hospital should Emma experience seizures</p> <p>Consider time of day interview will occur and whether interview could be conducted over multiple days</p>
<b>Police interview recommendations</b>	<p>Tone of voice</p> <p>Pace of speech</p> <p>Reiterating communication rules</p> <p>One idea at a time</p> <p>Allow use of drawing and writing</p> <p>Use of visuals</p>
<b>Outcomes</b>	<p>Interview conducted over two days</p> <p>Nurse on hand to assist when Emma experienced seizures</p> <p>Matter proceeded to court</p>

# Outcomes for Emma

<b>Location of individuals</b>	Medic moved into adjoining room - still able to respond if needed Witness Assistance Officer in remote witness room as support person
<b>Environmental considerations</b>	Set up of remote witness suite to avoid injury should Emma experience seizures Lighting Use of a pedestal fan in the remote witness room
<b>Court recommendations</b>	Use of Emma's preferred name during proceeding and correct pronoun references Access to a visual for Emma to indicate an impending seizure Communication rules and court processes to be clearly explained and reiterated Limiting the amount of information presented to Emma at one time If and where possible, avoid repetitive questioning Access to focus and emotion regulation items (sensory ball and large weighted blanket) Regular breaks and ability for intermediary to use hand signal to indicate the need for additional breaks
<b>Interventions during proceedings</b>	The putting of arguments during cross-examination ('I suggest to you', followed by a tag question) Pace of questioning In-court discussion to discuss the framing of arguments, references to Emma's pronouns, Emma's audibility in court
<b>Court outcome</b>	Emma completed their questioning over two days Emma asked the intermediary to advise others about their pronouns during proceedings and breaks The presiding judge has since asked after witnesses' pronouns since this matter



# Case study 4

## Helen

### Police interview

Helen is 36 and an Aboriginal woman

Helen's communication needs include:

- Mild cognitive disability
- Dissociative Identity Disorder

Helen will be participating in a police interview as a complainant

The allegations pertain to sexual assault

During the communication assessment, Helen advises that when she experiences stress or distress, she may:

- Become tangential with her responses
- Become teary
- Experience personality 'changes' - aspects of herself, different ages, not with other names
- Cross her hands over her head (this may denote a 'change')
- Experience dysregulated breathing
- Experience stress-related seizures

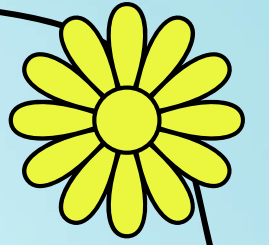
Helen is prescribed glasses for reading, but refuses to wear them

One 20-minute break is taken during the assessment

Helen immediately asks to access an outdoor area to get fresh air and listens to music on her phone for the majority of the break

When she returns from the break, you notice that Helen uses drawing materials available in the room and starts drawing/doodling - she continues this intermittently during the remainder of the engagement

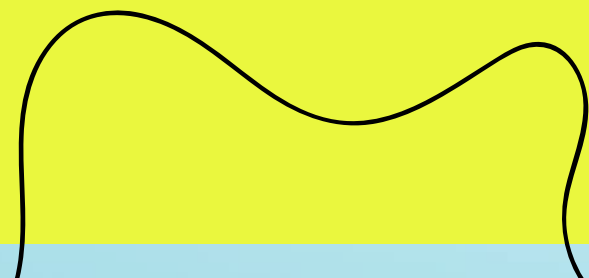
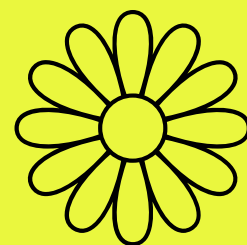
What are your initial thoughts about facilitating best communication during the police interview?



# Case study 4

## Helen

### Court



After several minutes into the police interview, Helen's communication markedly changed:

- Voice quality/sound – childlike sounding, voice volume increased
- Some sound substitutions: 'f' replacing 'th', 'w' replacing 'r' and 'l' at times
- Use of plurals: 'feets' instead of 'feet'
- Use of past tense: 'tell-d' instead of 'told', 'steal-ded' instead of 'stole', 'come-d' instead of 'came'
- Omitting ends of words: 'shock' instead of 'shocked'
- Omitting sounds from words: 'sues' instead of 'shoes'
- Different sentence structures and omitting words from sentences: 'him was' instead of 'he was', 'what's him look like' instead of 'what he looks like'), 'he not know me' instead of 'he didn't know me'
- 'Them' instead of 'those' and 'hossapull' instead of 'hospital'

You also observe that Helen:

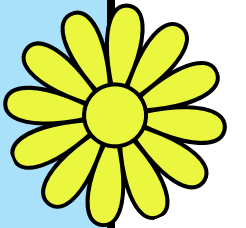
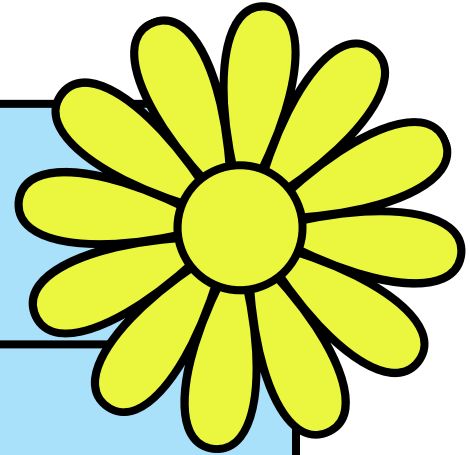
- Required increased processing and response time, used a slower speech rate, asked for some questions to be repeated or forgot what she had been asked when fatigued
- Declined all breaks offered by interviewing officer
- Found it difficult to verbalise a sequence of events in order from start to finish
- Responded to her name by making eye contact and a tactile prompt was helpful in refocusing her attention

Consider the following

- How you would approach a court assessment with Helen
- What recommendations could you consider making?
- What would you do if there is push back at court for calling breaks (for example, if you notice Helen cross her hands over her head) or for making other suggestions to assist the regulation of Helen's emotional state at court?

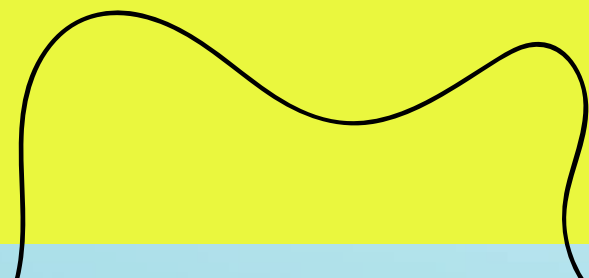
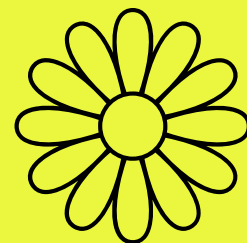
# Outcomes for Helen

<b>Location of engagements</b>	Conduct assessment and interview in a culturally safe space
<b>Engagement approach</b>	Conduct assessment and interview on different days
<b>Recommendations</b>	<ul style="list-style-type: none"><li>Consider whether Helen will bring a support person to the interview</li><li>Visual timelines and signposting to assist sequencing and to keep Helen on track</li><li>Visual used to assist breathing regulation</li><li>Use of tactile prompts</li><li>Allow drawing and doodling for emotional state and to supplement verbal evidence</li><li>Consider what will happen during breaks - song list, fresh air, 'shoot the breeze'</li><li>Use of a scrunchie as a focus item</li></ul>
<b>Further suggestions</b>	<ul style="list-style-type: none"><li>Taking breaks when Helen appears fatigued, rather than offering breaks</li><li>Use of other visuals, such as body charts</li><li>Ways to clarify Helen's statements</li></ul>
<b>Outcome</b>	<ul style="list-style-type: none"><li>Helen was able to participate in a police interview</li><li>Helen experienced a 'change' during the interview</li><li>Use of tactile prompts and visual signposting was effective</li></ul>



# Court Reports

# Considerations for court reports

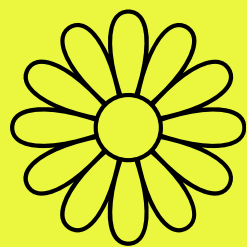


- Use respectful language - avoid terminology which may be considered offensive or outdated
- Clearly state, describe and explain what should be done or avoided to assist the witness' emotional regulation
- Outline observations and impact/s to communication to create a strong rationale
- Be factual rather than emotive in descriptions and explanations
- Use of language which depicts the benefit of resources or recommendations (for example, 'focus item' rather than 'distractor item')
- Where appropriate, using the witness' own words and insights
- Outline how and when the intermediary may assist the court to implement recommendations
- Take a whole of process approach
- It's a balance!
- Each jurisdiction and individuals may approach report writing differently e.g. use of other information (police interview, professional reports) to outline communication needs and form rationale



# Wording example - Janae

Assessment observations  
Overcoming communication difficulties (rationale)



What should be done or avoided  
How the intermediary may assist

Janae also advised prior to the commencement of assessment activities that she has Dissociative Identity Disorder and this results in her experiencing 'changes' between different personalities.

\*\*\*\*\*

What the witness advised  
Communication impacts

There was one occasion (lasting approximately 10 minutes) when Janae's presentation was significantly different from the rest of the assessment. During this period of time, Janae took protracted pauses before attempting to respond to some questions, did not respond to other questions or gave answers which were difficult to comprehend. I also observed that Janae's voice volume was much quieter than at other times in the assessment, making it difficult to hear what she had said. Janae was eventually able to be re-engaged in the assessment process by saying her name, touching her on the arm with my hand, and obtaining eye contact with her before re-commencing assessment activities. After Janae re-engaged in conversation, she advised me that she had experienced a personality 'change'.

\*\*\*\*\*

It is recommended that:

- Janae has a break from giving evidence at least every 45 minutes. The length of break may vary between 5 - 15 minutes, or longer where required, dependent upon Janae's presentation and level of fatigue or stress. There is the potential for court to remain sitting with the remote witness link temporarily switched off if Janae requires only short breaks; and
- If Janae becomes non-responsive during court proceedings, parties or the judicial officer should say her name and make eye contact with her before asking their next question or imparting further information. If required, Janae's re-engagement could also be facilitated by having someone touch her arm with their hand. The intermediary is able to assist, as required and if directed by the court.

# Wording example - Tom

What the witness advised  
Assessment observations  
Link observations with implications for court

During the assessment, Tom stated he has diagnoses of post-traumatic stress disorder and major depressive disorder and in stressful or anxiety-provoking situations, this can manifest in symptoms such as:

- Slurred and/or unclear speech;
- Loss of concentration;
- ‘Zoning out’ of conversation;
- Shaking hands;
- Flashes appearing in front of his eyes;
- Impacts to his ability to hear what is being said or what is occurring around him; and
- Difficulties with short term memory.

What the witness advised  
Communication impacts

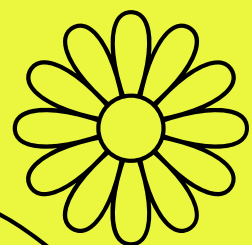
It is possible that some of the communication needs observed during the assessment (for example, losing track of what he was saying, needing time to process information and respond to questions) resulted from Tom’ stress and anxiety about providing evidence in a court setting.

When speaking about giving his evidence at court, Tom expressed significant worry and was concerned that his capacity for communication may be impacted by anxiety and stress in the court context. When speaking about his provision of evidence in a court setting, I observed that Tom’ hands were shaking, his voice volume noticeably reduced and he regularly looked down at his support dog, Luna.

# Wording example - Tom

What should be done or avoided  
How communication will be assisted  
How the intermediary may assist

Assessment observations  
What the witness advised  
Communication impacts  
Overcoming communication difficulties (rationale)  
What should be done or avoided



Tom stated that he uses the Subjective Units of Distress Scale (herein referred to as the 'SUDS Scale') as a strategy to monitor his emotional state. He advised he would find a visual representation of this scale useful in a court setting to assist him to alert the court should his stress levels become so elevated that he cannot use his words to express the need for a break.

Identifying and using existing strategies

It is recommended that during questioning Tom has access to a visual representation of the SUDS Scale. Tom can indicate his level of stress by pointing to the corresponding number on the scale. The intermediary will advise the court should Tom use the chart at any time and request a break as needed, particularly if he indicates his stress level has reached a '6' or above or if he exhibits any other potential indicators of stress or anxiety such as those outlined at [REDACTED]. See Appendix 2 for an exemplar SUDS Scale which would be provided for use by Tom at court by the intermediary. The intermediary is able to provide advice about the length of any breaks.

I observed that Tom appeared to be comforted by the presence of his support dog, Luna. He looked down at Luna regularly throughout the assessment, particularly when referring to giving his evidence at court. Tom advised during the assessment that Luna's presence alleviates feelings of stress and anxiety for him. Luna was able to sit at Tom's feet during the 75-minute assessment without requiring a break and without disruption to the assessment process. It is recommended Luna be present in the remote witness suite during the provision of Tom's evidence to assist Tom to regulate his emotional state at court.

# Wording example - Sally

Sally's intermediary referral for court indicated that Sally has Autism (level 1), severe anxiety and post-traumatic stress disorder. During the assessment, Sally stated that she was worried about attending court to give her evidence and expressed concern that her ability to communicate may be impacted by stress and anxiety in the court context. Sally advised during the assessment that when she experiences feelings of stress or anxiety, her:

- Eye contact reduces;
- Voice volume may markedly increase or decrease;
- Tone of voice can change (become more sharp); and
- Use of focus items becomes more frequent and insistent.

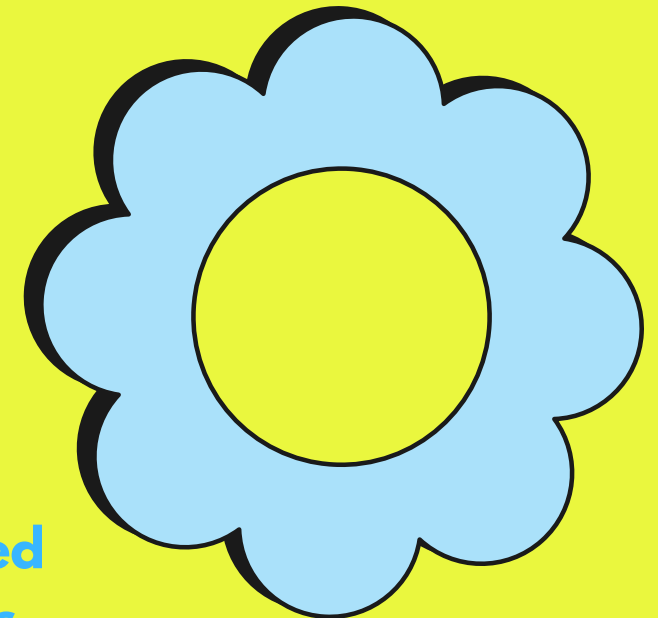
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Sally's presentation during parts of the evidence-in-chief interview and the assessment potentially indicates she was experiencing stress or anxiety. She initially presented with lowered eye contact and did not initiate conversation during the assessment until the intermediary role had been clearly explained and rapport had been built. Additionally, when expressing that she was eager to complete assessment activities during the assessment, her tone of voice markedly changed. Sally fidgeted throughout the evidence-in-chief interview and the assessment (see [REDACTED] for further information about this).

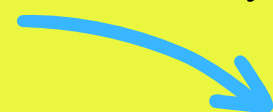
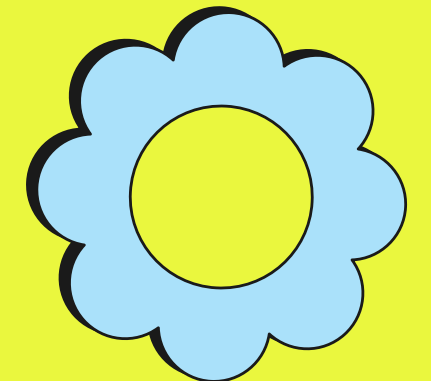
It is recommended that the intermediary advises the court should Sally present with any potential indicators of stress or anxiety and if additional breaks during questioning at court are required as a result.



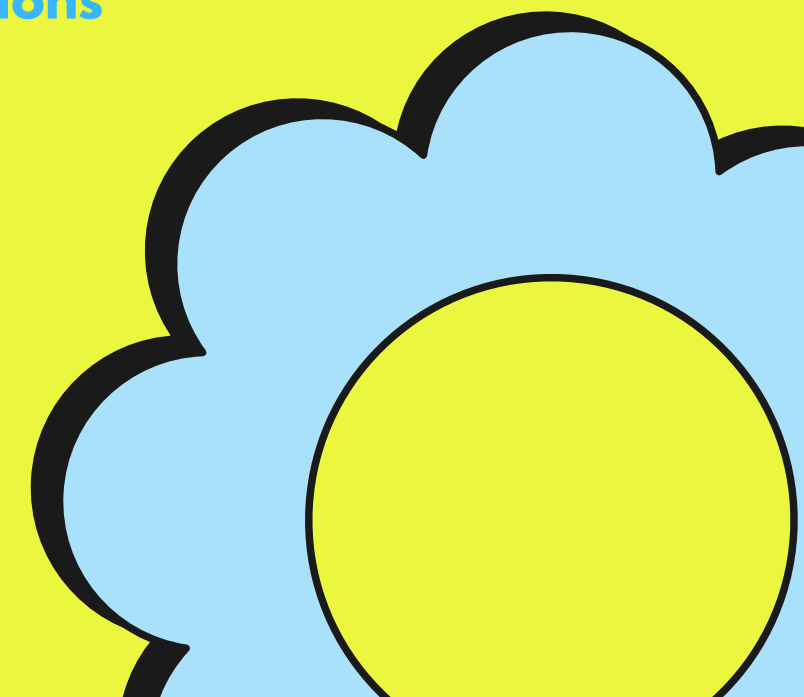
**What the witness advised**  
**Communication impacts**



**Reference to police interview**  
**Assessment observations**



**What should be done or avoided**  
**How the intermediary may assist**



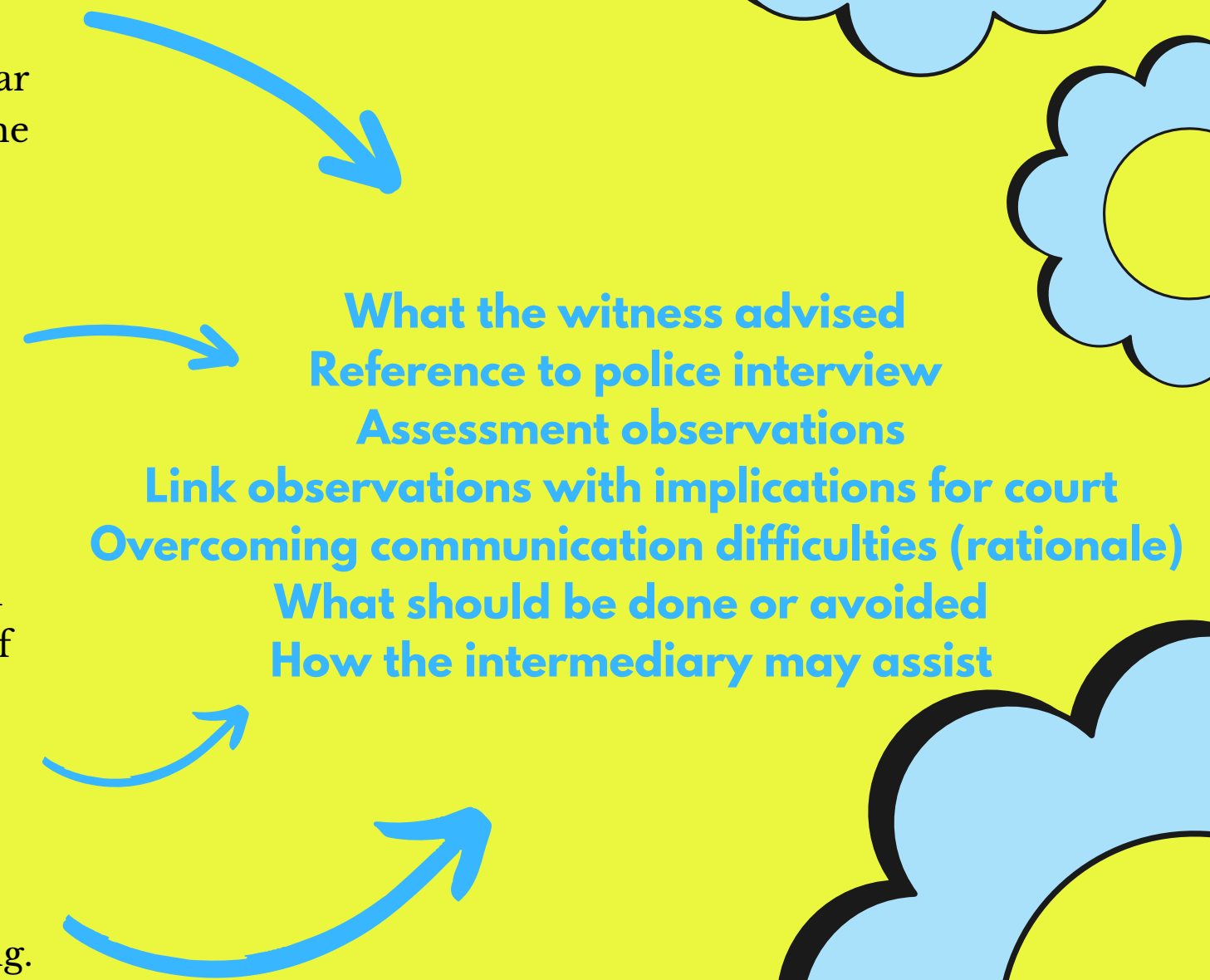
# Wording example - Sally

Sally expressed that she would be assisted in verbalising the need for a break at court by having access to a communication aid which she could look at and point to when requesting breaks. It is therefore recommended that during questioning Sally has access to a visual communication aid to indicate if she needs a break. The intermediary will advise the court should Sally use the communication aid at any time and request a break as needed. See **Appendix 2** for an exemplar communication aid which would be provided for use by Sally at court by the intermediary. The intermediary is able to provide advice about the length of any breaks as required.

Sally fidgeted with what appeared to be sensory slime throughout her evidence-in-chief interview and with a focus item throughout the assessment. Sally advised that the use of focus items assists her emotional regulation and focus. It is recommended that Sally has access to focus items during questioning as required. See **Appendix 2** for exemplar focus items which would be provided for use by Sally at court by the intermediary.

Sally indicated she felt uncertain about what will occur at court (for example, where she would give evidence). To clarify how and where she will give evidence and reduce possible feelings of stress relating to court, it is recommended that Sally participate in a pre-hearing visit to court. This will provide her with an opportunity to practice using video-link facilities around neutral subjects and ask questions she may have with regard to court processes.

Sally advised that her emotional regulation and communication at court would be assisted by the presence of, and by having access to, a therapy dog before and during breaks in questioning. As such, it is recommended that a therapy dog from the ACT Canine Court Companion Program be present at court on the day/s Sally is required for questioning.



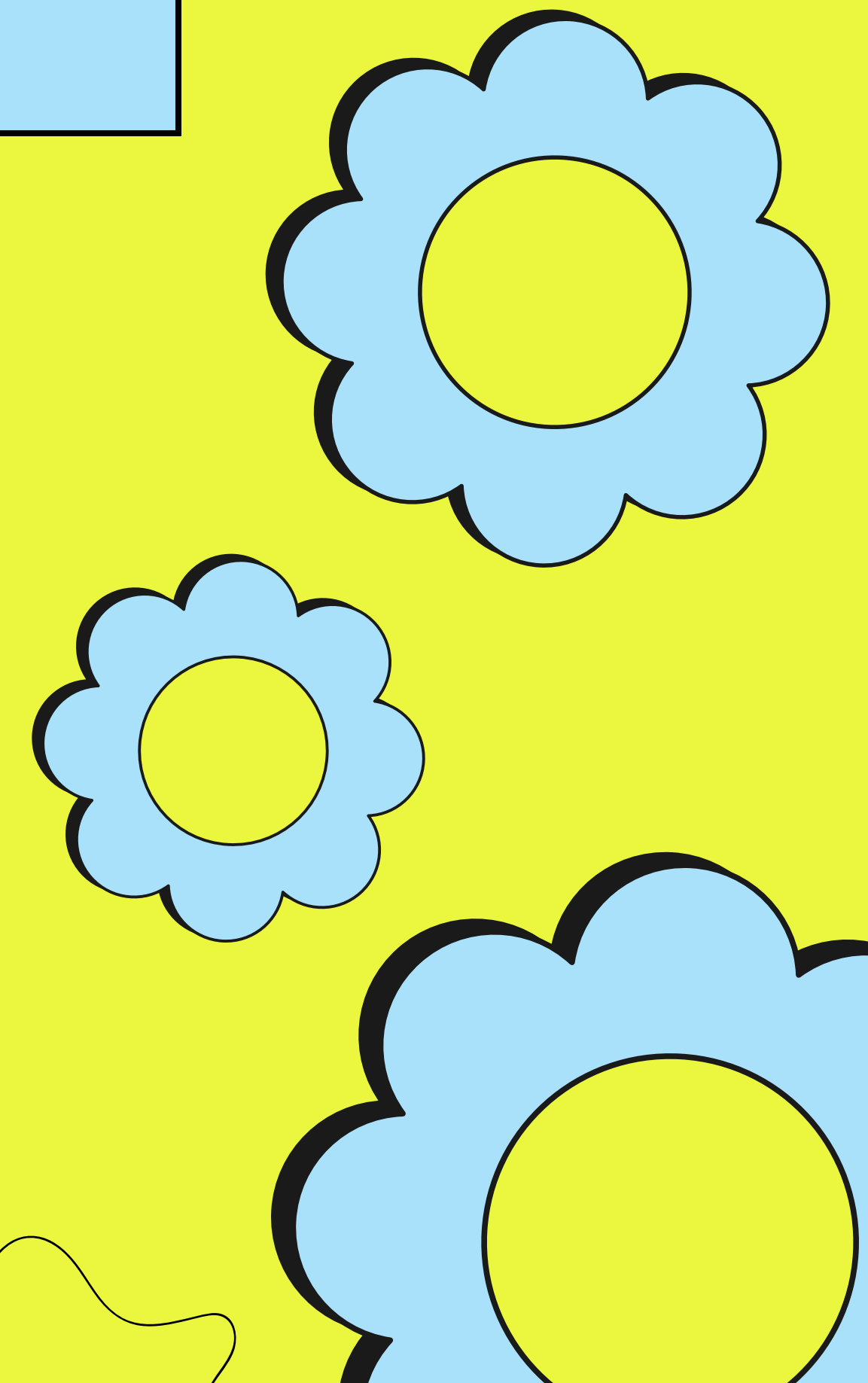
# Wording example - Marlow

Recommendation	Advice for Questioner and Court	Rationale
<p><b>10</b> Avoid repetitious questions whenever possible and, if appropriate.</p>	<p>If possible, it is advised that the repetition of questions about the same topic or information should be avoided.</p> <p>Repetitious question examples:</p> <ul style="list-style-type: none"> <li>- 'Did you go to the zoo yesterday?', followed by:</li> <li>- 'Are you sure it was yesterday you went to the zoo?'</li> <li>- 'Was it Friday you went to the zoo?'</li> <li>- 'Could you be mistaken about the day you went to the zoo?'</li> </ul>	<p>When asked multiple questions about a specific subject during the assessment, I observed that Marlow's engagement and demeanour were impacted, including a change in her tone of voice and her physical positioning becoming more defensive. Additionally, Marlow described being asked questions in this way 'annoying' and made her 'second guess' and 'doubt' her responses which subsequently impacted her emotional state.</p> <p>Given the above, avoiding questions which require Marlow to repeat information multiple times may assist her emotional regulation during questioning at court.</p> <p>In addition, if there will be more than one questioner during Marlow's provision of evidence, the allocation of questions topics could be considered to avoid Marlow being asked to repeat information, in accordance s 4AF(d) with the <i>Evidence Miscellaneous Provisions Act 1991</i> (ACT).</p>

What?

How?

Why?



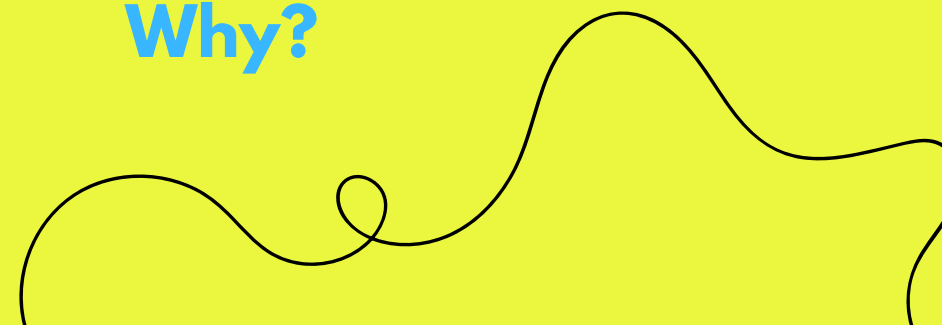
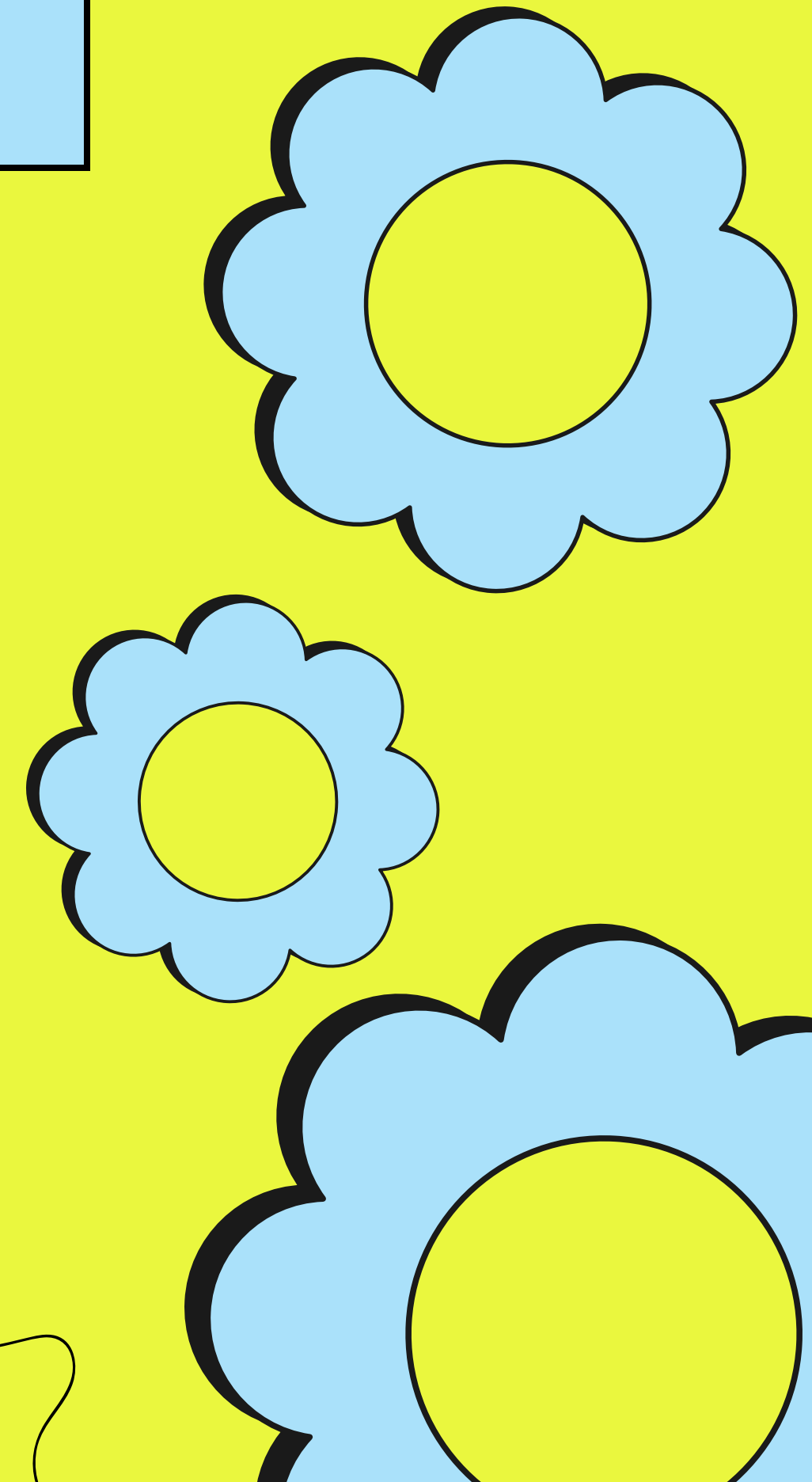
# Wording example - Eleni

Questioning Recommendation	Advice for Questioner	Rationale
1 Consider the <b>visibility of people on the screen for Eleni inside the Remote Witness Room.</b>	<p>Consider whether questioning can be completed without people other than the Judge, Judge's Associate and lawyers visible on screen in the Remote Witness Room.</p> <p>The angle of the camera within the courtroom could be adjusted to facilitate this recommendation. If required and as directed by the court, the intermediary can provide advice about how this can be achieved and assist the court regarding the visibility of people on the screen prior to Eleni entering the Remote Witness Room.</p>	<p>Eleni stated during the assessment that having people visible to her via the audio-visual link (who are not the Judge, Judge's Associate or lawyers) would cause her to experience stress and anxiety and would negatively impact her ability to communicate at court.</p> <p>It is therefore possible that Eleni's apprehension about other people in the courtroom being visible to her in the Remote Witness Room might affect her participation in questioning. As such, implementing this recommendation may assist Eleni to regulate her emotional state at court and assist in facilitating her overall engagement in proceedings.</p>

What?

How?

Why?



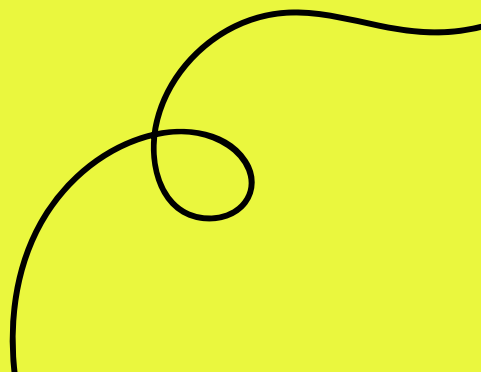


# Considerations at Court



# People need to be properly advised about 'court time' and court processes

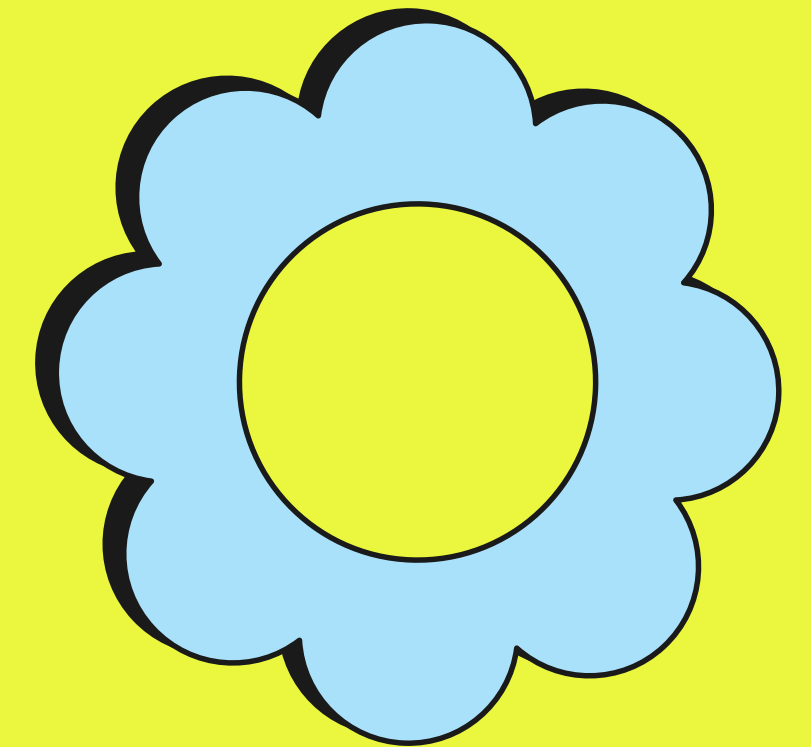
- It makes sense in order to regulate one's  
emotional state at court



# Court preparation sheet

Name: Emma Trial Date: 28 – 29 February 2024 Age: 24 years Focus Objects: Marble maze

ISSUE	RECOMMEND	REASON	AVOID	RECOMMEND	REASON
<b>PREFERRED NAMES &amp; PRONOUNS</b> <i>Page 5, rec #1</i>	Intermediary to confirm preferred title with Emma prior to questioning  Parties to refer to the witness as 'Emma' otherwise and use Emma's pronouns	The witness has indicated they prefer to be called 'Emma's and preferred pronouns are: they, them, their  Parties may need to use a title (e.g. Mx, Ms, Mr) along with Emma's surname during questioning	<b>MULTIPART QUESTIONS/ PREAMBLE</b> <i>Page 11, rec #8</i>	Short, grammatically simple concrete questions with 1 idea per question	Ability to process language may be affected by stress of court context
<b>COMMUNICATION RULES</b> <i>Page 6, rec #2</i>	Parties should inform Emma of any communication rules prior to questioning, after breaks and as required	Emma will be clear about communication expectations at court	<b>IDIOMS/ FIGURATIVE LANGUAGE</b> <i>Page 11, rec #9</i>	Rather than "jog your memory" say, 'do you remember...'	Emma may resort to literal language - does not understand some idioms  Use of figurative language may affect comprehension
<b>BREAKS</b> <i>Pages 7 and 8, rec #3</i>	Every 30 mins and as needed if signs of distress or fatigue	Attention/concentration/distress	<b>TAGS</b> <i>Page 12, rec #10</i>	Ask a direct question without tag	Linguistically complex and suggestive  In asst, found this question form difficult to answer
<b>SIGNPOST</b> change in topic of questioning and propositional questions <i>Pages 8 and 9, rec #4</i>	Signposting topics and question forms during questioning, and use signposting to clarify details with Emma if required  Alert Emma to propositional questions before they are asked and the required responses	Shift attention to different subject or context  Emma will be aware of what topic will be discussed next, if propositional questions will be asked and required responses, and details can be clarified if needed	<b>READING</b> <i>Page 14, rec #13</i>	Not asked to read or follow text during questioning  Limit references to written text or quotations to three sentences in length  Avoid small print – print to be minimum of 16-point font size	Advised in asst they find it difficult to absorb, process and recall written information and would prefer not to follow written text  Limiting references from written text will assist recall  Emma is not currently wearing prescribed glasses)

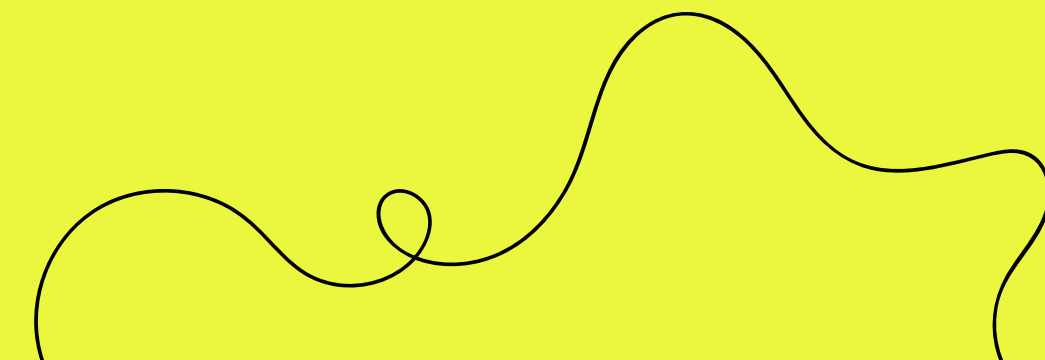
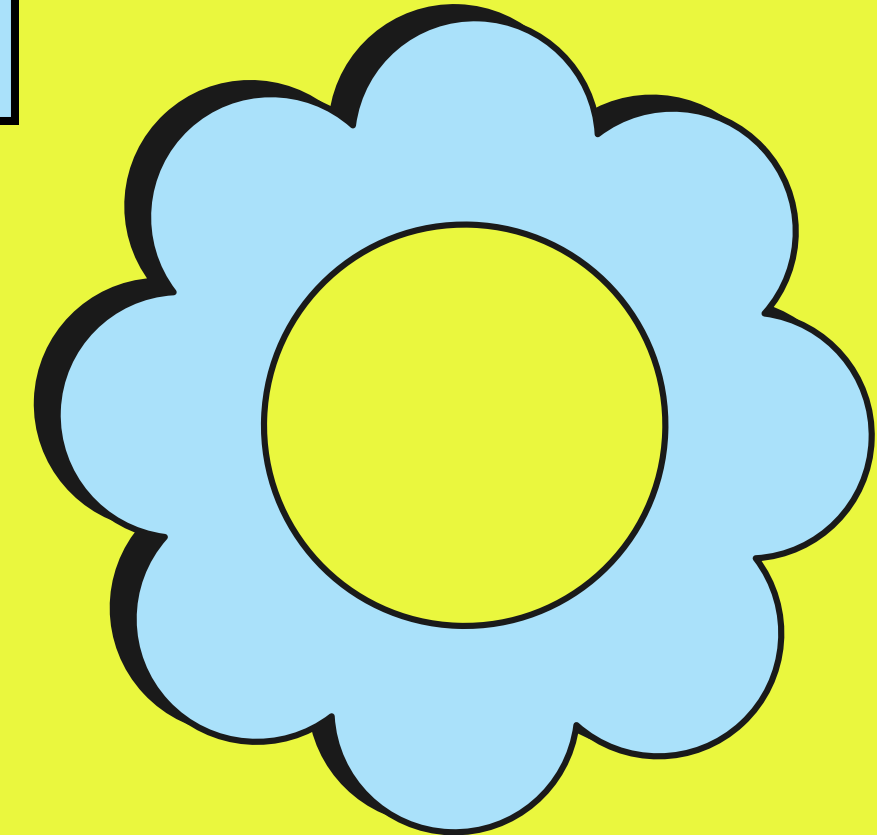


- Remind witness about your role
- Introduce yourself and explain your role to stakeholders as required
- Set up and explain resources and set up of room to the witness
- Explain potential intervention points
- Sit near to the witness
- Listen carefully throughout - how will the intermediary present
- Reminders about process e.g. the witness and intermediary oath or affirmation
- Alert the court if any other communication issues or other matters arise
- Assist the lawyers and the court as required

# Court preparation sheet

Name: Emma Trial Date: 28 - 29 February 2024 Age: 24 years Focus Objects: Marble maze

<b><u>SIMPLE, STRAIGHTFOWARD LANGUAGE</u></b> Page 9, rec #5	Avoid complicated and abstract language and descriptions	Emma will understand questions asked of them at court	<b>FACE MASKS</b> Pages 16 - 18, Additional recommendations	<b>Counsel will not wear masks while addressing Emma</b>  Emma will be given the option to remove their mask during questioning	<b>This may facilitate Emma's engagement with questioning, if not prevented by public health legislation or court procedures</b>
<b><u>PACE of questioning</u></b> Page 10, rec #6	Ask questions at a slow speaking pace and pause between questions	Time to process language, especially when under stress			
<b><u>GIVE ADEQUATE RESPONSE TIME</u></b> Page 10, rec #7	Allow 5 seconds before moving onto another question.  'Emma, is there any response you have to this question?'	Time to consider their answers and to process stress or anxiety responses in a court context			
<b><u>PUTTING ARGUMENTS</u></b> Page 12, rec #11	Short, simple statement following by, 'Is that correct or not correct?'	Emma will be able to respond to an argument  Can use 'agree' and 'disagree'			
<b><u>BODY PARTS – use Emma's vocabulary</u></b> Page 13, rec #12	Emma referred to body parts in police interview: 'bottom', 'arse', 'penis' and 'vagina'	Familiar vocabulary may aid comprehension			
<b><u>CLOCK TIME use digital time and include AM or PM</u></b> Page 13, rec #14	Ok with months and telling time  'Was it lunchtime?'  Use digital time only and mention AM and PM	Emma' understanding of timelines and events in a court context will be aided			



# Court preparation sheet

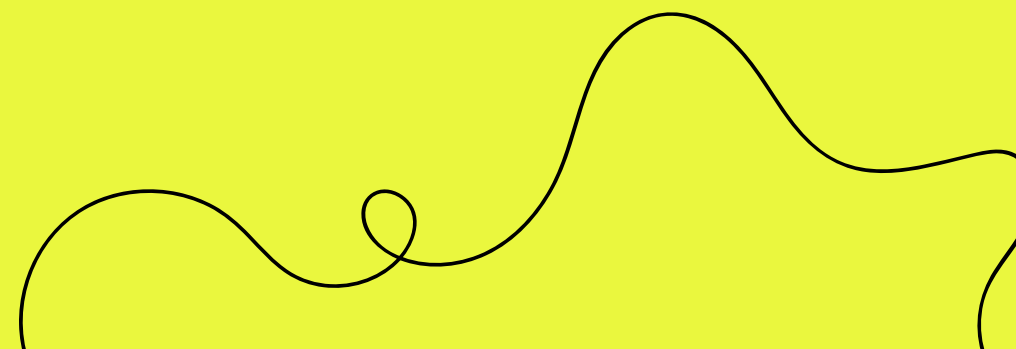
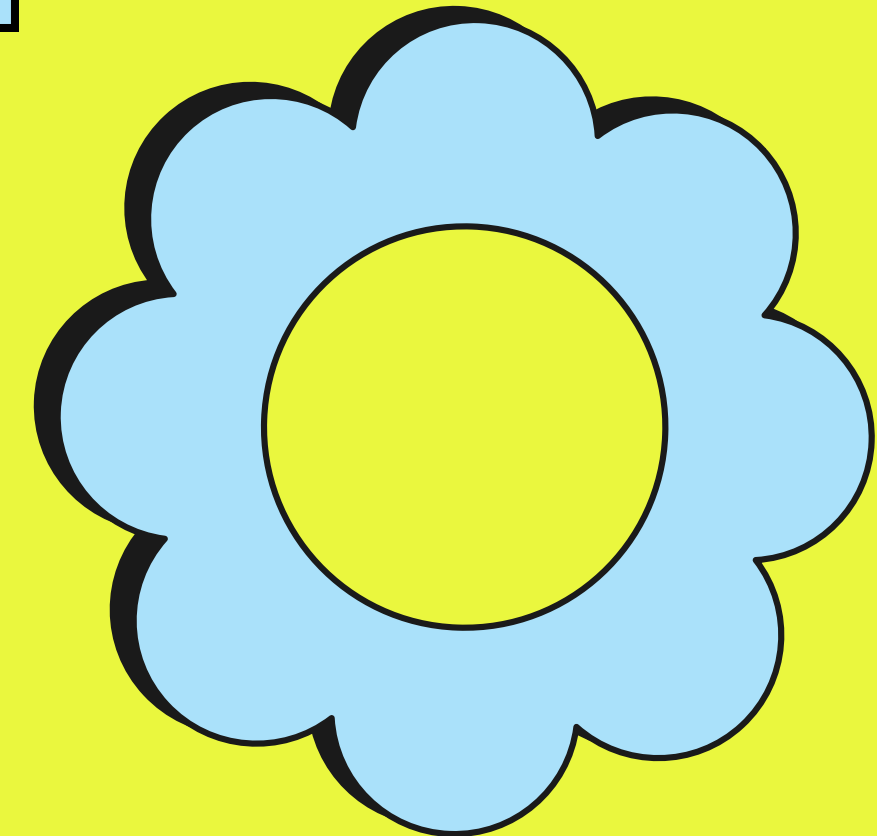
Name: Emma

Trial Date: 28 – 29 February 2024

Age: 24 years

Focus Objects: Marble maze

<p><b>COMMUNICATION AIDS</b> <i>Pages 14 – 15, recs 15 - 17</i></p>	<p>Use of 'correct' and 'not correct' visual aids to refer to when propositional questions are asked</p> <p>Use of pens, pencils and paper to draw or write basic words to supplement verbal responses</p> <p>Visual aid to indicate if convulsion is about to occur</p>	<p>Can point and refer to these aids as required, may assist verbal responses</p> <p>Can draw or write basic words</p> <p>Emma indicated a communication aid would be useful to alert the court regarding convulsions</p>			
<p><b>HEALTH-RELATED MEASURES</b> <i>Page 16 - 18, Additional recommendations</i></p>	<p>If Emma has a convulsion move any items on the floor around Emma and follow directions given by the presiding judicial officer and/or court staff</p>	<p>Emma's wellbeing will be ensured during questioning</p>			



# Visuals

You  
[name]

Intermediary  
[name]

Magistrate  
[name]

You can say:  
- 'Your Honour'

Magistrate's  
Associate

[name]  
Role:  
Helper to the  
Magistrate

Prosecutor  
[name]

You can say:  
'Jane'

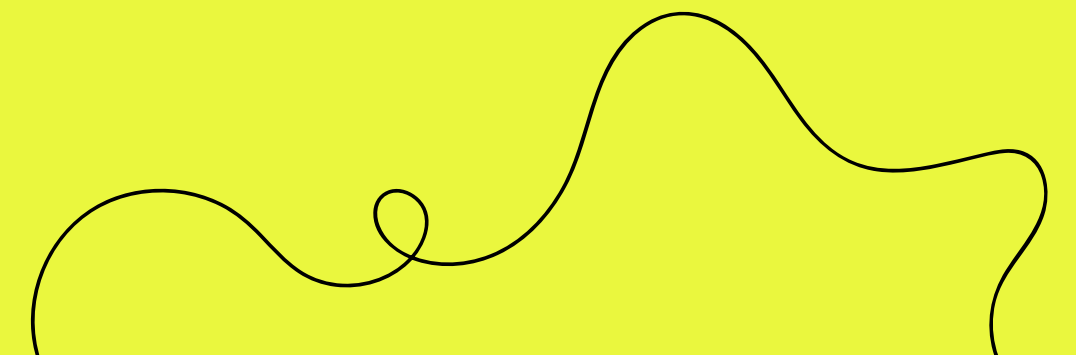
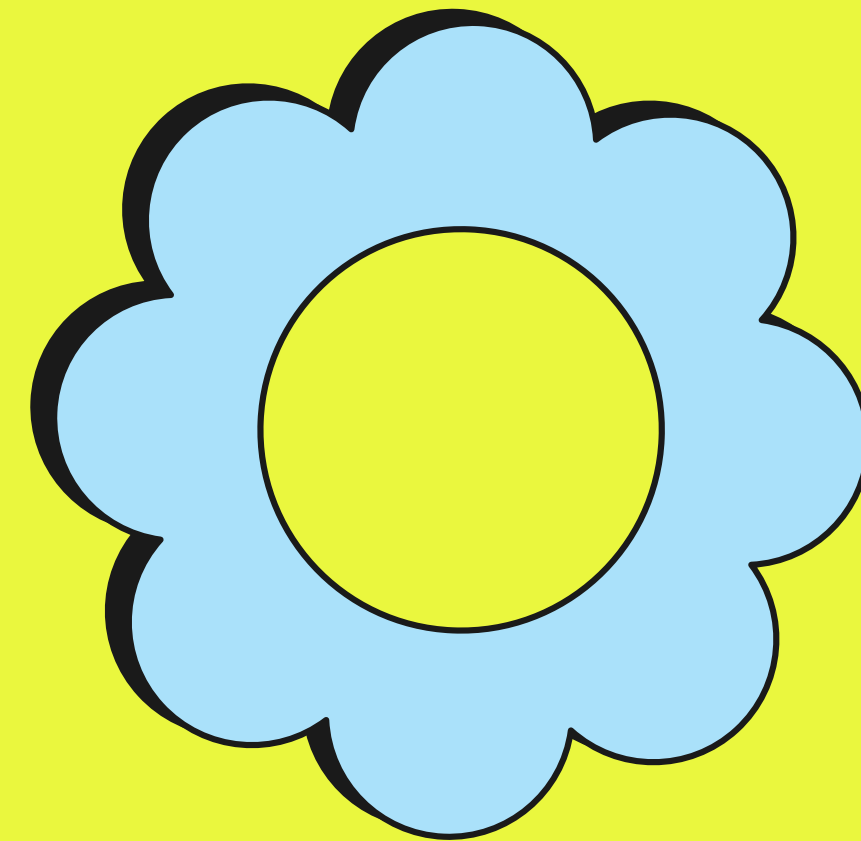
Bar table

Defence lawyer  
[name]

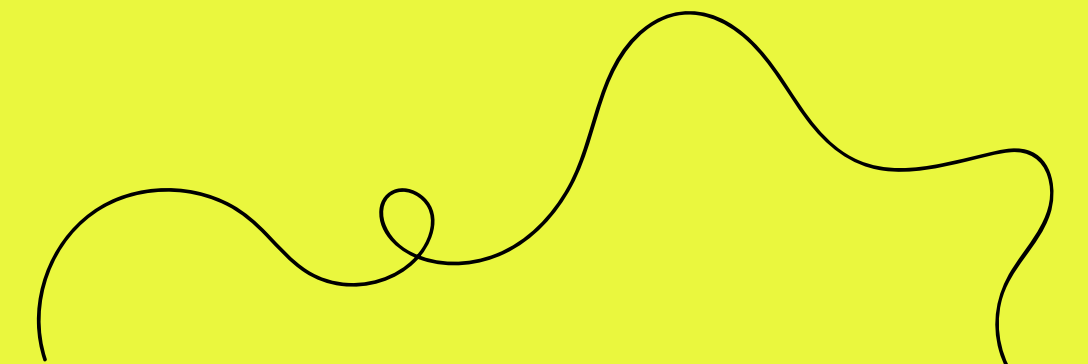
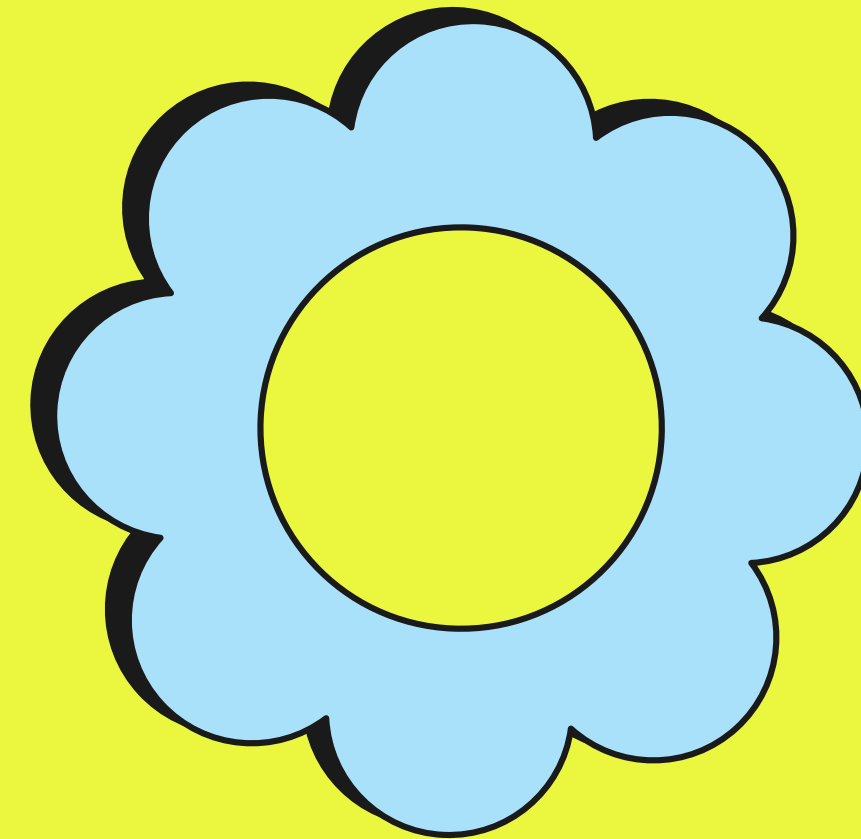
You can say:  
'John'

-----  
2 x defendants

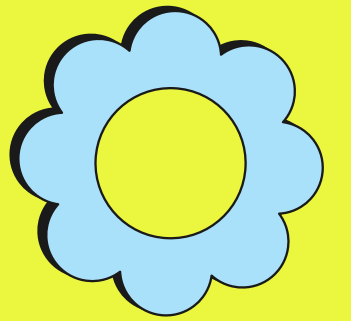
You can say:  
- 'Young people'



# Visuals



# Visuals



## Court Communication Rules

It is okay to tell the court if you have not understood a question

It is okay to tell the court if your responses to questions have been misunderstood

You may say if you don't know the answer to questions

You may say if you don't remember information

It is okay to take your time to answer questions

You are allowed to ask questions if you are unsure about anything

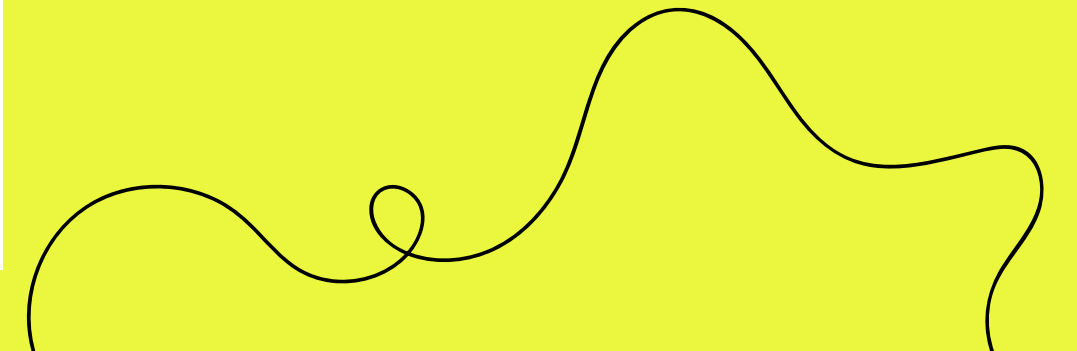
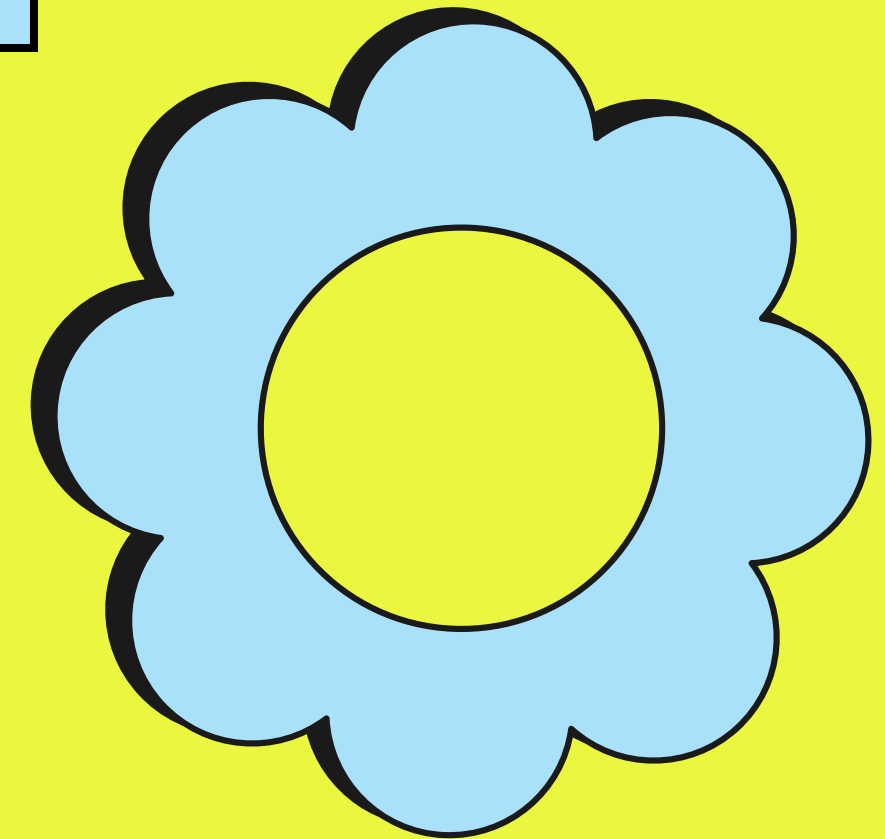
*At court, the magistrate and lawyers will remind you of these and any other relevant rules*

# Visuals

## Directions (rules) for [REDACTED]'s court proceedings

The intermediary is able to **intervene** (raise their hand and speak with the magistrate) so that:

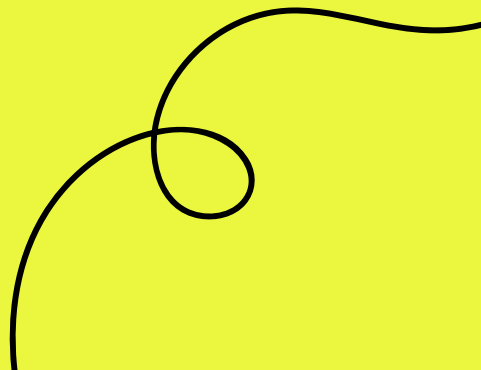
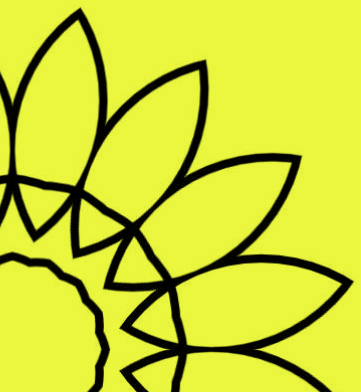
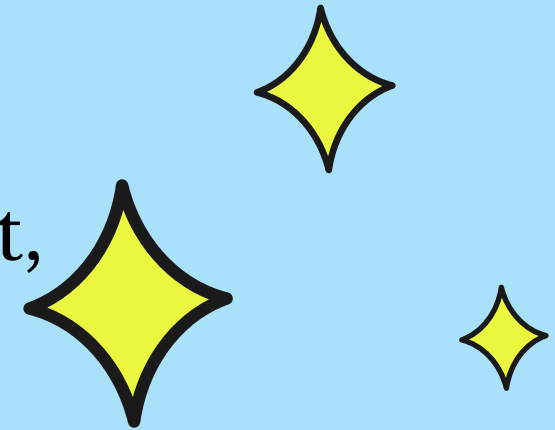
- People at court refer to you by your preferred name [REDACTED]
- You are reminded of communication rules and court processes if needed (for example, what to do if you have been misunderstood)
- The magistrate and lawyers introduce themselves and explain their role to you
- You have a break at least every 60 minutes, and extra breaks if you need them
- People speaking with you at court use a steady speaking pace
- People speaking with you at court use a neutral tone of voice
- People speaking with you at court let you know what topic they want to discuss next (**signposting topics**)
- Repetitious questions are avoided, if possible
- Simple, straightforward language is used at court
- Questions are asked one at a time
- Each question contains one idea only
- The meaning of any terminology you use is clarified where needed
- You have adequate time to commence and complete your answers to questions
- 'Tag' questions and 'assertion' questions are avoided
- When lawyers want to suggest something to you, they make a short, simple statement followed by the question, 'Yes, no, or something else?'





# ‘Holding the space’ can be difficult

- Take opportunities to debrief and access peer support, practice self-care and engage with training





# Quick break

Let's return in 10 minutes



# **Vicarious Trauma and Self-Care**

# What is compassion fatigue?

AVOIDANCE, ISOLATION

DETACHMENT AND DECREASED EMPATHY

REDUCED SENSE OF MEANING,  
PURPOSE, ACCOMPLISHMENT

CHANGES IN BELIEFS,  
EXPECTATIONS, ASSUMPTIONS



# What is burnout?

RESENTFULNESS

CYNICAL ATTITUDE

POOR WORK/  
LATE WORK

PHYSICAL SYMPTOMS  
E.G. HEADACHES

WAKING FROM SLEEP  
UNFRESHED

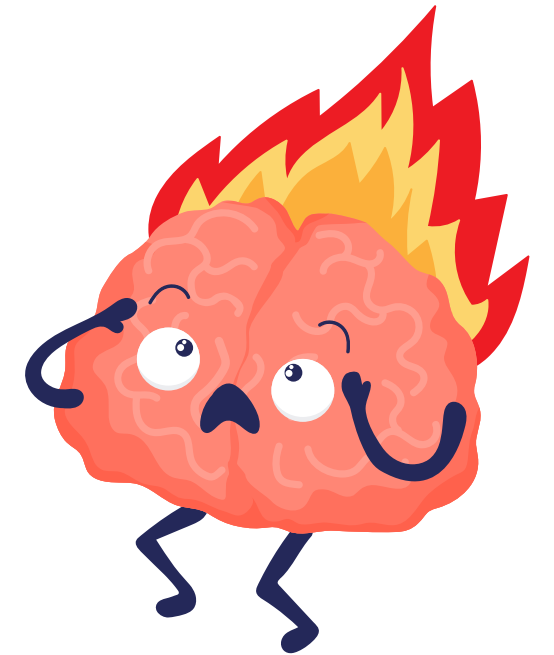
FATIGUE

SOCIAL WITHDRAWAL

INCREASED NEED FOR  
STIMULANTS

DIFFICULTY CONCENTRATING

REDUCED JOB SATISFACTION



# Burnout vs compassion fatigue

- Burnout can occur without compassion fatigue
- Compassion fatigue commonly occurs with burnout
- Burnout is chronic, generalised, slow progress over time
- Compassion fatigue can be acute, can be associated with a particular relationship/context only, and relates to empathy



# What is vicarious trauma?

Vicarious trauma is a normal response to being exposed to other people's trauma e.g. hearing about it, seeing it on TV, etc.

When you repeatedly hear about other people's traumatic experiences it can impact your *own* mental health and functioning, and cause a trauma response in *you*.

Examples:

- Hearing stories of abuse and neglect
- Seeing it on TV
- Being exposed to images

**In our work,  
vicarious trauma  
is not a case of 'if'  
but 'when'**

# Symptoms of Traumatic Stress

## **INTRUSIVE REACTIONS**

Unwanted memories  
Nightmares or dreams  
Flashbacks  
Obsessive thoughts  
Physical reactions

## **HYPERAROUSAL**

Hypervigilance  
Sleeping problems (e.g. insomnia)  
Distractibility/poor concentration  
Memory problems  
Recklessness

## **AVOIDANT REACTIONS**

Avoidance of reminders  
Social withdrawal  
Maladaptive self-soothing

## **COGNITIVE CHANGES**

Beliefs about self/others/world  
Negative emotions  
Irritability



# Risk Factors for Vicarious Trauma

- Individual personality styles
- Individual coping styles
- Personal trauma history
- Personal life stressors and circumstances
- Current social support
- Lack of recovery time between referrals
- Gender
- High level of exposure (e.g. time spent with the individual/matter)
- Role within the organisation
- Age
- Limited training and experience
- Trauma severity and referral type
- Witness' coping style

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Personal factors

Trauma factors

Organisational factors

Witness factors

# Red Flags for Vicarious Trauma

**Rumination about guilt**

**Personification**

**Escalation of responsibility**

**Using work to heal own trauma**

**Cognitive changes**

**Poor boundaries**



# REDUCING THE RISK OF VICARIOUS TRAUMA

- Increase your self awareness. Recognise your signs and symptoms of traumatic stress, and risk factors
- Engage in self-care (both proactively and reactively!)
- Clarity within your work role - be realistic about your role and what your role can achieve
- Maintaining ethical boundaries
- Maintain work/life balance. Have interests and roles outside work!
- Get variety at work (different referrals, age groups, locations etc)
- Seek social support from other colleagues and use debrief opportunities at work
- Take up training opportunities (like this!)
- Ensure work gives you purpose and meaning
- If you need it, seek professional support



# VICARIOUS POST-TRAUMATIC GROWTH

*(The positive impacts of exposure to vicarious trauma!)*

## CHANGES IN WORLD VIEWS

- Appreciation of human resilience, appreciation for life (the good and the bad)

## CHANGES IN VALUES

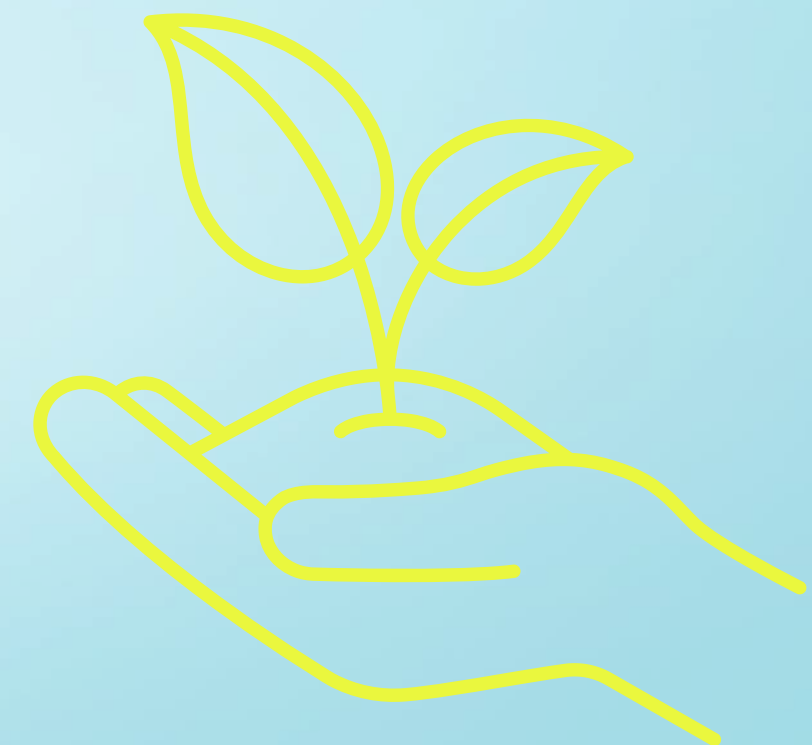
- Importance of family and friends
- Vicarious resilience

## CHANGES IN SELF-IMAGE

- Development of self-compassion, self-worth, self-esteem

## CHANGES IN DAILY LIFE

- Community and connection with others
- More patient, kind, compassionate and optimistic person



# THE ABC'S OF VICARIOUS TRAUMA

A

## AWARENESS

- Self-awareness of our triggers + risk factors + needs
- Self-reflection pre and post referrals
- Acknowledge vicarious trauma is not a flaw or fault but a natural and expected outcome of our work

B

## BALANCE

- Remember trauma is not the whole part of our job, or the whole part of an intermediary
- Maintaining healthy balance between work and rest

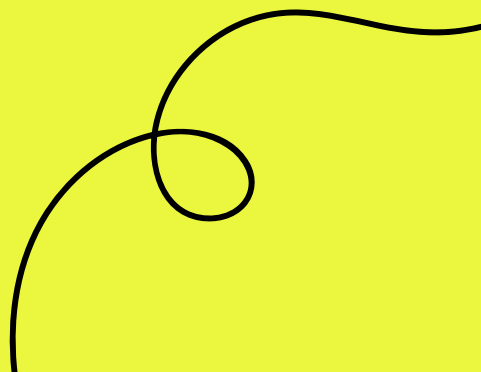
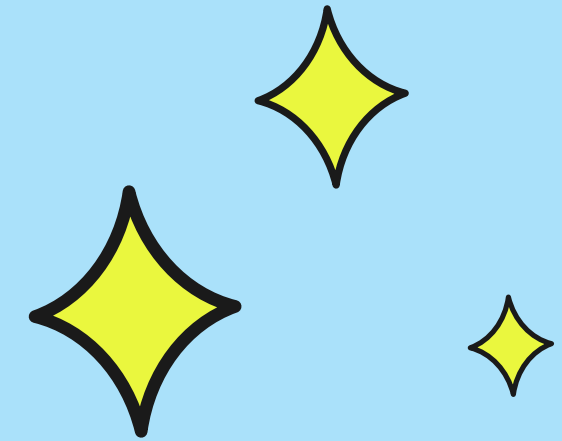
C

## CONNECTION

- Share positive connections with other colleagues and staff
- Seek supportive relationships and friendships
- Seek extra help where required

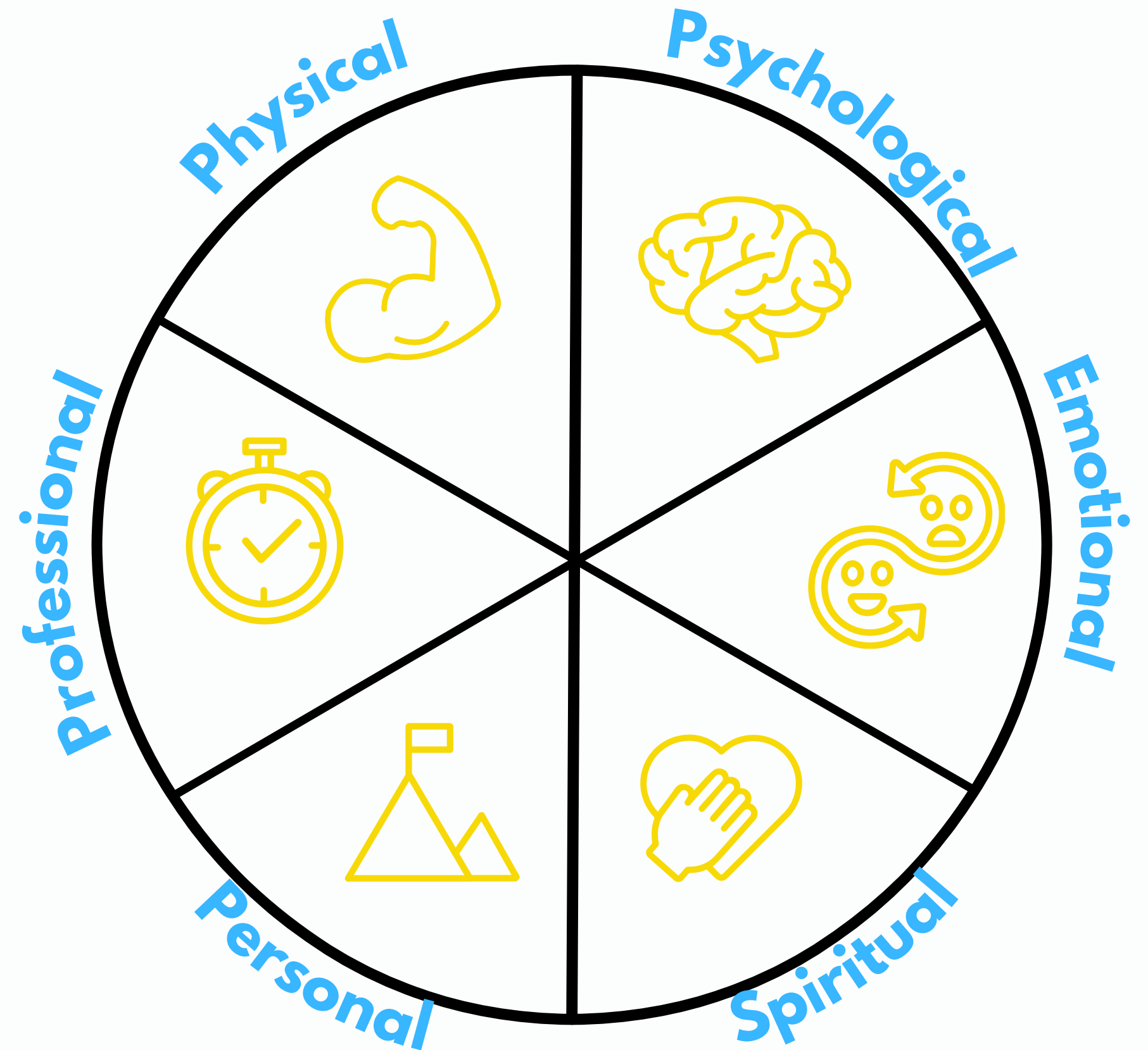


**‘The expectation that we can be immersed in suffering and loss and not be touched by it, is as unrealistic as being able to walk through water without getting wet’**



# The Self-Care Wheel

1. Physical
2. Psychological
3. Emotional
4. Spiritual
5. Personal
6. Professional



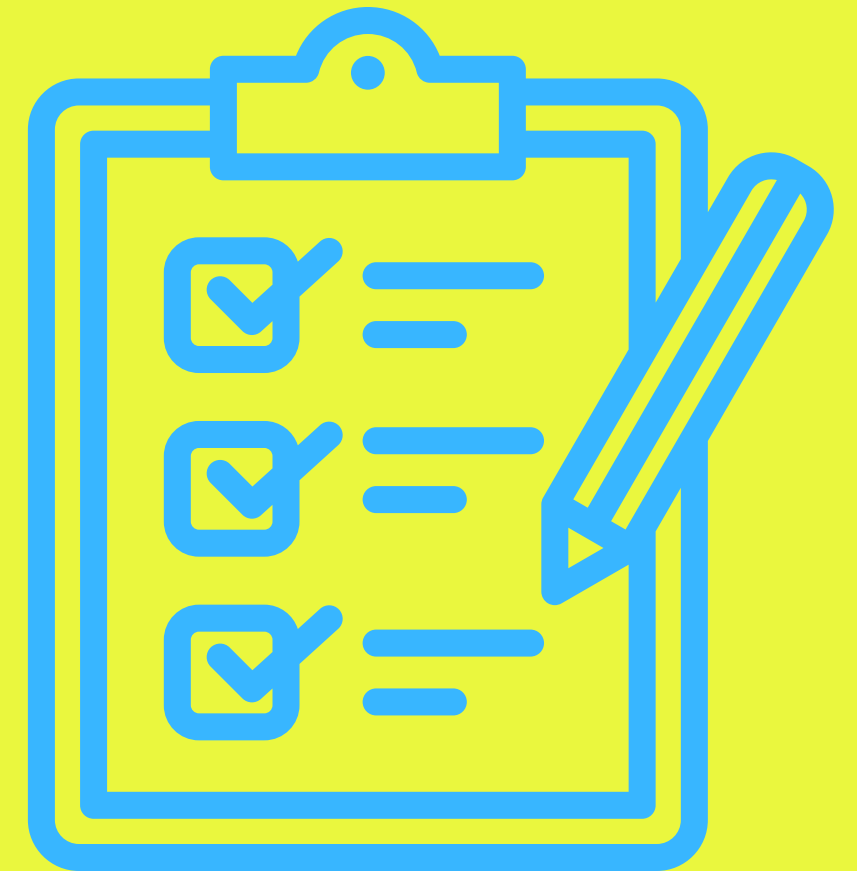


# Self-Care Assessment (to do at home)

## SELF CARE REFLECTION QUESTIONS

1. Which domain is your highest? Why?
2. Which domain is your lowest? Why?
3. What is 1-2 thing you can do differently this week to focus on your self-care in one or more areas?

‘If your compassion does not  
include yourself, it is  
incomplete.’ - Jack Kornfield





**Questions?**



# Thank you!

Get in touch via:  
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