

FASD and young people in conflict with the law

Aliy Brown & Barbara Ogston, FASD Hub Scotland

“Fetal Alcohol Spectrum Disorder (FASD) is a lifelong disability that affects the brain and body of people who were exposed to alcohol in the womb. Each person with FASD has both strengths and challenges and will need special supports to help them succeed with many different parts of their daily lives” ([CanFASD](#)).

Prenatal Alcohol Exposure (PAE) can occur at any point during the pregnancy, including before detection. Alcohol is included within the group of substances called teratogens, or poisons, meaning it is a substance that can cross to the developing foetus and cause harm at any stage of pregnancy, and can lead to FASD. A [2017 study](#) reported that 41.3% of pregnancies in the UK are subject to PAE, putting the UK fourth in the world for the number of pregnancies exposed to alcohol. Similar rates were found in a West of Scotland study, with 15% of these exposed to significant harmful levels. There is no known safe amount or time to consume alcohol during pregnancy, and the [UK's Chief Medical Officer's advice](#) is that those who are pregnant, or planning a pregnancy, should abstain from alcohol.

FASD is a ‘hidden disability’; you often cannot tell by looking at someone whether they have the condition. Around 10% have specific facial features that are indicative of PAE, such as a thin upper lip, smooth philtrum, and narrow eye opening. The remainder of those with a history of PAE [don't have these features](#), which has historically brought challenges in terms of professionals recognising the impact of PAE. For many, it can be difficult to obtain evidence to confirm PAE. This can result in individuals having a missed FASD diagnosis, or the impacts of PAE not being recognised where they meet the criteria for another condition. Furthermore, co-morbidity between FASD and other neurodevelopmental and physical conditions is high.

FASD is the most [common known cause](#) of neuro-developmental disability and birth defects in the western world. The [prevalence of FASD](#) is such that up to 1 in 20 people in Scotland could have FASD. In comparison, Autism Spectrum Disorder is thought to affect 1 in 94. Some groups are disproportionately affected by FASD, including the care-experienced community. Those with FASD are also [disproportionally represented](#) within the criminal justice system. The increased rates of mental health difficulties, and of alcohol or drug misuse, have been identified as being [common associated difficulties for individuals with FASD](#). With early diagnosis, [positive relationships](#) and [the right supports](#), individuals can [achieve positive outcomes](#). The [Scottish Intercollegiate Guidelines Network \(SIGN\)](#) national clinical guideline 156 identifies the following features and symptoms of the condition, all of which may play a role in the child coming into conflict with the law.

Brain Structure and Executive functioning People with PAE or FASD have structural brain anomalies and often experience difficulties in their higher order cognitive processing, based in the frontal lobe. They often experience problems with memory, planning, organising, and problem solving. In relation to criminal justice this affects the ability to understand cause and effect and to exhibit good judgement.

Sensory and Motor Skills Many individuals with FASD are hypersensitive to noise, lights, and textures such as clothes and foods. Conversely, they may experience altered sensitivity to pain. They may have difficulty with co-ordination and fine motor skills.

Affect/Emotional regulation Individuals with FASD may have difficulty in controlling their feelings, sometimes being overwhelmed with anger/frustration and anxiety. Adaptive Behaviour, Living and Social Communication Some individuals with FASD may not understand personal boundaries. They may have difficulty in taking behaviours learned in a specific situation and generalising them more widely. Their inability to read social cues can make them vulnerable to exploitation.

Thinking, Reasoning and Cognition Understanding complex ideas is difficult, and individuals with FASD may be easily distracted or over-stimulated. They may become tired easily as their brain needs to work harder and differently. They might behave impulsively due to difficulty in connecting cause, affect and good judgement. Language and Communication Individuals with FASD may appear to speak well but not understand the meaning of words. Language development may be delayed. They may find following instructions difficult.

Long and short-term memory can be affected Some individuals will confabulate, meaning their brain will unconsciously fill gaps in their memory with false recollections. They are likely to give the answers they think the person wants to hear. This is different from telling lies, but rather a reflection on the brain-based challenges they are experiencing.

How to support individuals with FASD or PAE in the justice systems

Someone with FASD could face many challenges. For example, when giving testimony on the stand they may present as being inconsistent, confused, unreliable in remembering details in the correct order, may confabulate, become anxious and/or freeze. Therefore, understanding and training for professionals is essential. The following principles and considerations are helpful to bear in mind.

FASD is a disability It's important to recognise that those with FASD or PAE have a disability. This gives individuals additional rights and professionals additional responsibilities to protect their wellbeing and provide support. It may mean they are entitled to a support person to be with them and require frequent breaks and simple language.

Think 'stage not age' People with FASD often present at a much younger age than their chronological one. If the interviewer remains calm and relaxed they'll appear safer and less threatening.

Think 'can't not won't' It is important to remember that the behaviours, or more aptly named symptoms, of FASD are not within the individual's control - an individual 'can't' change behaviours rather than 'won't'. For example, memory problems mean they will remember today but forget tomorrow.

Masking People experiencing FASD may 'mask' the challenges they are facing. They appear confident but struggle to remember, are inconsistent in their responses and become easily confused. Frequent breaks, a supportive relationship and 'checking in' can help avoid this.

Consequential learning, literal and concrete thinking People with FASD can have trouble connecting an action to a result. They may be unable to understand or remember previous experiences, so make the same mistakes repeatedly. They learn best when they can connect their learning with physical tools, reminders, and visual prompts.

Further information and support

[FASD Hub Scotland](#) provide a tiered support service for parents/carers of children, young people, and young adults with a history of PAE, with or without a FASD diagnosis, in Scotland. The service also provides a point of reference and training for professionals who support families. Email fasdhub.scotland@adoptionuk.org.uk.