

MAKING THE MOST OF WORKING WITH AN INTERMEDIARY

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Lexicon Limited

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This toolkit brings together policy, research and guidance relating to:

1. Intermediaries for witnesses in the CJS
 2. Requesting a Registered Intermediary
 3. Witness assessment
 4. Communication aids
 5. Joint planning of the investigative interview
 6. Application for an intermediary
 7. Liaison with the Witness Service and Witness Care Units
 8. Adjustments to accommodate needs
 9. Ground rules hearings
 10. Working with the intermediary at trial
- ANNEX A Communication aids and accommodating needs
- ANNEX B Intermediaries for defendants and in family/ civil cases

KEY POINTS

If you are requesting appointment of a Registered Intermediary for a prosecution or defence witness, contact the Witness Intermediary Scheme Matching Service ([section 2](#)). Intermediary assessment of communication abilities is appropriate if the person seems unlikely to be able to recognise a problematic question or may be reluctant to say so to a questioner in authority ([1.5](#)). Cost is not a factor in deciding to request assessment ([1.4](#)). The officer in charge of the case, in consultation with an intermediary for a prosecution witness, arranges the assessment ([3.2](#)); who should be present ([3.4](#), [3.5](#)); its location ([3.6](#)); and consents for release of information ([3.3](#)). The interviewing officer and intermediary must plan the interview together ([5.1](#)).

Additional advice from the intermediary may relate to communication aids ([section 4](#) and [Annex A](#)); the 'truth and lies' test ([5.4](#)); modification of suspect identification procedures ([5.6](#)); witness preparation ([section 7](#)); and a range of adjustments to accommodate the person's needs ([section 8](#) and [Annex A](#)).

If you are working with an intermediary in the criminal court process, (s)he must not be left alone with the witness ([3.4](#)), must be present at any contested application hearing ([6.2](#)) and at a ground rules hearing before the day of the witness's evidence ([9.1](#)). Informal discussion may be held beforehand ([9.9](#)). Certain topics must be addressed at the hearing ([9.3](#)); other matters should be considered ([9.4](#)). The judge must define any limitations on questioning and state what ground rules apply ([9.6](#)). Advocates have a duty to abide by rulings ([9.7](#)). The judiciary has a paramount responsibility to control questioning and deal with failure to comply with ground rules ([10.1](#)); prosecutors have a responsibility to seek the court's intervention ([10.2](#)). Limitations on questioning should be explained to the jury ([10.3](#)). The intermediary must be allowed 'actively to intervene' if miscommunication is likely ([10.4](#)).

Appointment of intermediaries outside the Witness Intermediary Scheme (eg for defendants) is covered in [Annex B](#).

1. INTERMEDIARIES FOR WITNESSES IN THE CJS

1.1 **The intermediary's primary responsibility is to facilitate two-way communication between the witness and others**

'They are neutral and independent, offering assistance to the court and responsible to the court. Their presence is designed to assist the judge and the advocates and the witness to ensure that they all understand each other' ([Lord Judge](#) 2013). Reports and recommendations based on their assessment of the witness's communication abilities advise how best to adapt communication (and the environment in which it takes place) to the witness's individual needs. Intermediaries appointed for prosecution witnesses facilitate communication at the investigative interview, at meetings between witnesses and the police and/ or Crown Prosecution Service, during identification procedures and at trial. Intermediaries also assist communication between defence witnesses or defendants and defence lawyers and other criminal justice personnel.

1.2 **The intermediary provision** Section 29, [Youth Justice and Criminal Evidence Act 1999](#) is a special measure for vulnerable prosecution and defence witnesses aged under 18 or whose quality of evidence is likely to be diminished by reason of (section 16(1) and (2)):

- a mental disorder within the meaning of the Mental Health Act 1983;
- a significant impairment of intelligence and social functioning;
- a physical disability or disorder.

1.3 **Special measures are authorised where likely to improve the quality of witness evidence** in terms of 'completeness, coherence and accuracy' (sections 16(1)(b), 16(5), [Youth Justice and Criminal Evidence Act 1999](#)):

- the intermediary's function is to communicate 'questions put to the witness, and to any persons asking such questions, the answers given by the witness in reply to them, and to explain such questions or answers so far as necessary to enable them to be understood by the witness or person in question'¹ (section 29 (2));
- in practice, intermediaries relay questions or answers only if witness needs require it. They help plan questioning and intervene as necessary to avoid potential miscommunication. They cannot change the substance of the witness's evidence.

1.4 **Cost must not be a factor in deciding whether to request assessment** Requests fail to be made for many eligible witnesses (HM CPS Inspectorate and HM Inspectorate of Constabulary, [Joint inspection report on the experience of young victims and witnesses in the CJS](#) 2012) or are deferred until trial. Intermediaries appointed after a written statement has been taken sometimes find that it did not accurately reflect the witness's communication. **Poor practice example:** words used in the statement of a witness with a learning disability included 'unobstructed', 'visibility', 'carriageway', and 'shown overleaf'.

1.5 **Intermediary assessment is appropriate** for a child or vulnerable adult unlikely to be able to recognise a problematic question or, even if able to do so, may be reluctant to say so to a questioner in authority (para 2.194, [Achieving Best Evidence](#) 2011; page 33, para 1.5, [Code of Practice for Victims of Crime](#) 2013). Many children fall into one or both

¹ This would encompass use of the intermediary as an interlocutor ('a person approved by the court who enjoys the child's confidence') to relay questions to the witness (recommendation 6, [Report of the Advisory Group on Video Evidence](#) 1989).

categories (chapter 5, para 46, [Equal Treatment Bench Book](#) 2013). There is a presumption of intermediary assessment for children aged 11 and under (para 3F.5, [Criminal Practice Directions](#) 2014) and for any child in sex abuse cases (paras 37, 85, 86, CPS [Guidelines on Prosecuting Cases of Child Sex Abuse](#) 2013).

1.6 **Communication needs are often not apparent** (see other toolkits); may be actively hidden by the person in question; and are often affected by trauma and the stress of the criminal process. It is vital to look beyond 'first impressions'.

1.7 **Misunderstandings of the intermediary role are common** An intermediary is not:

- 'acting' for either side. Records of their activities are disclosable (para 1.23, [RI Procedural Guidance Manual](#) 2012²);
- a joint interviewer with the police, an appropriate adult or a supporter (para 1.23);
- a witness. Their reports are not exhibits and need not be accompanied by a witness statement. Intermediaries do not give evidence or sign a witness statement except in exceptional circumstances and should not be summonsed to attend court as they are neither witnesses nor persons ordered to produce documents (para 1.66);
- an expert witness.³ They cannot express an opinion on the defendant's guilt (para 1.23); witness competence (para 1.7); credibility; memory; capacity to consent to sexual activity or to be interviewed by the police; or suggestibility (whereas 'compliance' falls within the intermediary's remit).

1.8 **The judiciary may request assessment of a vulnerable witness whose communication needs have been overlooked** (section 19(1)(b), [Youth Justice and Criminal Evidence Act 1999](#); section 5.45, [Equal Treatment Bench Book](#) 2013).

2. REQUESTING A REGISTERED INTERMEDIARY

2.1 **The Ministry of Justice is responsible for recruitment, training and accreditation of Registered Intermediaries** in support of the section 29 provision.⁴ Registration is based on professional communication skills, relevant experience and successful completion of training in the role. The majority are speech and language therapists; others come from a range of professional disciplines. Intermediaries are not necessarily interchangeable.

2.2 **The Witness Intermediary Scheme Matching Service** is managed by the National Crime Agency on behalf of the Ministry of Justice. The Matching Service team can be contacted on 0845 0005463 and by e-mail at soc@nca.pnn.police.uk (by pnn users) or soc@nca.x.gsi.gov.uk (by others). The team:

- provides support to police officers and prosecutors in the use of Registered Intermediaries and offers advice on interview strategies for vulnerable and intimidated witnesses. The team will endeavour to identify a Registered Intermediary with requisite skills to meet the communication needs of the individual witness;

² This Ministry of Justice guidance applies only to Registered Intermediaries. It constitutes good practice for those working as a non-registered intermediary, but they are not required to follow it.

³ Their reports state 'I am not instructed as an expert witness. I cannot give an opinion on the accuracy of a witness's recall of the facts in this case nor can I give an opinion on whether a witness is telling the truth in his/ her evidence'.

⁴ With the court's agreement, a non-registered intermediary could be appointed to assist a witness, but in practice this role is carried out by those on the Ministry of Justice register.

- is managed by the National Vulnerable Witness Adviser⁵ who regularly deploys to major crime investigations to assist in developing interview and witness management strategies relating to particularly challenging vulnerable or intimidated witnesses;
- the Matching Service cannot identify intermediaries for work outside the scope of the Witness Intermediary Scheme (see [ANNEX B](#) below).

2.3 A Registered Intermediary cannot begin work without a completed Request for Service form available from the Matching Service. Finding an appropriate intermediary is dependent on the accuracy of information provided.⁶ Give as much descriptive detail as possible about witness communication ('ticked' boxes alone are less informative and may be misleading). If possible (subject to consent) consult others, eg the carer, social/ support worker, teacher or special needs assistant, before submitting the form. Use the section '*Additional information – reports*' to attach a report or indicate that it will be forwarded.

2.4 Time is of the essence where intermediary use is contemplated (page 12, [Early Special Measures Discussions between the police and the CPS](#) (2009 CJS)). The Matching Service aims to allocate an intermediary within 10 working days. Give reasons if one is required more urgently. Sometimes appointments can be made at short notice but opportunities for 'best evidence' are maximised if the intermediary has sufficient time to obtain information, assess the witness and provide advice:

- requests should be made before the investigative interview;
- a request should be made for each eligible witness. Unless these are documented, it is impossible to forecast accurately levels of need;
- requests delayed until just before trial are highly unsatisfactory. Even if an appointment is made, the trial may be adjourned if relevant work cannot otherwise be completed.

2.5 Identify the contact The intermediary is expected to contact the end-user within 24 hours of accepting a case, or as otherwise agreed. Provide available dates/ times and, if necessary, details of a police/ CPS alternate who is knowledgeable about the case. Intermediaries can often be contacted 'out of hours'. **Poor practice examples:** intermediaries could not proceed in urgent cases because those initiating the request did not provide a mobile number, a frequently-checked email address, were on leave or were otherwise unavailable.

2.6 The CPS must complete a Request for Service form for a trial intermediary whether or not an intermediary assisted at the investigative interview:

- the officer in charge of the case should be consulted and his or her contact details supplied. An officer knowledgeable about the case should arrange/ attend the witness's assessment, court familiarisation visit and memory refreshing;
- where possible, the intermediary at interview should act at trial.⁷ The CPS should request his or her available dates and ensure these are taken into account when

⁵ Dr Kev Smith (kev.smith@nca.x.gsi.gov.uk), who is also an ACPO Approved Interview Adviser.

⁶ If the appointed intermediary concludes, after enquiry, that (s)he does not have the relevant skills for this witness, (s)he will ask the Matching Service to appoint another intermediary (para 1.44, [RI Procedural Guidance Manual](#) 2012).

⁷ The Matching Service will appoint a replacement if this is unavoidable. Both intermediaries will arrange a handover. The new intermediary must be given all relevant papers; assess the witness personally; and write a report for the ground rules hearing (paras 1.63, 1.71, [RI Procedural Guidance Manual](#) 2012).

scheduling witness evidence. The dates when the intermediary is actually required should be fixed: 'warning' the intermediary for a longer period means they are not available for other cases;

- the intermediary's contribution to the police interview may not be apparent from the DVD interview. **Poor practice example:** The intermediary assessed a four-year-old, working closely with the officer and the anxious mother. The interview went smoothly. The CPS decided that, as the interview had gone 'so well', the intermediary was not needed at trial: the child curled up in extreme distress and refused to answer questions.

3. WITNESS ASSESSMENT

3.1 ***Every intermediary appointment begins with assessment*** tailored to the individual witness's abilities: there is no standard approach. The amount of time needed varies; a few require more than one session. The essential task is establishing how best to facilitate communication. Consider how to explain the process to the witness. Some may have had bad experiences of 'assessment' (avoid this word) and will be anxious about what is entailed. Some may need to be reminded about the time of the appointment. Before the assessment, many intermediaries send the witness a simple letter explaining the process.

3.2 ***Arrangements are the responsibility of the officer in charge of the case*** even where the intermediary's appointment is requested by the CPS. Intermediaries keep a note of the assessment but it need not be recorded/ noted verbatim (para 1.48, [RI Procedural Guidance Manual](#) 2012). The intermediary will need:

- further information about the witness, the defendant's name/ case number, any risk factors (para 1.39, [RI Procedural Guidance Manual](#) 2012) and contact details for key professionals involved with the witness;
- a brief overview of alleged offences (limited to what the intermediary needs to know in order to plan how best to facilitate communication); likely topics for interview; and vocabulary eg names the witness is likely to use. Provide guidance on subjects to be avoided in assessment eg where the allegation involves a family member or teacher, or where a witness was recently bereaved.

3.3 ***The police and intermediary should discuss how best to obtain appropriate consents*** to enable the intermediary to enquire about the witness's communication needs and obtain relevant reports from eg teachers and doctors (paras 1.39-1.41, [RI Procedural Guidance Manual](#) 2012). Intermediaries prefer to obtain some background information before assessment if time permits. Some medical personnel do not comply with the general police consent form and prefer the Registered Intermediary consent form with the signature of the witness, parent or guardian agreeing to a list of specific people to be contacted. The police will obtain consent from a child's parent or guardian. Some intermediaries wait until they first meet an adult witness and officer to explain the need to contact others, thus ensuring that the witness gives fully informed consent.

3.4 ***The police must identify a responsible third party to accompany the intermediary and witness*** who must not be left alone together.⁸ The third party:

⁸ An anxious child who wanted to be alone with the intermediary was observed by the third party through one-way glass.

- should be an officer, preferably the interviewer, who will gain first-hand experience of the communication needs of the witness (who may be adept at disguising his or her problems) and of the intermediary's communication strategies and approaches (para 1.46, [RI Procedural Guidance Manual](#) 2012). This will help in planning the interview and save time in building rapport with the witness;
- must be able to identify and record the witness's unsolicited remarks that may be relevant to the case, inform the police and give evidence. The witness carer may act as third party only a last resort, having given informed consent to accept this responsibility.

3.5 ***The intermediary and officer should discuss in advance the presence of someone providing emotional support to the witness*** This person should not be a potential witness (para 1.47, [RI Procedural Guidance Manual](#) 2012).

3.6 ***The assessment should be conducted somewhere quiet where the witness can be helped to feel calm and safe*** Be mindful of the effect on the individual witness of the familiarity or otherwise of the environment in which the assessment (or interview) takes place. **Good practice examples:** a witness with autism was anxious in new surroundings. He was assessed at home and had a familiarisation visit to the police interview suite prior to interview. In contrast, a five-year-old was assessed in the interview suite's family room, to avoid the risk of 'contaminating' the safe environment (home, substitute home or school) of a child unable to rationalise and compartmentalise feelings associated with trauma.⁹ It was also easier to explain 'rules' eg '*In this place [unlike school] we don't guess*'.

3.7 ***The intermediary may advise against conducting the police interview on the day of the assessment*** if the witness has not met the interviewer before, the witness may be tired and/or a further assessment may be required (para 1.49, [RI Procedural Guidance Manual](#) 2012). It may be necessary to create communication aids tailored to the needs of the witness and case. Even where both take place on the same day, allow time for the witness to have a break and for the intermediary and interviewer to plan the interview.

3.8 ***The intermediary will pass on assessment findings*** to the person commissioning the assessment. If the interview takes place the same day, this can be done orally; otherwise the intermediary should provide a preliminary report (para 1.50, [RI Procedural Guidance Manual](#) 2012). The intermediary will advise whether the witness:

- has ability to communicate their evidence and, if so, whether use of an intermediary is likely to improve its quality (completeness, coherence and accuracy);
- does not require intermediary assistance or is unlikely to be able to give evidence even with assistance;
- is able to separate from a parent or carer (this may be tested at assessment).

3.9 ***If it is decided to re-interview the witness*** the same intermediary should assist. More than one interview may be needed eg due to a short attention span or in order to build trust in the interviewer over time (paras 38, 39, CPS [Guidelines on Prosecuting Cases of Child Sex Abuse](#) 2013). A planning meeting is essential for each interview.

⁹ This may also be a risk for assessment or interview of adults with learning disabilities.

3.10 ***If the intermediary is appointed after the interview***, it is preferable for the third party at the assessment to be the interviewing officer if a further interview is likely. Otherwise this should be the officer in charge of the case or someone familiar with it. The officer is responsible for arranging for the intermediary to see the DVD or statement after the assessment has taken place. Viewing the DVD requires consent from the witness or parent/ guardian (paras 1.67,1.68, [RI Procedural Guidance Manual](#) 2012).

3.11 ***Assessment of a defence witness follows the same principles*** The solicitor or a member of staff must be present. The intermediary's preliminary report goes to the solicitor who will interview the defence witness (para 1.51, [RI Procedural Guidance Manual](#) 2012).

4. COMMUNICATION AIDS

4.1 ***Communication aids are a statutory special measure*** requiring an application for use at trial (section 30, [Youth Justice and Criminal Evidence Act 1999](#); paras 3.103-122, [Achieving Best Evidence](#) 2011 and section 5.53, [Equal Treatment Bench Book](#) 2013). The intermediary will advise on selection or creation of aids (see ANNEX A). Reasons for use at interview should be documented but prior CPS permission is not required. The trial judge generally approves applications for aids used at interview, although additional aids may also be needed for trial. Officers and advocates should familiarise themselves with them. Decisions should be made well in advance of trial; copies will be needed for court. **Good practice example:** CPS agreed to have the interviewer show photos of an injury to a witness with severe learning disabilities to remind her of the topic. Having seen the photos, she mimed being bitten on her arm and named who did it.

4.2 ***Aids are not confined to the subject-matter of questioning*** but also include those to help keep the witness calm and focused. Use of aids requires additional preparation time (eg ensuring that options are appropriately balanced and not leading) and sometimes additional time at interview and trial.

5. JOINT PLANNING OF THE INVESTIGATIVE INTERVIEW

5.1 ***The interviewing officer and intermediary must plan each interview together*** Individual witness needs vary and intermediaries work differently according to their professional judgement and practice:

- sufficient time must be allowed for a planning discussion between the intermediary and the interviewing officer (and social worker if one is involved). **Poor practice example:** following intermediary assessment of a witness who was mute, the officer did not involve the intermediary at interview because of the officer's 'good relationship' with the witness. This failed to take account of the intermediary's role or to anticipate communication problems at trial;
- time must also be allowed to build rapport between the interviewing officer and witness if they have not met before (this is undesirable and may also have an adverse affect on the interview). Reluctance (sometimes indicated non-verbally) on the part of a non-disclosing witness must be addressed at a very early stage, before negative dynamics emerge. Better rapport-building and provision of emotional support may enhance engagement with the interviewer (Lamb et al (2013);

- the interviewer should indicate the structure of the interview, sequence of topics and examples (at least) of opening questions. This will help focus the intermediary's advice (eg whether the witness may have problems with concepts or 'position' words). It is desirable that the interviewer is experienced in conducting [Achieving Best Evidence](#) interviews (2011).

5.2 **Conduct and management of the interview are police responsibilities** They should make a note of reasons for significant departures from [Achieving Best Evidence](#) (2011).

5.3 **The intermediary helps by facilitating communication but is not a joint interviewer** Advice and issues to be decided before interview include the following (paras 1.52-1.59, [RI Procedural Guidance Manual](#) 2012):

- the most effective method of questioning, including use of communication aids and whether the intermediary should repeat answers for clarity on the recording. **Good practice example:** a man with mental disorder and selective mutism wrote down his answers and the intermediary read them out to the officer;
- how the officer and the intermediary will check on the witness's understanding;
- how to set up the interview room so that communication between the intermediary and witness is clear to the interviewer and anyone watching the recording. This may involve removal of distracting items; the position and type of seating (eg child-size chairs); the position of microphones for a quiet witness; and camera positions to capture the use of communication aids¹⁰ or ensure the recording can be used for memory-refreshing by a hearing-impaired witness wishing to lip-read. **Good practice example:** the interview plan for a witness with cerebral palsy covered the room layout, furniture and camera positions. The witness had easy wheelchair access and answered questions by gazing at double-sided symbols on a transparent plastic frame. Cameras captured the witness's face and selection of symbols;
- whether the intermediary's declaration¹¹ and other explanations at the start of the DVD interview should take place before the witness comes into the room;
- the number and roles of people in the room, if this may affect communication. A social worker may watch from the observation room. The role of any supporter¹² in the interview room should be clarified ahead of time;
- frequency and duration of breaks. These can also be used to discuss communication issues and plan the next part of the interview;
- how the intermediary will intervene, or indicate a break is needed, and how the officer should indicate a wish for the intermediary's assistance;
- whether the information sought should be prioritised, to make optimum use of the witness's concentration span. The intermediary can assist at the taking of a victim personal statement but it may not be feasible to do this on the day of interview;

¹⁰ An additional camera (eg as used in interview suites in interpreter cases) is particularly useful when aids are employed.

¹¹ 'I solemnly, sincerely and truly declare that I will well and faithfully communicate questions and answers and make true explanation of all matters and things as shall be required of me according to the best of my skill and understanding' (Rule 29.7, [Criminal Procedure Rules](#) 2013).

¹² Victims may choose who should accompany them at interview unless a reasoned decision has been taken to the contrary: page 33, para 1.6, [Code of Practice for Victims of Crime](#) 2013.

- any other circumstances relating to the witness's understanding, physical or mental health needs and ability to focus. **Good practice example:** a traumatised witness was allowed to bring her well-behaved dog to the interview, in order to normalise the process. The witness stroked the dog's fur throughout.¹³

5.4 **The intermediary will advise how best to communicate the 'truth and lies' test, if used** This is tested with children and with some vulnerable adults¹⁴ (paras 3.17-9, [Achieving Best Evidence](#) 2011). The intermediary may suggest approaches for those likely to be confused by listening to conventional examples, particularly those under seven or with learning disabilities, autism or other impairments of communication. Avoid 'telling a story' or asking the child to 'imagine' or 'pretend' (Marchant 2013(i)).¹⁵ If it is not possible to deal briefly with the test in the interview but the witness has something significant to report, consult the CPS about commissioning an expert assessment of the witness's understanding of truth and lies (paras 3.20, 3.23, [Achieving Best Evidence](#) 2011).

5.5 **After the interview** the intermediary will provide a report with recommendations if the witness is to be questioned at trial. Keep the intermediary informed about case progress. 'Wash-up' discussions between the interviewer and intermediary can be helpful.

5.6 **The intermediary can advise on modifications to suspect identification procedures** Adjustments must be transparent and reasons documented. Early consultation with the Identification Officer enables procedures to be adapted to the witness's needs as long as the officer considers them fair and reasonable. This consideration may be tested in court. **Good practice examples:** adaptations have included simplifying the formal script; practice using non-evidential photos; adding a familiar object into each photo so that the witness could identify someone by the object instead of a number; allowing the witness to use yes/no cards after viewing each picture; reducing the number of photos presented at one time and changing the pace of their presentation; and allowing a five-year-old to draw what 'wasn't right' about a photo of a suspect she kept returning to (the photo showed him with spiky hair; she drew someone with a smoothed down fringe). **Poor practice example:** the intermediary was used at interview and trial but not at the VIPER process due to cost. At trial, one element of the defence case was that the witness with learning disability did not understand the language used during the VIPER identification.

5.7 **Other intermediary activities** Intermediaries have also:

- been involved in [Early Special Measures Discussions between the Police and the CPS](#) (page 16, 2009) and [Special Measures Meetings between the CPS and Witnesses](#) (page 7, 2009);
- annotated transcripts of investigative interviews at which they were present, to clarify remarks which transcribers labelled 'unintelligible' (eg from a child with a cleft palate) or where a description of non-verbal communication was omitted. **Good practice example:** the CPS paid for an intermediary to correct errors in the transcript of a witness with

¹³ Trained dogs are used to accompany young and vulnerable adult witnesses while giving evidence at court in the USA, Canada, Chile and Finland: courthousedogs.com/index.html.

¹⁴ Use of the test is necessary 'where there is likely to be an issue as to whether they understand the value and importance of telling the truth in court': para 3.21, [Achieving Best Evidence](#) 2011.

¹⁵ For an illustrated version of the *John and the ball* 'truth and lies' test, see triangle.org.uk/catalog/resources/kits. A DVD and app with brief filmed examples to use in testing 'truth and lies' are available from the same source.

Down syndrome where he named the suspect but this had been transcribed as something different;

- facilitated communication at crime scenes and in discussions about witness protection.

6. APPLICATION FOR AN INTERMEDIARY

6.1 **Applications for the intermediary special measure should be timely** (not more than 14 days after a not guilty plea in the Crown Court or 28 days in magistrates' court: Rule 29.3, [Criminal Procedure Rules 2014](#). Any response must be made within 14 days of receipt: Rule 29.13). If the police or CPS have concerns about the intermediary's report, this must be raised with the intermediary as only (s)he can amend its content. The application:

- and intermediary's report must be served on the court and other party;
- must include the witness's views on use of special measures, for consideration by the court (section 19(2), [Youth Justice and Criminal Evidence Act 1999](#));
- should highlight the effect of intermediary use on the quality of the individual witness's evidence, based on the assessment (1.78, [RI Procedural Guidance Manual](#) 2012).

6.2 **The intermediary must be in court at a contested application hearing** to explain the recommendations and in what way his or her presence will facilitate communication (para 2.46, [RI Procedural Guidance Manual](#) 2012). Excluding the intermediary, an independent officer of the court, from a contested application jeopardises the court's ability to make an informed decision. Section 5.47, [Equal Treatment Bench Book](#) 2013 lists some arguments without merit which are put forward as to why an intermediary is not needed:

- *the interview was conducted without an intermediary* Communication during trial is more challenging, leading to more opportunities for miscommunication;
- *the intermediary took no active part at interview* This may in fact indicate good planning between the interviewer and intermediary prior to the interview;
- *advocates will comply with the intermediary's recommendations* Many advocates find it more difficult to adapt key questions than they anticipate. It can be difficult to keep in mind all aspects of questioning that may be problematic for an individual witness. Some communication problems cannot be anticipated.

6.3 **A specified supporter in the live link room is a statutory special measure** This may be recommended by the intermediary. In determining who should provide emotional support to the witness, an increased degree of flexibility is appropriate. The court must have regard to the witness's wishes (para 29B.1,2, [Criminal Practice Directions](#) 2014; Rule 29.10(f), [Criminal Procedure Rules 2014](#)). Ushers should not be regarded as a source of emotional support (section 5.38, [Equal Treatment Bench Book](#) 2013).

6.4 **Combined special measures to shield the live link screen from the defendant and the public** (para 29A.2, [Criminal Practice Directions](#) 2014) may be recommended by the intermediary for a witness wishing to use the live link but fearful of being seen.

7. LIAISON WITH THE WITNESS SERVICE AND WITNESS CARE UNITS

7.1 **Witness preparation is usually the responsibility of the Witness Service or (if available) a specialist support scheme** Intermediaries work in partnership with the

supporter and, where appropriate, with other professionals familiar with the witness. Where required by a witness's specific needs, some intermediaries take a more active role, eg explaining the court process and 'rules' to the witness in the supporter's presence.

7.2 The intermediary should accompany the witness to the court familiarisation visit (para 1.80, [RI Procedural Guidance Manual](#) 2012) and be involved ahead of time in planning what will be covered. **Good practice examples:** before the visit, the intermediary and Witness Service manager discussed the intermediary's role and the witness's needs. The manager then allocated the most suitable supporter; the intermediary advised the supporter on communication and they took part in non-evidential Q and A with the witness over the live link. The trial moved court, but the judge ruled that the witness's evidence be taken at the original court with which the witness was familiar. In another case, the intermediary requested that uniformed officers escort a traumatised child witness from the car park into the court building at the visit and at trial.

7.3 The witness is entitled to practise using the live link and to see screens in place. Being shown the live link is inadequate (section 29B.4, [Criminal Practice Directions](#) 2014 and page 51, section 1.22, [Code of Practice for Victims of Crime](#) 2013). The practice session is a key part of intermediary assessment and witness preparation for trial. If the witness is distracted by the 'picture in picture' on the TV screen, the intermediary may recommend that this is turned off or covered at trial. The practice session may reveal that it is preferable for the witness to use a screen in court or for the advocates to go into the live link room to question the witness face to face.

7.4 Courts should permit intermediaries and supporters to take photos or other visual recordings of facilities (eg live link rooms) to assist vulnerable witnesses, subject to security requirements (para 3F.7, [Criminal Practice Directions](#) 2014).

7.5 The intermediary with consent to share information will inform the Witness Service of relevant matters regarding the witness's communication needs, care and well-being and inform the witness/ witness's guardian (paras 1.24(m), 1.82, [RI Procedural Guidance Manual](#) 2012). **Good practice examples** include the intermediary:

- alerting the Witness Service to the personal care needs of a witness who might become incontinent, or to anything that the witness may find distressing (eg using a lift);
- alerting security staff to witness anxiety about being searched on entry to the building;
- clarifying who will wait with the witness. Intermediary practice varies as to whether they sit with the witness during breaks. If they do, someone else must be present;
- adapting or creating explanatory court familiarisation material (eg photos of the court, judge and advocates) tailored to the needs of the witness;
- alerting the Witness Service manager to the purpose and timing of the ground rules hearing, which it may be useful for the manager or allocated supporter to attend.

7.6 The intermediary may advise the Witness Care Unit on how best to communicate with witnesses (eg by adapting routine letters and preparing letters for young witnesses to accompany those to their parents). **Good practice examples** included the following:

- a woman with Asperger syndrome had to make a complex journey to court by public transport and stay at an unfamiliar hotel. Following the intermediary's advice, the

Witness Care Officer gave the witness written instructions for travel and arranged transport service escorts for the witness when boarding trains, and moving between platforms and stations. A police officer met the witness at the hotel, walked with her to court and escorted her back to the hotel after court. The witness was able to give evidence;

- a man with Asperger syndrome liked to mend fences, to the extent that if he was on a bus and saw a broken fence, he would get off the bus to fix it, losing all sense of time. Because of this, he was 1½ hours late to meet the intermediary. She arranged for the Witness Care Officer to phone him every ten minutes when he was on the bus to court. He attended court on time and was able to give evidence.

7.7 *The intermediary may share concerns about a witness at risk of significant harm* eg if they were to return to the place where alleged offences occurred or if they did not get access to necessary services (para 1.106, [RI Procedural Guidance Manual](#) 2012).

8. ADJUSTMENTS TO ACCOMMODATE NEEDS

8.1 *In preparation for trial, the court must take every reasonable step to facilitate participation* of any person, including the defendant (Rule 3.9(3)(b), [Criminal Procedure Rules 2014](#)). In addition to recommendations relating to questioning, the intermediary may propose other adjustments to accommodate witness needs. Courts have demonstrated flexibility in response to these recommendations (for examples, see [ANNEX B](#)).

8.2 *The intermediary may suggest that introductions to the trial judge and advocates take place at a pre-trial visit* coinciding with a pre-trial hearing, rather than at the trial. Participants should be seated.

8.3 *The court will seek intermediary advice about memory refreshing* This includes timetabling and when the witness should watch the DVD interview:

- decisions about where and how refreshing should be dealt with, and whether the witness should see the DVD more than once, should be court-led and made on a case-by-case basis. The intermediary may assist at memory refreshing but should not be asked to report to the court anything that is said. The witness's first viewing of their DVD can be distressing (to the extent of making the witness physically sick) or distracting. It therefore should not be seen for the first time immediately before giving evidence (section 29C.1-3, [Criminal Practice Directions](#) 2014);
- there is no legal requirement that a witness should watch the DVD at the same time as the jury. Increasingly, viewing takes place before trial, with the advantage that breaks can be taken as needed and cross-examination can be scheduled to start while the witness is fresh (section 29C.4);
- the intermediary is likely to emphasise the importance of avoiding waiting time at court (para 90, CPS [Guidelines on Prosecuting Cases of Child Sex Abuse](#) 2013) and about the optimum time to take the witness's evidence¹⁶ in relation to attention span and other factors affecting the quality of evidence. Waiting times should not be artificially extended by requiring the witness to arrive early to avoid the defendant or his supporters. **Good**

¹⁶ This includes avoiding pre-trial delay. Cases involving children or young people should be heard as soon as possible, with delay for child victims kept to 'an irreducible minimum': para 3D, [Criminal Practice Directions](#) 2013.

practice example: following discussions with the intermediary, a judge ordered defendants to be seated in the dock for ten minutes at the start and end of the court day to ensure that young witnesses could enter and leave the building calmly.

8.4 **Evidence from a remote live link location** (Toolkit 9) Sufficient time must be set aside to permit advance planning. The ground rules hearing should be scheduled to enable the intermediary to attend in person. At trial, the intermediary must always be able to communicate with the trial court. An intermediary has been permitted to text an advocate to indicate when a break was needed.

9. GROUND RULES HEARINGS

(See toolkit 1(a), Ground Rules Hearings)

9.1 **Ground rules must be discussed between the trial judge, advocates and intermediary before the day of the witness's evidence.** This gives advocates time to prepare their questions, saving time at trial (para 3.E3, [Criminal Practice Directions](#) 2014); gives the intermediary time to prepare communication aids; and facilitates other planning matters. The intermediary must be present but need not take the oath (para 3E.2). Discussion may occur in court or informally in chambers. Some judges wish the defendant to hear any limits imposed by the judge on cross-examination.

9.2 **In magistrates' court, the ground rules hearing must be conducted by the Bench** not the legal advisor alone (section 5.2, Magistrates' Court [Preparation for effective trial](#) form).

9.3 **In an intermediary case, the ground rules hearing must address** (part F.1 [Application for a special measures direction](#)):

- *how questions should be put to help the witness understand* A radical departure from traditional cross-examination may be required (para 3E.4, [Criminal Practice Directions](#) 2014). The intermediary may suggest avoiding certain types of questions, drawing on their assessment; advocates may seek advice about adapting their questions (including prosecutors asking supplementary questions in examination-in-chief). The judge may invite defence counsel to write out questions in advance (para 43, [R v Lubemba](#) [2014] EWCA Crim 2064) and discuss them with the intermediary (alternatives should be considered depending on witness answers). This does not preclude the possibility of intermediary intervention during questioning if necessary;
- *how the intermediary will alert the court if the witness has not understood* The intermediary needs to speak (not just signal) to indicate possible miscommunication or other problem, preferably before the witness answers. Some misunderstandings may only be evident once an answer has been given. The judge will advise whether intermediary interventions can be addressed to the advocate, as this is often less confusing for the witness (when the advocate is speaking, the intermediary and witness cannot see the judge over the live link). Usually, the intermediary indicates a potential problem and may explain by referring to the assessment; the advocate re-phrases the question; then, if necessary, the judge asks the intermediary to re-phrase it;
- *how the intermediary will alert the court if the witness needs a break* Planned breaks are less likely to favour one side, but unscheduled breaks (including very short breaks,

without sending out the jury – see [ANNEX B](#)) may be appropriate if the intermediary detects early signs of loss of concentration or increased anxiety. Witnesses may be invited to signal their need for a break ('urgently' or 'soon') eg with coloured cards.

9.4 **Other matters to be considered include:**

- Whether the intermediary should repeat any or all of the witness's answers;
- intermediary advice to inform judicial decisions about the length of cross-examination (intermediaries should enquire about advocates' estimates of length). The judge 'is entitled to and should set reasonable time limits' (eg 45 minutes for a child of 10: paras 32, 51, [R v Lubemba](#) [2014] EWCA Crim 2064). Duration must take account of age/intellectual development (section 5.63, Judicial College [Equal Treatment Bench Book](#) 2012), with a total of two hours as the norm and half a court day at the outside. The intermediary may recommend that questioning to take place in short intervals over more than one day due to witness needs, eg age, health, attention span, disability etc. (section 4.1, Toolkit 1(c) Ground Rules);
- whether the intermediary will take the oath in court or over the live link, and will explain their qualifications and training (page 106, Judicial College [Crown Court Bench Book – Directing the Jury](#) 2010). Taking the oath in the absence of the witness is often preferable, because the wording of the intermediary declaration is complex;
- the witness's preferred name; how to refer to the intermediary (ie the name known to the witness); and how the judge and advocates should be referred to;
- use of communication aids (see [section 6](#) and [ANNEX A](#));
- whether photos or papers will be shown to the witness in the live link room and by whom this should be handled.

9.5 **Discussions are most effective where the judge actively involves the intermediary in explaining the recommendations** **Good practice examples:** The intermediary presents recommendations for discussion; the judge invites advocates to request clarification if necessary and, before confirming ground rules, the judge asks '*Is there anything else I need to know?*'.

9.6 **The judge must state what ground rules will apply and clearly define any limitations on questioning or on the advocate 'putting his case'** where a young or otherwise vulnerable witness may fail to understand, become distressed or acquiesce to leading questions (para 3.E.4, [Criminal Practice Directions](#) 2014). The judge 'is not obliged' to allow defence counsel to put their case (para 51, [R v Lubemba](#) [2014] EWCA Crim 2064); and may not allow an assertion that the witness is lying (para 28, [R v E \[2011\] EWCA Crim 3028](#)). The intermediary may ask for clarification if ground rules seem unclear. **Poor practice example:** at the end of a ground rules hearing, the defence QC said '*I can't promise I will abide by the intermediary's recommendations*'. The judge did not respond. The advocate then disregarded the recommendations throughout cross-examination. The intermediary had to make many interventions; the judge did not intervene.

9.7 **The advocate has a duty to abide by court rulings** (Lord Chief Justice, paras 108, 109 and 114 [R v Farooqi and Others](#) [2013] EWCA Crim 1649).

9.8 **A practice note to inform the conduct of the trial should be prepared** by the judge, or the parties and intermediary at the judge's direction, indicating that all parties expect the judge to ensure ground rules are complied with (para 3.E.3, [Criminal Practice Directions 2014](#); recommendations 21, 26 and para 5.15, Advocacy Training Council [Raising the Bar 2011](#), endorsed in [R v Wills](#) [2011] EWCA Crim 1938). The intermediary may invite the judge to direct the preparation of such a note.

9.9 **The advocates and intermediary may discuss ground rules informally** before the hearing. The intermediary is an officer of the court and it is not required that both sides are present (particularly if questions are being reviewed), though it is good practice to let the other side know.

9.10 **Discussion should involve those who will be at the trial** After a ground rules hearing has been held, if the trial judge or the advocates or intermediary change, or if there is a re-trial, ground rules ought to be revisited.

10. WORKING WITH THE INTERMEDIARY AT TRIAL

10.1 **The judge has a paramount responsibility to control questioning and prevent questioning that does not comply with ground rules settled in advance** Intervention is minimised if questioning is discussed in advance and ground rules are agreed and adhered to (paras 3E.1, [Criminal Practice Directions 2014](#)). The judge has a duty to intervene if questioning is confusing or inappropriate (para 44, [R v Lubemba](#) [2014] EWCA Crim 2064) even if the intermediary does not (page 106, Judicial College [Crown Court Bench Book – Directing the Jury 2010](#)). **Good practice examples**: where advocates failed to comply with ground rules, judges have adjourned the trial overnight and required them to submit questions in writing or the judge has posed the advocate's remaining questions in a simplified way, in light of the intermediary's advice.

10.2 **Prosecutors should not leave all interventions to the intermediary** who have a more circumscribed role. Prosecutors are expected to intervene in respect of questioning that is inappropriate or aggressive (page 20, section 3.33; page 37, section 3.2; page 51, section 1.23, [Code of Practice for Victims of Crime 2013](#)) or is 'unreasonable, eg if it is unfair, offensive or aggressive, or has no relevance to the case or issues' (Standard 16, [Witness Charter 2013](#)).

10.3 **The judge should explain limitations on cross-examination to the jury** The judge's introductory remarks, agreed by the advocates, should also explain the intermediary role and nature of the communication difficulty. An additional direction should be given prior to the evidence being called. If the advocate fails to comply with the limitations, the judge should give relevant directions to the jury when that occurs (para 3E.4, [Criminal Practice Directions 2014](#)).

10.4 **Intermediaries must be allowed 'actively to intervene'** when miscommunication is likely because their role is to facilitate communication in terms of 'completeness, coherence and accuracy' (section 16(5), [Youth Justice and Criminal Evidence Act 1999](#), emphasis added). One of their 'most useful functions' is to help identify questions likely to cause misunderstanding and thus avert it ([R v Cox](#) [2012] EWCA Crim 549).

- 10.5 ***The intermediary may request a further ground rules discussion in the absence of the jury*** if an advocate has ongoing difficulty in framing developmentally appropriate questions or other unanticipated problems occur. **Poor practice example:** an intermediary tried to alert the judge to the witness's confusion about 'time' concept questions but was told 'You are not allowed to give evidence'. **Good practice example:** the advocate sought permission to ask 'just one or two' time questions. The judge refused: the intermediary's report explained why these questions were unlikely to be understood.
- 10.6 ***Positions and camera angles should be checked at the start and after breaks to ensure both witness and intermediary are on screen*** The intermediary must sit close to the witness to facilitate communication. Their interaction must be visible to those in court.
- 10.7 ***Anything said in court and heard by the witness should be short and simple*** Tag questions should be avoided in instructions to the witness. The intermediary may ask for a moment to explain something eg the judge asking about the person's 'abode' or explaining delay as being due to 'an interminable wait for a transcript'.
- 10.8 ***The intermediary may assist after the trial*** by explaining the verdict to the witness or enabling others to do so in ways the witness will understand, or helping take a victim personal statement prior to sentencing.

ANNEX A COMMUNICATION AIDS AND ACCOMMODATING NEEDS

Communication aids and resources include pen and paper, models, photos, body diagrams, figures with removable clothes, picture and symbol cards, time lines and technology. They can be used to support communication and also to help the witness focus. Examples approved by courts include those which:

- support someone who may not give oral answers (eg cards containing the words 'yes', 'no' and 'I don't know' and a balanced selection of pictures, symbols or photos);
- enable the witness to demonstrate intimate touching (for body outline examples, see eg ['How it is'](#) (Triangle); ['Living Your Life'](#) (Brook); and lexiconlimited.co.uk/body-outline). Witnesses should never be asked to demonstrate intimate touching on their own body. Failure to ask a non-verbal witness to use pictures to identify parts of the body was criticised in [R v F](#) [2013] EWCA Crim 424;
- use a 'visual timeline' to facilitate questioning about alleged offences over a period of time in different locations. For example, an adult witness with a moderate learning disability alleged she had been assaulted in different hotels but mixed up locations and dates in interview. The intermediary helped her create a timeline marked with years and significant non-evidential events. The witness then added dates and locations from hotel receipts. At trial, she was allowed to use the timeline during cross-examination. A child of seven with delayed language and severe emotional and behavioural problems was able to give detailed evidence about over 10 different incidents in a two-year period. He used a strip of card several feet long to draw on at the police interview (eg he drew a Christmas tree if he was talking about something that happened around Christmas) in combination with cut outs of buildings to represent each location. He was allowed to use these aids at trial;
- illustrate court 'rules' (eg 'no guessing'; 'if I get it wrong, tell me'; 'say if you don't understand'; 'say if you don't know' (see eg [Marchant](#) 2013(ii));
- help focus attention with cards (eg 'listen now'; 'think before you answer') and fiddle toys;
- help the witness follow a sequence of events (eg 'now'; 'next'; 'toilet'; 'rest'; 'home');
- monitor stress (eg a 5- or 10-point scale or coloured 'traffic light' symbols to which the witness can point);
- help calm a witness with use of an iPad relaxation 'app' to help control and slow breathing.

At trial, the court must take 'every reasonable step' to facilitate participation of any person, including the defendant ((Rule 3.9(3)(b), [Criminal Procedure Rules 2014](#)). Courts have demonstrated flexibility in response to these recommendations.

Judicial decisions in respect of children have included:

- moving the prosecution and defence advocates into the live link room for cross-examination of young children;
- allowing children to reduce their heightened anxiety and 'settle' with rhythmic physical activity during breaks in cross-examination. Agreed activities for four- and five-year olds have involved vacuuming, riding a tricycle, bouncing on a mini trampoline and rocking in a small rocking chair;
- allowing children to take 'in room' breaks using an egg timer (with sound muted between the court and live link room) without releasing the jury; letting a child with urinary urgency

go to the toilet without seeking permission first; and letting children pause cross-examination briefly to relieve stress without leaving the live link room by going under a blanket¹⁷, behind a curtain or under a table;



- agreeing that a court usher would knit quietly during cross-examination because it was calming for the child, and meant the usher was not obviously observing; and (as requested by the child) that a male usher would cover his face with a cushion when the child had to say 'naughty' words;
- giving permission for a 15-year-old with psychological and communication problems to pull up her 'hoodie' (something she did when stressed to create a sense of safety) and to write down answers if unable to speak. This reassurance, along with the presence of the supporter and intermediary, meant she was able to give her evidence without covering her head.

Judicial decisions in respect of vulnerable adult witnesses have included:

- having the intermediary rather than the usher read out the oath for the witness to repeat;
- having a ticking clock removed from the live link room where it would have disturbed a witness with autism;
- allowing the intermediary to relay the answers of a witness with autism and behavioural problems who gave evidence with her back to the live link camera; and to relay replies of witnesses who would only whisper their answers;
- letting a man with autism give evidence wearing a lion's tail, his 'comfort object' in daily life.

Judicial decisions in respect of vulnerable defendants have included:

- seating a defendant with impaired vision near the jury while they were empanelled, to enable him to object to jurors if necessary; and seating a defendant with a hearing problem in the body of the court;
- allowing a defendant with autism to be familiarised with the witness box by practising walking towards it while his favourite music was played, then answering 'Mastermind-type' questions from the box about his favourite subject. This relaxed him and enabled him to give evidence from the witness box;
- allowing defendants with autism to have quiet, calming objects (including an iPad with a relaxation programme) in the dock, to help them attend or keep calm;
- requesting that all witnesses be asked simple questions and give short answers, to make it easier for a defendant with complex needs (but no intermediary) to follow proceedings ([R v Cox](#) [2012] EWCA Crim 549).

¹⁷ This picture is reproduced by permission of Registered Intermediary Ruth Marchant of Triangle (www.triangle.org.uk).

ANNEX B INTERMEDIARIES FOR DEFENDANTS AND IN FAMILY/ CIVIL CASES

Anyone may act as an intermediary provided the court is satisfied they have the requisite skills. However, there is no standard way of finding intermediaries to carry out work outside the Witness Intermediary Scheme. Someone undertaking such work is not a Registered Intermediary regulated by the Ministry of Justice, even if the person is on the register.

Defendants

Special measures provisions in the [Youth Justice and Criminal Evidence Act 1999](#) expressly exclude defendants (section 16(1)). Section 104, [Coroners and Justice Act 2009](#) creates a new section 33BA (not yet been implemented) in the 1999 Act. This will provide an intermediary to an eligible defendant, but only while giving evidence.¹⁹

Judges have exercised their inherent discretion to appoint non-registered intermediaries²⁰ for defendants, either while they give evidence or for the trial process (paras 3F.3-4 and 3G.3, [Criminal Practice Directions](#) 2014). In lengthy trials, two intermediaries have been appointed to act as alternates.

The Legal Services Commission pays for a non-registered intermediary's assessment and pre-trial involvement with a defendant, subject to prior authority. Attendance at trial is paid for by HM Courts and Tribunals Service. Toolkit 8, Effective participation of young defendants explains the process, and Annex A in Toolkit 8 lists different ways in which intermediaries for defendants have supported communication.

Family courts

Family courts may appoint an intermediary to support communication with a child (Family Justice Council [Guidelines in relation to children giving evidence in family proceedings](#) 2011) or family member ([Re A \(a child\)](#) [2013] EWHC 3502 (Fam)). A Registered Intermediary can be provided only if there is a direct link to a criminal case involving the witness; where one has already been appointed and is available; and where there is no impact on availability of other Registered Intermediaries for witnesses (chapter 5, para 48, [Equal Treatment Bench Book](#) 2013). Even then, funding may not be granted.

The intermediary report may be disclosed to family proceedings. [The Protocol and Good Practice Model: Disclosure of information in cases of alleged CSA and linked criminal and care directions hearings](#) does not specifically address sharing of an intermediary report prepared for criminal proceedings, although it seems likely to be considered 'relevant material' (para 4.4, Crown Prosecution Service 2013). Consent to disclose the report beyond its original purpose should be requested from the witness or from the person with parental responsibility (Department for Education [Children and young people: Information sharing](#) 2011). It is good practice to consult the intermediary. If the report is disclosed (by court order or because it is deemed in the public interest) without the witness's consent, the witness should be informed. Registered Intermediaries may be questioned in family court about their work in criminal

¹⁹ Vulnerable defendants are included in the Registered Intermediaries Schemes pilot launched by the Department of Justice Northern Ireland in May 2013.

²⁰ The Internet identifies private organisations which provide defendant intermediaries. Those performing the role set their own rates for payment of such work, but see Recorder of Leeds, in [R v GP and 4 Others](#), (2012) T20120409, 'Guidance for future applications'.

proceedings, typically, about their assessment of a child where the report has been released. Nevertheless, the intermediary is not an expert witness. The interviewing officer is usually also called.

Civil cases and tribunals

Judges may use their inherent discretion to appoint an intermediary in light of their responsibility to ensure that, if possible, parties are able to participate fully in the proceedings (eg Rule 2(2)(c), [Tribunal Procedure \(First-Tier Tribunal\) Health, Education and Social Care Chamber](#) 2013). An intermediary assessed a patient on behalf of a Mental Health Tribunal; facilitated the taking of legal instructions; and discussed her report recommendations with the Tribunal (in the patient's absence) before the hearing. She enabled the patient to say what he wanted to happen; tried to ensure, despite complex medical and legal language, that he understood the proceedings; and alerted the Tribunal when he needed a break. In this instance, the intermediary fee was paid by HM Courts and Tribunals Service.

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Association of Chief Police Officers (October 2013) Advice on the Structure of Visually Recorded Interviews with Witnesses (2nd edition) National Investigative Interviewing Strategic Steering Group

Judge Lord (2012) Lord Chief Justice of England and Wales [Vulnerable Witnesses in the Administration of Criminal Justice](#) Australian Institute of Judicial Administration Conference

Judge Lord (2013) [The Evidence of Child Victims: the next stage](#) Bar Council Annual Law Reform Lecture

Lamb M., Hershkowitz I., and Lyon T. (2013) [Interviewing Victims and Suspected Victims Who Are Reluctant to Talk](#). APSAC (American Professional Society on the Abuse of Children) Advisor, 25(4) 16-19

Marchant R. (2013(i)) On truth, lies and muddles: New ways to explore understanding of truth and lies with children. International Investigative Interviewing Conference, July 2013, Maastricht

Marchant R. (2013(ii)) [How Young is Too Young? The evidence of children under five in the English criminal justice system](#) Child Abuse Review, Wiley Online Library

Ministry of Justice (2013) [Code of Practice for Victims of Crime](#)

Ministry of Justice (2012) [Registered Intermediary Procedural Guidance Manual](#)

Ministry of Justice (2011) [Achieving Best Evidence in Criminal Proceedings Guidance on interviewing victims and witnesses, and guidance on using special measures](#)

Ministry of Justice (2011) [Vulnerable and Intimidated Witnesses A Police Service Guide](#)

Plotnikoff J. and Woolfson R. (2011) [Registered Intermediaries In Action](#) Ministry of Justice and NSPCC

Plotnikoff J. and Woolfson R. (2009) [The 'Go-Between': evaluation of intermediary pathfinder projects](#) Ministry of Justice

More information about intermediaries, including podcast interviews, can be found in the 'Intermediaries' section of www.theadvocatesgateway.org.