



Ministry
of Justice

Registered Intermediary Procedural Guidance Manual

2024

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Terms and Abbreviations

ABE	Achieving best evidence
CJS	Criminal justice system
CPD	Continuing professional development
CPIA	Criminal Procedure and Investigations Act 1996
CJSM	Criminal Justice Secure Mail
CPS	Crown Prosecution Service
DBS	Disclosure and Barring Service
Defendant	An individual charged with a criminal offence
End-User	The party that requests the service of a Registered Intermediary
DPA	Data Protection Act 2018
GDPR	General Data Protection Regulation
GRH	Ground rules hearing
HMCTS	Her Majesty's Courts and Tribunals Service
GSB	Governance and Standards Board
ICO	Information Commissioner's Office
MoJ	Ministry of Justice
NCA	National Crime Agency
OIC	Officer in charge (of the investigation)
PTPH	Plea and trial preparation hearing
RfS	Request for service
RI	Registered Intermediary
RIO	Registered Intermediaries Online

RIRT	Registered Intermediary Reference Team
Section 27	Section 27 of the Youth Justice and Criminal Evidence Act 1999 allows the court to direct that a video recording of an interview with an eligible witness be admitted as evidence in chief of that witness.
Section 28	Section 28 of the Youth Justice and Criminal Evidence Act 1999 allows the court to direct the cross-examination and re-examination of an eligible witness be pre-recorded.
Section 29	Section 29 of the Youth Justice and Criminal Evidence Act 1999 allows the court to direct that any examination of an eligible witness be conducted through an intermediary.
Special Measures	Adjustments made by the court to ensure that proceedings are fair for those who are vulnerable by virtue of their age or incapacity or by virtue of fear or distress
WIS	Witness Intermediary Scheme
WIT	Witness Intermediary Team
YJCEA	Youth Justice and Criminal Evidence Act 1999

Introduction

The Witness Intermediary Scheme

The Witness Intermediary Scheme (WIS) is the responsibility of the Ministry of Justice (MoJ). It was first piloted in England and Wales in 2004, when the special measure provisions in the Youth Justice and Criminal Evidence Act 1999 (YJCEA 1999) for examining witnesses through an intermediary were brought into force. Since 2008, the WIS has been available to all police force and Crown Prosecution Service (CPS) areas in England and Wales.

The WIS has developed significantly as knowledge and understanding of communication needs of witnesses' advances in line with demand for the intermediary special measure. The evolution of the Scheme and related procedures and practices is reflected in the publication of successive versions of the Registered Intermediary Procedural Guidance Manual in 2005, 2011, 2012, 2015, 2019 and 2020. This document is iterative, and updates are made to reflect developments in procedures, best practice, and relevant legislation.

The Role of the Registered Intermediary and the Law

A Registered Intermediary (RI) is an impartial communication specialist whose role is to facilitate complete, coherent, and accurate two-way communication between justice system professionals and vulnerable people with communication needs.¹ Communication needs may be due to age, disability or disorder (mental, physical, or learning). Intermediaries aim to improve the quality of evidence and facilitate the vulnerable person's understanding and participation in proceedings. Intermediaries conduct an assessment and outline orally and in writing, the communication needs of the vulnerable person and the adjustments necessary to meet those needs.

RIs are one of the statutory special measures for prosecution and defence witnesses. They are provided for by Section 29 of the YJCEA 1999.² Sections 16 and 17 of the YJCEA 1999 set out the eligibility criteria for special measures.³ Under section 16 of the Act, the Crown or defence can apply for the use of an intermediary if:

- The witness is under the age of 18 at the time of the hearing; or

¹ [The Criminal Procedure Rules 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

² <http://www.legislation.gov.uk/ukpga/1999/23/section/29>

³ <https://www.legislation.gov.uk/ukpga/1999/23/section/16>

- If the court considers that the quality of evidence given by the witness is likely to be diminished by:
 - a mental disorder (within the meaning of the 1983 Mental Health Act); or
 - significant impairment of intelligence or social functioning; or
 - a physical disability or physical disorder.

Registered intermediaries are impartial officers of the court. Their duty to the court is set out in Rule 18.26 of the Criminal Procedure Rules 2020, as replicated below and embodied in the RI Code of Practice:

- (2) The intermediary must help the court to achieve the overriding objective—*
- (a) to the best of the intermediary's skill and understanding by—*
- (i) communicating to the witness or defendant (as the case may be) questions put to them,*
- (ii) communicating to the questioner and the court the replies, and*
- (iii) explaining such questions and answers so that they can be understood;*
- (b) by assessing continually the witness'... ability to participate effectively and intervening if necessary;*
- ...
- (d) by actively assisting the court in fulfilling its duties under rule 3.2 (Case management; The duty of the court) and rule 3.9 (Case management; Ground rules hearing), in particular by—*
- (i) complying with directions made by the court, and*
- (ii) at once informing the court of any significant failure (by the intermediary or another) to take any step required by such a direction.*
- (3) This duty overrides any obligation to the witness... or to the person by whom the intermediary is paid.⁴*

This document is intended as the key point of reference for RIs by providing a clear summary of the ethics and procedural code that all RIs must abide by. It provides an overview of policy and procedure from receipt of a Request for Service (RfS) to the completion of a case. It will also be helpful to end-users and those that work with RIs during the criminal justice process.

⁴ [The Criminal Procedure Rules 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)

1. Professional Conduct

Registered Intermediary Code of Ethics

RIs shall uphold the Code of Ethics at all times.

1. Professionalism

RIs shall conduct themselves with a high degree of professionalism in all circumstances.

2. Propriety

RIs must not use information or knowledge gained through the course of their work to benefit themselves or their associates improperly.

3. Respect

RIs shall demonstrate respect for all those that they encounter in the course of their professional duties and will respect the practices of other professions.

4. Resilience

RIs will seek to overcome any unforeseen difficulties.

5. Confidentiality

RIs shall strictly uphold confidentiality requirements, including those relating to information sharing and data protection.

6. Impartiality

RIs will remain strictly impartial and uphold their duty to the criminal justice system.

Registered Intermediary Code of Practice

RIs shall uphold the Code of Practice at all times.

1. The RI must act as an impartial officer of the court. The authority and judgment of the court must be respected at all times.⁵
2. The primary responsibility of the RI is to enable complete, coherent, and accurate communication to take place between the witness and the police or court.
3. The RI must not change the content or attempt to improve or elaborate on what is said by the witness. Any actions that may improve understanding without changing meaning must be taken only with the explicit consent of the court.
4. The RI should explain their role to the witness and ensure that the witness gives their consent to participating in the intermediary assessment.
5. The RI must not enter discussion, give advice, or express opinions concerning the evidence that the witness is to present or any aspect of the case.
6. The RI must only intervene in court if it is necessary to draw attention to the witness being unable to understand or answer a question, expressing communication non-verbally, being distressed, or needing a break.
7. The RI may only accept casework for WIS-entitled complainants and witnesses via the WIS. All casework concerning WIS-entitled complainants and witnesses must be invoiced for according to the terms and conditions of the WIS remuneration rate schedule.
8. The RI must make all reasonable effort to be available for all meetings, hearings, trials, and other appointments for which adequate notice has been given. The RI must not cancel or postpone meetings that are part of the assignment without good reason and where possible, the consent of the parties concerned.
9. The RI must only accept work for which they judge to be within their professional competence and skill set.
10. The RI must notify the Governance and Standards Board, via the Ministry of Justice Vulnerable Users Policy team, immediately of any criminal investigation or proceedings against them, or any other complaint or investigation into their conduct or competence.
11. The RI must comply with all obligations under data protection law.

⁵ [The Criminal Procedure Rules 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)

- 12.** The RI will be thorough in conducting an assessment of a witness's needs, identifying all sources of information required to gain a clear understanding of the needs of the witness.
- 13.** The RI must not attempt to diagnose the witness with any medical condition, disorder, or disability.
- 14.** The RI must keep the end-user (usually the police or CPS) informed of any difficulties, including recording, and communicating any dissatisfaction expressed by the witness with either the intermediary or the procedure.
- 15.** The RI must disclose any difficulties encountered, such as potential conflicts of interest and limitations in their professional experience and training, to the NCA.
- 16.** The RI must respect obligations relating to disclosure between the prosecution and the defence teams.
- 17.** The RI will continuously update their knowledge and skills and complete a continuing professional development (CPD) log annually.
- 18.** The RI must not bring the Witness Intermediary Scheme or the Ministry of Justice into disrepute.

2. Professional Information and Requirements for Registered Intermediaries

- 2.1 The MoJ has overall responsibility for the WIS. There is a governance board through which strategic direction, performance and quality assurance is delivered:

The Witness Intermediary Scheme Governance and Standards Board (GSB)

- 2.2 The GSB oversees the WIS's performance and strategic direction and aims to ensure high-quality, professional intermediary services are available to victims and witnesses with communication needs.
- 2.3 It is responsible for the governance and policy management of the Scheme, as well as the quality assurance, regulation, and monitoring of the professional standards of Registered Intermediaries (RIs) working within the WIS.
- 2.4 Members are responsible for representing their organisations on the Board and representing the Board within their organisations to ensure the Scheme continues to meet the needs of those in the criminal justice system.

The objectives of the WIS GSB are to:

- Maintain accountability for the WIS's performance.
- To oversee the supply and recruitment of Registered Intermediaries
- To agree the standards for, and lead on, quality control of recruitment, training, registration and continuing professional development of RIs.
- To maintain and support the RI register and ensure that it is fit for purpose.
- To ensure that RIs are supported to act in accordance with the Code of Practice and the Code of Ethics.
- To ensure that feedback and complaints are reviewed in accordance with the WIS's feedback and complaints policy (Annex D).
- To monitor and support development of all aspects of the RI professional role.

Witness Intermediary Team (WIT)

- 2.5 The National Crime Agency's Witness Intermediary Team (WIT) is responsible for delivering the WIS matching service, the key operational element of the Scheme. The matching service is the mechanism through which the WIT matches RIs to the specific communication requirements of witnesses at the request of the end-user, usually a police force or member of the CPS.

Registered Intermediary Reference Team (RIRT)

- 2.6 In addition to the governance bodies, the Registered Intermediary Reference Team (RIRT) comprises up to 12 RIs from regional groups established by the RI community. RIRT aim to represent the interests of RIs to the MoJ. RIRT's role is to:
- Provide a forum for the RI community to raise relevant matters regarding the WIS to a self-selected group of its peers for discussion in a formal environment with the MoJ
 - Achieve representation of the RI community through its membership reflecting, as far as possible, a cross-section of that community by different professions and vocations, different working patterns and backgrounds
 - Have all regional group areas represented
 - Ensure that the relationship between the RI community and MoJ, end users and other stakeholders is being effectively represented and managed

Criminal Record Checks

- 2.7 RIs are required to have a criminal record check via the Disclosure and Barring Service (DBS).⁶ The RI role is included in the scope of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2023).⁷
- 2.8 RIs must immediately inform the GSB if they are subject to any safeguarding allegations, police investigation, cautions or criminal investigations. The GSB will then decide what action is appropriate in relation to accepting further referrals and ongoing cases.

⁶ RIs were made eligible for standard DBS checks on 6 July 2023, by virtue of the high public trust invested in the role. DBS checks for RIs conducted after this date will be conducted at standard level.

⁷ [The Rehabilitation of Offenders Act 1974 \(Exceptions\) \(Amendment\) \(England and Wales\) Order 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

- 2.9 DBS checks for RIs should be renewed every three years. RIs should contact the NCA (ri.co-ord@nca.gov.uk) to request a renewal.

Insurance

- 2.10 RIs must hold valid professional indemnity insurance providing cover to the sum of not less than £500,000 (five hundred thousand pounds) and public liability insurance of not less than £1,000,000 (one million pounds) to cover all services provided by RI to the police, to the CPS or to the court. If this is provided through existing employment or membership of a professional body, then the RI must ensure that this extends to their role as an RI. If no insurance policy is held, then this must be sought through an independent insurance provider. Such insurance policies shall be maintained for at least seven years following the end of the RI's registration with the WIS.

Data Protection Requirements

- 2.11 As self-employed communication specialists commissioned by the justice system, RIs are data controllers under the [Data Protection Act 2018](#) and have data protection responsibilities.⁸
- 2.12 RIs must register and maintain their registration with the Information Commissioner's Office (ICO) as data controllers. Guidance on how to register with the ICO and the associated fees is available via the Information Commissioner's website and [can be viewed here](#). Registered Intermediaries are required to remain registered with the ICO for seven years from the date of the last contact with the vulnerable person.
- 2.13 RIs are accountable for the lawful, secure, and compliant processing of personal data.⁹ Guidance on the responsibilities of data controllers [can be viewed here](#), and a checklist [can be viewed here](#).

Joining the Register

- 2.15 Once the RI Training, assessments and pre-employment checks (including insurance, data protection, and criminal record check requirements) have been successfully completed, individuals are eligible to join the register and, on doing so, will receive their unique registration number.

⁸ The Data Protection Act 2018 contains guidance on legal responsibilities regarding personal data. The Act distinguishes between a data 'controller' and 'processor' of personal data ([DPA 2018, Chapter 1, s.32](#)).

⁹ With respect to the duties performed by the RI, the MoJ is neither a data controller, nor a data processor. The information provided in this subsection is for guidance only and is not formal instruction about RIs' legal responsibilities as data controllers.

Criminal Justice Secure Mail

- 2.16 To safeguard data and information, a secure email must be used. The NCA WIT will provide RIs with the details of their secure CJSM (Criminal Justice Secure Mail) account on joining the WIS register. All email correspondence containing sensitive, financial, or witness identifiable information must be sent through this account.
- 2.17 RIs must ensure that any account to which they email protected information is also secure. If in doubt, the RI should seek confirmation from the prospective recipient.

Remuneration

- 2.18 RIs must invoice according to the national rates, negotiated with the police and CPS, that are approved by the MoJ's Vulnerable Users policy team. Fees are based on an hourly rate, with reimbursement of travel and subsistence within policy limits.
- 2.19 Fees may be charged for activities including but not limited to face-to-face appointments, report writing, obtaining background information, preparation time prior to an appointment, developing communication props, memory refreshing, pre-trial visits, and assistance with victim personal statements.
- 2.20 A contractual arrangement is entered into at the point that the RI accepts the RfS and sends the completed RfS form to the end-user. This arrangement is between the RI, as a self-employed individual, and the service from which the request originates – usually the police or CPS.
- 2.21 RIs must ensure that their integrity and judgement cannot reasonably be seen to be compromised by accepting gifts. Gifts, prizes, benefits, and inducements should be declined, **wherever possible**, and any offers should be reported to the OIC/CPS and MoJ Vulnerable Users Policy Team.

Complaints Policy and Procedure

- 2.22 Complaints concerning the conduct or competence of an RI should be submitted in writing to the Witness Intermediary Team (WIT@nca.gov.uk). The name of the RI concerned should be provided together with the grounds of the complaint and the name and contact details of the complainant. The WIT will refer complaints to the GSB Feedback and Complaints Lead.
- 2.23 The Feedback and Complaints Lead will decide on how to proceed based on the information provided.
- 2.24 The full Feedback and Complaints Policy can be found at Annex D.

Complaints Made by Registered Intermediaries

- 2.25 RIs can make a complaint about another criminal justice system worker by following the complaints process of the body responsible for the individual in question.
- 2.26 RIs can also log concerns or experiences related to the conduct of bodies, individuals, and systems that they encounter during the course of their work via the [Witness Intermediary Scheme Concerns Log](#).¹⁰

¹⁰ The MoJ is unable to take direct action against individuals representing external organisations. While your concerns can help to identify problematic trends, RIs should contact the authority concerned to raise a formal complaint about another justice system worker.

3. Conducting a Case

- 3.1 When a police officer recognises that a witness requires the assistance of an RI for the purposes of obtaining evidence through an Achieving Best Evidence (ABE) interview, they will make a request for an RI by completing an RfS form and submit this to the NCA WIT. The RfS form [can be viewed here](#).
- 3.2 The CPS may also make a request for an RI in the same way, although in practice this usually takes place after the ABE interview and at a later stage in the proceedings. In such cases, the CPS will provide the RI with contact details of the caseworker. The RI will then inform the caseworker of their involvement in the case.
- 3.3 The NCA WIT will match the RfS if there is an available RI that has the necessary skills and experience to meet the witness's needs and is willing to practice in the relevant location. The NCA WIT will contact the RI. It is the RI's responsibility to ensure that their recorded skill set is fully within their expertise. The RI may be required to justify their skill set in court.

Initial Contact with the Police

- 3.4 The RI will contact the police officer by telephone or email within 24 hours of accepting the RfS. The needs of the witness will be discussed and, as far as it is relevant to the communication needs of the witness, the police officer will provide brief details of the alleged offence and points to prove. During this conversation, the date and time of the assessment should be arranged.
- 3.5 The RI should confirm that the police officer who will be conducting the ABE interview (interviewing officer) is to be present at the assessment. It is helpful to all parties for the interviewing officer to be present as it assists them in observing the witness's communication skills and needs first hand. Having observed the witness's communication skills and needs, and the manner in which the RI intervened and managed those communication difficulties, the interviewing officer will better understand how to effectively communicate with the witness.
- 3.6 In some circumstances, a witness may prefer not to take part in an VRI and opt to provide a written witness statement instead.¹¹ In these circumstances, an RI could be requested to facilitate the written witness statement. As outlined in 3.5, it is helpful for the police officer to observe the assessment to understand the witness's

¹¹ A child or parent may opt out of a VRI and make a written statement instead. An adult may **not** consent to an VRI and make a written statement instead. ([Youth Justice and Criminal Evidence Act 1999 \(legislation.gov.uk\)](#))

communication skills and needs first hand, prior to the commencement of witness statement writing.

- 3.7 It is essential that a police officer is present in the assessment at all times. This is to avoid the risk that a disclosure is made to the RI by the witness that would result in their role transitioning to that of a witness themselves. RIs should not be alone with a witness at any point.
- 3.8 Following initial contact with the police officer, the RI should complete part 8 of the RfS (Letter of Engagement) and send it to the police officer, or to the CPS representative (depending on whom the request has come from). This document forms the contract between the RI and the end-user.
- 3.9 The RI should email their privacy notice and the RI consent letter (see RI consent letter template) to the OIC for them to send to the witness. The consent form will provide names and contact details of the professionals the witness consents for the RI to contact. This enables the RI to gain relevant background information about the witness' communication skills, physical and mental health, and life. Some professionals will require a copy of the RI's consent form before they will release information about a witness.
- 3.10 Details to cover in the initial contact with the police:
- Clarification of the role of the RI
 - Contact details of the police officer and who to contact when they are off duty
 - Contact details of the CPS lawyer and caseworker (if available)
 - Contact details of any witness supporter (e.g. ISVA/IDVA/ChISVA)
 - Details of the witness – name, gender, age, main carer (if any), involvement with other agencies, first language, family members etc.
 - Nature of the witness's vulnerability and perceived communication needs
 - Details of the alleged offence and any points to prove in interview, including what was said by the witness during any initial disclosure (and/or previous interview, if there was one)
 - Arrangements for the RI's assessment including explanation that the interviewing police officer should be present

- Whether necessary permissions have been obtained for the RI to complete the assessment and for the RI to obtain information from other sources (professional or medical)
- Any risks to the RI, the witness, or any other party present

Assessing a Witness's Communication Needs

- 3.11 The RI conducts the communication assessment. The form and content of the assessment will depend on the witness's communication needs and the RI's skill set. The RI also uses this time to establish rapport with the witness.
- 3.12 The assessment must take place in the presence of a police officer who can provide an independent account of events if needed. At no time should the RI be left alone with the witness.
- 3.13 A witness supporter may be available to provide emotional support to the witness. Witness supporters may be a parent, carer, adult family member, existing professional known to the witness (e.g. social worker, ISVA/IDVA, teacher, mental health professional) or a volunteer advocate. The RI should discuss the practicalities relating to the presence of a witness supporter with the OIC. If the witness supporter is also a witness in the investigation, agreement between the OIC and RI should be reached about how breaks will be managed (e.g. breaks are taken in the interview suite, so they are recorded). The location of a witness supporter for both the assessment and VRI should also be discussed with regard to the witness' wishes and needs.
- 3.14 If the assessment takes place in a care home, hospital, or other secure setting then the OIC and RI should discuss in advance the role of staff.
- 3.15 The purpose of the assessment is for the RI to ascertain the witness's communication abilities and specific needs. By the end of the assessment the RI should be able to advise:
- Whether or not the witness has the ability to communicate their evidence and, if so, how
 - Whether the use of an RI is likely to improve the completeness, coherence, and accuracy of the witness's evidence
 - Whether emotional regulation techniques may assist the witness to communicate their evidence
 - The most effective way of communicating questions to the witness

- (For post-ABE assessments) What special measures and other adjustments will enable the witness to communicate most effectively.

Important:

The task of the RI is to assess the ability of a witness to communicate evidence. The assessment and recommendations will assist an OIC in determining if an ABE is practicable. But responsibility for this decision rests with the OIC, not the RI.

- 3.16 It is important that the RI recognises that it is not their role to assess the witness's ability to understand truth and lies nor is it the RI's role to assess whether the witness's recollection of events is truthful or accurate. However, if requested, they can advise the interviewing officer on how to best conduct the 'truth and lies' requirement in the ABE guidance as part of the ABE planning process (see 3.31).
- 3.17 The RI must not attempt to diagnose the witness with any medical condition, disorder, or disability.
- 3.18 It is not the role of an RI to determine whether the witness is medically and psychologically fit enough to be interviewed or to consider whether the benefits of conducting an interview outweigh any potential adverse impact that it might have on the witnesses. Such decisions are usually taken by the OIC in consultation with other suitably qualified professionals.
- 3.19 Where an RI does have concerns about the medical or psychological fitness of a witness, they are perfectly entitled to raise them with the end-user and to suggest that an assessment takes place with a suitably qualified clinician if necessary.
- 3.20 If the RI concludes that they do not have the appropriate specialism for the witness's particular communication needs they must contact the NCA WIT as soon as possible so that another RI can be sought.

Conducting an Assessment

Important:

Any material (be it written or recorded) that is produced during the course of a criminal investigation is **subject to disclosure rules** under the Criminal Procedure and Investigations Act 1996 (CPIA).¹² As such it should be retained in case of required inspection, and will be scheduled on the appropriate disclosure forms by the police. This includes any material generated during RI assessment.

- 3.21 The RI must keep a detailed record of what happened at the assessment. This record should include any actions taken by the RI and the RI's reasons for such actions, as well as the witness's response to communication strategies that the RI has used to facilitate communication and understanding. This detailed record will inform the later report, but it is not necessary to make a verbatim record.
- 3.22 In the course of producing the preliminary report, the RI should **ordinarily** rely on written notetaking during the assessment to inform their preliminary report and not make an audio recording. This is because there is a risk of a more significant data breach under the GDPR when a recording is made compared to written notes. A recording risks a more significant data breach because a witness is more instantly recognisable through this material, compared with an indirect record made through notetaking. Thus, risking a more significant data breach under GDPR in the event of its loss or uncontrolled release.
- 3.23 However, in some circumstances it may be recognised by the police or the RI, that taking a recording of the assessment is **necessary** to facilitate an effective assessment, or for evidential or investigative reasons. For example;
- where notetaking would cause distraction or disruption to the witness, preventing an effective assessment; or
 - if a witness were likely to make spontaneous comments of evidential value during extended rapport building.
- 3.24 These examples are non-exhaustive. Prior to the commencement of the assessment, the police and RI should discuss the necessity of taking a recording and come to **an agreement** on its conduct. This discussion should cover how it is made, how it will be shared and retained in line with CPIA and GDPR regulations. Recording of the assessment should only be conducted with the **full consent** of the witness.
- 3.25 When the police require an assessment to be recorded (e.g. for the evidential reasons given in 3.23), they should provide written justifications for the recording.
- 3.26 If a recording is made by the RI, they **must provide a copy** of the recording to the police to ensure it is retained in line with the rules on disclosure in the CPIA and CPIA Code of Practice.¹³ The RI should provide the recording to the police securely in digital or physical form, as agreed with the OIC.
- 3.27 This does not displace the RI's **obligations under the GDPR**, and they must comply with regulations on the deletion of personal information once it is no longer

¹² [Criminal Procedure and Investigations Act 1996](#)

¹³ [Criminal Procedure and Investigations Act 1996, 3.4-3.6 & 5.1-5.4](#)

necessary to retain the recording for the purposes for which it was made (in this circumstance, preliminary report writing).¹⁴ However, the RI should **only** delete their recording once they have confirmed receipt from the police to ensure its retention.

- 3.28 If the RI cannot **securely** provide the recording to the police, they should consider whether it would be **more practicable** to ask the police to make the recording instead. In this circumstance, the police should **provide secure access** to the recording to the RI to inform their preliminary report. The RI must not retain any copies of the recording or create secondary recordings on personal devices and must comply with GDPR regulations on the deletion of personal data once it is no longer necessary to retain.¹⁵

Important:

RI's must act with caution and be aware of the **sensitivity of the information** they have access to, and produce, while conducting an assessment. As data controllers, RI's must ensure that they **strictly uphold information rules in line with GDPR** due to the sensitivity of personal information they handle. Failure to uphold GDPR rules may result in action from the ICO in the form of a fine.¹⁶

Preliminary Report

- 3.30 After the assessment the RI will prepare a preliminary report setting out their findings on the ability of the witness to communicate their evidence and any recommendations to enable complete, coherent, and accurate communication. The police (preliminary) report template should be used as a guide and [can be viewed here](#). Please note that this report should be supplied **in advance** of the ABE interview, to ensure the OIC has time to consider its findings prior to interviewing the witness.
- 3.31 Unless explicitly requested otherwise by the police or the CPS, the preliminary report is the only report the RI is required to produce at the police stage, preceding the written report for the court.
- 3.32 It should be noted that the assessment and the ABE interview are not typically conducted on the same day. This is because the vulnerable witness may be fatigued after the assessment, their attention may have deteriorated, specific communication aids may need to be created based on the interviewing officer's points to prove, or a further assessment may need to be undertaken to appraise further points not covered during the first assessment session.

¹⁴ [Guidance on UK GDPR, 2.9-2.11](#)

¹⁵ [Guidance on UK GDPR, 2.9-2.11](#)

¹⁶ [UK GDPR guidance and resources | ICO](#)

- 3.33 However, there may be legitimate reasons why this may need to be done (e.g. it is considered to be in the interests of achieving best evidence, the police have a suspect in custody, an interview needs to be conducted before a medical examination can be carried out, or there may be urgent safeguarding issues).
- 3.34 If it is agreed between the RI and the interviewing officer to conduct the assessment and ABE interview on the same day, all relevant observations, and recommendations that the RI would ordinarily provide in a written format should be covered orally in their planning meeting before the ABE interview on the day itself.

Important:

Where the ABE interview takes place on the same day as the assessment, the RI may present their findings orally, but they must then follow up with a written report.

Achieving Best Evidence Interview

- 3.35 Once the RI has assessed the witness and produced their recommendations, they will have a planning meeting for the ABE interview with the police officer. Planning includes a discussion of communication needs, the layout of the room, the use of communication aids or props, vocabulary and how to ensure that the witness stays calm and engaged. Planning discussions with the interviewing officer may include:
- How to check that the witness understands what is going to happen/is happening in the interview
 - Language: vocabulary, complexity of sentences, style of questioning, what forms of question to avoid
 - What the opening question of the interview might be, with options if that fails, to help the witness get to the point
 - What communication adjustments may be required for the officer to cover 'truth and lies'
 - Setting up the room in the most appropriate way, including any other environmental factors identified in assessment, such as numbers of individuals present
 - Ensuring that the RI is visible on the video recording (for transparency)
 - How best to explain the cameras and recording equipment

- How to use any communication aids, visual aids, or props
- The frequency and duration of breaks
- Where the witness supporter will be, and how access to the witness support during breaks will be managed
- How the RI should intervene if necessary
- Any other circumstances relating to the communication abilities of the witness.

Important:

It is important to recognise that the police officer conducts and manages the ABE interview. **The RI is not a second interviewer**, and their role is to facilitate communication between the witness and the OIC only.

- 3.36 Through the planning of the interview, the RI and the OIC should have a clear understanding of roles and how the RI should indicate if they need to intervene to check that the witness understands or to ask for a break on behalf of the witness. They should also agree how the RI would offer assistance in rephrasing questions, bearing in mind that the RI is not a second interviewer and **should not ask the witness questions in the interview**. The RI should use their professional judgement and understanding of the witness' needs and case to inform the interview planning with the OIC.
- 3.37 There may be others present in the interview room, such as a social worker, and the RI should be prepared to advise on a maximum number of people if there is a likelihood that this will affect the witness's communication.
- 3.38 [Section 29\(5\) of the YJCEA 1999](#) and [Criminal Procedure Rule 18.27](#) require that the RI make a declaration before the ABE interview commences. This should be explained to the witness beforehand, or it may be appropriate for the declaration to be recorded before the witness enters the room.
- 3.39 The declaration is as follows:

'I swear by Almighty God [or I solemnly, sincerely and truly declare and affirm] that I shall faithfully communicate questions and answers and make true explanation of all matters and things required of me according to the best of my skill and understanding.'

- 3.40 If the police have already conducted the ABE interview or taken a statement from the witness before the referral to the RI, then they must record the reasons for this and notify the CPS. The RI will conduct a communication assessment before watching the ABE video or reading the witness statement. The RI's report should explain this and state how, if at all, their recommendations were informed or altered as a result of watching the ABE or reading the witness statement. However, it is not the RI's role to give an opinion or analysis of an ABE interview that has already been conducted.

4. Written Report for the Court

Overview and Funding Arrangements

- 4.1 The report will be used in three main ways:
- It will be taken into consideration by the prosecution, defence, and the court when the application for special measures is made
 - It will advise the prosecution, defence, and the judge/magistrates about how best to communicate with the witness at trial
 - It will shape the discussions and the directions made at the Ground Rules Hearing (GRH)
- 4.2 If the case proceeds to court, the RI should produce a written report for the court following their acceptance of the CPS-issued RfS; the template court report should be used as a guide and can be viewed here. A checklist for the court report is provided at annex A.
- 4.3 Where the RI assisting at court stage did not assist during VRI/ABE stage, the RI should make contact with the police to seek permission to view the VRI/ABE interview. They should use this, alongside their own assessment to produce the RI court report.
- 4.4 If a fellow RI was involved at VRI/ABE stage, the RI should make contact with the police to seek permission to view the initial communication assessment of the witness produced at investigative stage.
- 4.5 It is necessary for the RI to conduct an additional communication assessment of the witness prior to writing the court report. This would be required if the initial assessment does not provide details on specific communication needs relevant to the court setting. In such circumstances, the RI should inform the CPS that an additional assessment is required and provide rationale for this. An additional assessment may also be required if a significant period of time has passed since a previous assessment (see 4.12 – 4.14 for details).
- 4.6 The CPS are responsible for funding the court report. The police should not be invoiced for this activity.

- 4.7 If the RI is requested to assist with a Victim Personal Statement, the police are responsible for funding this (regardless of the fact that it is post-charge). The RI should therefore send their invoice for this activity to their designated police contact.
- 4.8 The report should set out the witness's background, what was ascertained during the assessment and ABE interview, and details about the witness's communication abilities and specific needs, together with practical suggestions on how the witness can best be questioned at court. The report should also set out how the RI is able to assist the witness, as well as the experience and expertise that will be used in doing so.
- 4.9 Once the report is completed, the RI should submit it (in PDF format) to the person who commissioned it (usually the CPS paralegal), who is then responsible for sharing it with the other parties and the court.
- 4.10 As the report will be shared, the RI should only include personal confidential information insofar as it is necessary and must not include information that could further identify or endanger the witness, such as their place of residence, date of birth, school, nursery, or names of others via which the witness may be identified.
- 4.11 Information or reports should be stored securely along with the rest of the RI's notes and in compliance with the provisions of the Data Protection Act 2018 and the General Data Protection Regulation.

Additional Assessments

- 4.12 If more than twelve months (or six months in some circumstances, see 4.14) have elapsed between the written report for the court and the date of the GRH, the RI should undertake a further assessment of the witness.
- 4.13 The CPS reserves the right to request an additional assessment at any point.
- 4.14 For children under the age of 11, and other witnesses whose communication needs are likely to change significantly over a short timespan (e.g. due to a progressive illness or other condition), the RI should undertake a further assessment if more than six months have elapsed between the initial written report for the court and the GRH. The RI should use their discretion to determine whether the witness's communication needs are likely to have changed since the initial assessment, and where this is deemed likely, the RI should request an additional assessment from the CPS and provide rationale for their recommendation.

Handover of court cases to another RI

- 4.15 While it is best practice for the same RI to enable communication throughout a witness's engagement with the criminal justice system, it is acknowledged that this

is not always compatible with court listing and RI availability. Where an RI is assisting at court stage, and a **court report has already been produced by a fellow RI** (for a hearing that was cancelled/rescheduled), the RI should make contact with the CPS to gain access the pre-existing court report and initial assessment information. The RI should also make contact with the RI who produced the court report for a robust handover of the case.

- 4.16 Following handover, the RI should decide on the necessity of an additional assessment. The RI should use their **professional judgement** to consider all the circumstances of the case, including the impact on case timescales and whether the potential for delay is in the **best interests** of the witness.
- 4.17 If, following consideration of these factors, the RI decides that they have **sufficient information** from the handover, initial assessment document, ABE, and court reports, they need not complete an additional assessment of the witness. This decision should be **witness-focused** to ensure that their needs are met through performance of the RI role.
- 4.18 Where an additional assessment is not necessary, the RI should organise a **rapport building session** with the witness before, or at, court on the day of the hearing. The RI should communicate with the CPS to ensure the timing for the rapport building session fits with listed court hearings.

Guidance on Report Sections

Contents

- 4.19 Any report longer than ten pages, including the front page, should have a contents page to assist with navigation. All pages should be numbered. The contents table on the second page of the template can be updated automatically by right clicking and selecting 'update field.'

Summary of Registered Intermediary's Qualifications and Experience

- 4.20 The RI should set out, usually in one or two paragraphs, their qualifications and experience relevant to the needs of the witness. This should include a sentence on RI qualification. A full CV can be annexed.

Background

- 4.21 This section should set out how the referral came to the RI, who made the referral and why the referral was made (i.e. the vulnerability of the witness). This can be done using the suggested paragraph in the template (at 2.1) or other wording.

- 4.22 Under the sub-heading of 'Instructions,' the purpose of the report and role of the RI should be set out as follows:

I have been asked to:

- 1. indicate whether or not [Witness] has the ability to communicate [their] evidence and, if so, how;*
- 2. indicate whether the use of a Registered Intermediary is likely to improve the quality (completeness, coherence, and accuracy) of [Witness's] evidence;*
- 3. make recommendations as to special measures and other adjustments to enable the best communication with [Witness].*

My role as a Registered Intermediary is to assist communication with the witness and their communication with others. I am not instructed as an expert witness. I cannot give an opinion on the accuracy of the witness's recall of the facts in this case, nor can I give an opinion on whether the witness is telling the truth in their evidence.

My role is limited to facilitating communication before the trial and during the witness's evidence, advising how this can best be achieved.

- 4.23 Under the sub-heading of 'Sources,' all sources of information which have been used in order to write the report should be clearly set out, including the RI assessment(s), review of ABE and sources of any other third-party information. Possible sources of third-party information may include discussion with or information (e.g. reports/records) obtained from family members, foster parents, nursery workers, schoolteachers and teaching assistants, special educational needs co-ordinators, key workers, social workers, psychologists, doctors, nurses, therapists, police officers, ISVAs, IDVAs etc.
- 4.24 Under the sub-heading of 'Chronology,' the chronology of the RI's involvement in the case should be set out in the form of a table, including dates of referral (from police and CPS, if the RI has been involved at both stages of the case), assessment(s), review of ABE recording and further information and completion of report.

Witness Assessment

- 4.25 This section should include a comprehensive description (organised under relevant, numbered sub-headings – suggestions of which can be found in the report template at section 5.1) of:
- Assessment process/tasks

- Observations/findings regarding communication strengths/needs (from assessment/other sources)
- Application of observations/findings to giving evidence (i.e. how will the communication strengths/needs impact upon the quality of evidence/participation in process of giving evidence?)

Recommendations on Special Measures and Other Adjustments

4.26 This section should include all recommendations relating to:

- Pre-trial stages (e.g. pre-trial visit, submission and return dates for defence questions to be reviewed by RI, GRH, memory refreshing)
- Special measures (e.g. live-link, Section 28)
- Other adjustments (e.g. communication aids (for general use, e.g. ‘break’ cards), timings/breaks – including best time of day to begin evidence, length/location of breaks, presence of witness supporter – strategies to support attention and listening/emotional regulation, environmental adaptations)

4.27 The section should identify the need for a GRH in the case, using the following paragraph:

In accordance with Criminal Procedure Rules Part 3 paragraph 3.9(7) and Criminal Practice Directions 3F.27, a Ground Rules Hearing should be held, save for exceptional circumstances, and the Registered Intermediary should be party to any ground rules discussions.

There is further guidance on GRHs, and a checklist available on [The Advocate’s Gateway website](#).

4.28 This section should include an indication that the RI should be present at the hearing of a special measures application if it is opposed.

Recommendations on Communication

4.29 This section should include recommendations specifically related to communication with the witness (e.g. recommendations and strategies for questioning), in order to improve the quality of the witness’s evidence.

- 4.30 These recommendations should be as detailed and specific as possible, so as to assist advocates and the judge/magistrates in their communication with the witness.
- 4.31 In relation to questioning, the RI may wish to specify:
- The pace of questioning
 - Use of the witness's name at the beginning of questions
 - Allowing additional time for the witness to process the question and formulate their answer
 - The length/format of questions
 - Avoiding grammatically complex structures
 - Communication aids which specifically assist with questioning (e.g. visual timelines, body outlines), etc.
- 4.32 Recommendations should be illustrated with practical examples (e.g. question types to use/avoid), tips and strategies (e.g. if the witness has delayed processing, the report might advise the advocate to 'count to five' in their head before asking the next question).
- 4.33 Further points that may be covered in this section include:
- How the witness can be assisted to take the oath/affirmation
 - The witness's use of language, especially if idiosyncratic
 - Indicators of the witness dissociating, or becoming confused/anxious/emotionally heightened/fatigued
 - Advice to the questioner about their mode of delivery – such as tone of voice or indications that they are going to change topic
 - The role of the RI during questioning, including how the RI will indicate if they need to intervene or if there needs to be a break in questioning (e.g. by raising a cue card).
- 4.34 Recommendations on communication could be organised in a table (as below) or with bullet points, for ease of reference. As with recommendations on special

measures, each recommendation should be supported by rationale linked to an assessment finding (e.g. via cross-referencing or a brief description of the relevant assessment finding).

Recommendation	Example	Rationale
Say [Witness's] at the beginning of the question.	'[Witness], how did you meet [Suspect]?'	[Witness's] attention is poor during verbal activities. I have found that saying [their] name helps to focus [their] attention.
Keep questions or comments to [Witness] to a maximum of four key words per sentence.	'What was Sam doing under the bed?'	[Witness] is unable to process the entirety of sentences containing five or more key words.
Keep the language used in questions or comments to [Witness] in the relevant tense.	ASK: 'What were you doing in the bedroom?' or 'What did you do in the bedroom?' NOT: 'What are you doing in the bedroom?'	[Witness] becomes confused when questions about the past are presented in the present tense.
Avoid 'why' questions.	ASK: 'What was happening just before X?' NOT: 'Why did X happen?'	[Witness] is often unable to give appropriate responses to 'why' questions.

RI Declaration

4.35 The RI declaration should be set out in full and followed by the RI's signature, registration number and the date.

4.36 The declaration should read:

'I swear by Almighty God [or I solemnly, sincerely and truly declare and affirm] that I shall faithfully communicate questions and answers and make true explanation of all matters and things required of me according to the best of my skill and understanding.'

4.37 Three appendices are included in the court report template. These are:

Appendix 1: CV of Registered Intermediary

Appendix 2: Role of the Registered Intermediary

Appendix 3: Giving Feedback to the Witness Intermediary Scheme

4.38 Further appendices could be included depending on the needs of the witness / case requirements. For example, appendices on:

- Communication aids (with pictures and more detailed explanation of use)
- Neutral questions to be asked during live-link practice
- GRH Checklist
- Further information/references (e.g. on witness's conditions)

4.39 An original, signed copy (in PDF, if sent electronically) of the report should be supplied to the person that commissioned the report (usually the CPS case worker).

5. Assisting a Witness in Court

Pre-Trial

Overview

- 5.1 The RI who assisted the witness during the ABE interview (if an RI was involved at that stage) should, whenever possible, continue to assist the witness up to and including the trial. If this is not possible, there must be a 'hand over' process between the RI who wrote the preliminary report and the RI who will be writing the court report and acting at the trial. This may be achieved through access to the RI's preliminary report and discussion of the case.
- 5.2 If a court report has not been produced, the trial RI must themselves meet with and assess the witness and establish rapport with the witness. They must write their own court report even if they agree with most, or all of, the previous RI's recommendations and conclusions within the preliminary report created at investigative stage. This is because there must be a report specific to the court settings which provides recommendations and interventions which the trial RI can justify.
- 5.3 It is important to stay informed of the status of the case. Although the end-user should keep the RI informed, this may not always happen. It is recommended that the RI makes regular contact with the CPS, and/or the OIC, to ensure that they stay informed of dates and any changes to these. The RI must inform the end-user immediately if for any reason they are unable to assist on the fixed trial date.

Receipt of CPS Request for Service

- 5.4 If the application for special measures is opposed, the RI should be present at the court for the contested application in order to assist the court in its decision making and, if necessary, to respond to the judge's questions about the report. If the special measures application is granted by the court, the RI should be present when the witness is due to give evidence.
- 5.5 RIs should work in partnership with others who may be involved in the preparation and support of witnesses for giving evidence (e.g. Witness Service or ISVA) and, **with the witness' consent**, should inform them of any relevant matters regarding the communication and well-being needs that might impact the quality of the witness's evidence and preparation for court.

Notifying the Citizens Advice Witness Service:

On accepting the CPS issued RfS, Citizens Advice asks that RIs notify the Witness Service that they have been assigned to a new case.

This notification should be sent at the earliest opportunity and should be done via secure email to witness.service@cawitnessservice.cjsm.net.

The email should contain the case details, court name/type, the trial date (if available), the witness's name, confirmation of the RI's role, and the RI's contact details.

Further information on this Citizens Advice request [can be viewed here](#).

Court Familiarisation Visit

- 5.6 RIs should attend the pre-trial court familiarisation visit with a responsible party from police or CPS in case of further disclosure. The Equal Treatment Bench Book recommends that intermediaries should be provided with photos of the live link rooms and screens by the court or be allowed to take their own photos for the purpose of preparation.¹⁷ Witnesses must practise speaking and listening on the live link, and the court should accommodate this with support from the Witness Service. The RI can facilitate this by providing court officials with neutral link questions to ask the witness when they practise. These questions must be pre-approved by CPS and be completely unrelated to the case, such as: 'What did you have for dinner yesterday?' 'How old are you?' 'How did you get here today?'. They must also be shared with the defence.

Memory Refreshing

- 5.7 In advance of the trial, the witness will have the opportunity to refresh their memory by watching the ABE interview. It is the RI's role to advise on the best way of doing this, for instance it may be best to do this separately from the court familiarisation visit to avoid the witness becoming fatigued or overloaded with information. The RI should attend and there should be a designated note-taker when the witness views their interview so that if any new evidence transpires it can be reported to the judge. The notetaker must not be the RI, in case there is any discrepancy between the accounts of the notetaker and the witness.
- 5.8 Any further insights into the witness's communication needs learned from the pre-trial court visit or viewing of the ABE interview should be conveyed immediately to the CPS and the OIC, particularly if these lead to further recommendations or a

¹⁷ <https://www.judiciary.gov.uk/wp-content/uploads/2018/02/equal-treatment-bench-book-february2018-v5-02mar18.pdf>

supplementary report about useful adaptations to aid communication. For example, an RI noted during a live link practise that the child witness was communicating via small gestures which would not clearly transmit on the live link; the RI therefore recommended that examination of the witness should take place with counsel in the live link room with the witness and RI.

- 5.9 The RI may be asked by the CPS to assist at any pre-trial meeting when consideration is given to the steps that need to be taken in order to assist the witness to give their best evidence (these usually take place for cases concerning rape and serious sexual offences, and more rarely other cases). If the RI receives an invitation to a meeting of this kind, they should make every possible effort to attend.

Ground Rules Hearing

- 5.10 Where an RI is involved in a trial, a GRH must be held. This is where the judge or magistrates, advocates and RI discuss ground rules (such as how the RI may intervene, if necessary) prior to the witness giving evidence. Wherever possible, the RI should be actively involved in this process.
- 5.11 The ground rules for the conduct of questioning may include:
- A direction relieving a party of any duty to put that party's case to a witness in its entirety
 - Directions about the manner of questioning
 - Directions about the duration of questioning
 - Directions about how questions may or may not be asked
 - Directions about the use of models, plans, body maps or similar aids to help communicate a question or an answer
 - Direction about if and how any exhibits will be presented
- 5.12 The judge may also order that the RI review the questions that the advocates plan to ask the witness and provide advice on their suitability in terms of the witness' communication needs and any suggestions for accessible question rewordings to be considered.
- 5.13 Where the RI is asked to review the questions in advance, it is important that the purpose of cross-examination is kept in mind – to legally challenge the witness. The defence are required to set out in their Defence Case Statement where they take

issue with the prosecution case, but they do not normally disclose in advance each matter on which they take issue with a particular witness. There may also be disagreement between defendants in a multi-handed trial as to what took place and/or who was responsible.

- 5.14 The RI's task is to help the advocate in phrasing questions in a way that the witness can understand, but their role is not to 'protect' the witness from being challenged on their evidence. They therefore must examine the questions solely from the standpoint of the witness's ability to understand and respond to them according to their specific communication needs. The RI must not disclose the content of questions to the prosecution or to any other defence counsel without the express written consent of the writer.
- 5.15 It may be helpful to proceedings for the RI to inform the CPS **via a separate email** when they have completed their review of draft questions. The RI **must not** share the questions with the prosecution.

At Trial

- 5.16 When the RI arrives at court, they should make themselves known to the court usher, the Witness Service, and any other professional witness supporters (ISVAs etc.), the OIC and to the trial advocate. They should bring spare, clean copies of their report (hardcopy or electronic) for the court.
- 5.17 The judge should explain the RI's role to the jury and then the RI declaration should be made. This is required by statute, and it is helpful for RIs to carry a small, laminated copy of the declaration in case the court does not have one available. The declaration can be made either in the court or in the live-link room.
- 5.18 The RI may need to explain their qualifications, training and role for the jury or magistrates.

Giving Evidence

- 5.19 When the witness is giving evidence, the RI supports them as agreed in the GRH. The RI will monitor the witness and intervene if a communication issue arises. The means of intervention will have been agreed upon in the GRH. The RI's role during cross-examination must be transparent – they should be in view of the jury or magistrate and not out of camera view in the live link room. This is to ensure that the jury or magistrates can clearly see that answers are coming from the witness and not the RI.
- 5.20 Interventions should be made as soon as possible once the need is recognised, for instance, if the question is too complicated for the witness. This is a matter of judgment and needs to be resolved on the spot, on the basis of the knowledge the

RI has gained about the witness. The questioning should flow if possible and the witness should not be disempowered.

- 5.21 If counsel is able to adapt their questions appropriately then there may be no need to intervene – this may well reflect the quality of the work carried out before the trial and that counsel have observed the ground rules. The RI should not be deterred from intervening in the event that an issue not previously recognised becomes apparent. When an intervention is made the advocate should be given an opportunity to rephrase the question before the RI offers to do so.
- 5.22 When a witness is asked a question that they cannot understand, it may cause distress as they realise that they cannot answer. Some witnesses may give answers such as ‘don’t know’ or ‘yeah’ as a way of bringing the questioning to an end, even if these answers do not reflect the truth.
- 5.23 The RI needs to be alert to the issues that can arise if an advocate persistently asks inappropriate questions. If there is a fundamental problem with the advocate’s style of questioning, and no one else takes the initiative, the RI should say to the judge; ‘Your honour, there is a matter which would best be dealt with in the absence of the jury.’ Following this, there should be a discussion between the judge, advocates, and the RI in the absence of the jury.

Important:

It is the decision of the judge whether or not to take any action following the RI’s intervention.

- 5.24 The court may not always hear every word that the witness says, and it is the RI’s duty to bring this to the court’s attention, particularly in the live link room, regardless of the impact this may have on the witness’s evidence.¹⁸
- 5.25 During any breaks in proceedings, witnesses can be referred to the Witness Service for any support needs or information concerning the proceedings.
- 5.26 A checklist of the RI’s duties whilst at court can be found at [Annex B](#).

Section 28 Pre-Recorded Cross Examination

- 5.27 Section 28 (s.28) of the YJCEA is a special measure that allows eligible witnesses to have their cross-examination video-recorded before the full trial. The witness’s

¹⁸ [The Criminal Procedure Rules 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)

recorded cross-examination is then played during the 'live trial,' along with the recorded evidence obtained during the ABE interview.

- 5.28 In most cases, this means that the vulnerable person does not have to attend the live trial in person. When further questioning is necessary, the judge is responsible for ensuring this is done in accordance with guidance (normally by way of a further s.28 hearing).
- 5.29 The aim is for the s.28 recording to be conducted closer to the time of offence, aiding memory recall and reducing the distress experienced by some witnesses when giving evidence to a full courtroom at trial.
- 5.30 As with all special measures, an application for the use of s.28 should be made after seeking the witness's views, ensuring they are eligible, and only if it would help them to give their best evidence. The RI can be helpful in ensuring the implications of s.28 are explained appropriately to the witness so they can express an informed preference. The application for the special measure is made by the police and/or CPS and is granted at the judge's discretion, however, the RI can note any potential benefits of early recording in their court report.

Important:

While the RI's role at the s.28 hearing remains unchanged, the shortened timescales mean it is imperative the RI's availability is known for both the GRH and the pre-recorded hearing when these dates are set at the plea and trial preparation hearing (PTPH). The RI must communicate their dates to avoid (DTA) with the CPS ahead of the PTPH.

- 5.31 Procedurally, a s.28 hearing is the first day of the trial. The RI will act as they would in a live trial, being involved in the same preparation processes and providing the same communication assistance to the witness. As at a live trial, the vulnerable witness undergoing pre-recording of their cross-examination is entitled to consideration of all other special measures (including assistance from an RI).
- 5.32 The jury is not present at a s.28 hearing, but typically the judge, advocates and defendant(s) are in attendance in the court room. The witness will answer questions across a live link, either from another room in the court building or remotely from another court building.
- 5.33 The s.28 special measure is available in every Crown Court in England and Wales for vulnerable and intimidated witnesses who have completed a visually recorded interview. It is not presently available in the magistrates' courts.

6. Involvement of Registered Intermediaries at Other Stages

- 6.1 RIs may assist communication during an identification parade as part of the police investigative process or when a vulnerable witness is giving a Victim Personal Statement after a trial.
- 6.2 There is also a possibility that the assistance of an RI may be requested when sentencing and the outcome of a trial is explained. This is more likely to be the case if the vulnerable witness has a severe disability.
- 6.3 The RI may suggest modifications to procedure and language in those matters for the vulnerable person to engage, understand and communicate. At all times, the RI should abide by the code of ethics and code of practice. The RI should also follow any process-specific instructions communicated by the end-user and make recommendations which will adhere to those.

7. Other Assistance for Witnesses

Interpreters

- 7.1 Interpreters are used where the witness does not have a good command of English. An RI will need to work with an interpreter if a witness also has communication needs that require their assistance. This includes British Sign Language interpreters. An interpreter is employed to translate questions and answers as exactly as possible and is not allowed to provide additional explanation of either the question or the answer. Interpreters are, however, allowed to intervene to alert the court of possible misunderstandings or missed cultural references.
- 7.2 Where possible, the RI should contact the interpreter before the assessment meeting to clarify the RI's role and what is required within the assessment. The interpreter should be included in the planning meeting with the OIC before the VRI. If this is not possible then a discussion should be had with the OIC and interpreter before the VRI recording starts, about how the interpreter should assist in the VRI for that particular witness.

Citizen Advice Witness Service

- 7.3 The court-based Witness Service is provided by Citizen's Advice, funded by the MoJ, and offers information and support, including tailored pre-trial preparation and court visits, to all witnesses. The service is available to both prosecution and defence witnesses. It should be noted that pre-trial support for witnesses living in the London area is provided by Victim Support. Citizens Advice remain responsible for the support delivered at all court hearings (e.g. at trial).
- 7.4 The RI should contact the court-based Witness Service ahead of the pre-trial familiarisation visit to discuss the communication needs of the witness.

Independent Sexual Violence Advisers

- 7.5 An Independent Sexual Violence Adviser (ISVA) is a person who provides practical and emotional support for victims of sexual offences.¹⁹ ISVAs offer independent information to the victim, making them aware of their options, such as reporting to the police, accessing Sexual Assault Referral Centre services, and specialist support such as pre-trial therapy and sexual violence counselling. ISVAs also provide information on other services that victims may require, for example in

¹⁹ [The role of the Independent Sexual Violence Adviser \(ISVA\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/the-role-of-the-independent-sexual-violence-adviser-isva)

relation to health and social care, housing, or benefits.²⁰ ISVAs work on behalf of the victim, alongside, but independent of other organisations and their purposes.

- 7.6 The relationship between the victims and their ISVA can be very important, particularly where they may have supported the victim for some time before they engage with the justice system. It is crucial, in the interests of the victim, for an RI to work together cohesively and communicate openly with ISVAs.²¹ An RI should seek to explain their role so the ISVA understands how they are qualified to assist the victim with communication and that this may include emotional regulation.
- 7.7 An RI should also make reasonable effort to ascertain whether ISVA presence has been granted through making contact with the police force or court-based witness services, particularly prior to arranging a pre-trial visit. An ISVA will also liaise with the Witness Service ahead of court proceedings to agree areas where they might join up with the RI, where this is in the best interests of the witness.
- 7.8 ISVAs may support a victim at the police station or during court proceedings. Guidance supports the use of witness ‘supporters,’ such as ISVAs, stating that they are likely to assist vulnerable and intimidated witness in achieving their best evidence by providing emotional support and reducing their anxiety and stress.²²
- 7.9 **Investigative Stage:** An ISVA may accompany a victim to their interview at the police station and may be present to provide emotional support to the victim during initial assessment by the RI. The victim may also request that an ISVA be present to support them during the ABE interview.²³ This is subject to the OIC’s decision, and the RI should be prepared to advise on a maximum number of people in the room, if there is a likelihood that this will affect the witness’s communication.
- 7.10 **Court Proceedings:** An ISVA can provide emotional and practical support to a victim during court proceedings. The court is responsible for deciding on the use of special measures, and for determining who should accompany the witness when they give evidence.²⁴ Criminal Procedure Rule 3.8(7) states that, as a general rule, the court must allow an adviser to sit next to or near the witness in the courtroom or at any other place where the witness takes part, subject to any direction made at the GRH. The adviser must not discuss the evidence with the witness, advise them

²⁰ As part of Victims and Prisoners Act 2024, the MoJ committed to developing statutory guidance for ISVAs and IDVAs (including minimum standards for training and CPD), alongside introducing a duty on other agencies to have ‘due regard’ to this guidance.

²¹ With consent of victim to share information with ISVA.

²² [Achieving best evidence in criminal proceedings, chapter 4.](#)

²³ To guard against allegations of witness coaching, ISVAs should have limited knowledge of the specific evidence in the case, meaning a different ISVA/supporter would need to support the witness pre-trial/accompany them when giving evidence.

²⁴ [Achieving best evidence in criminal proceedings, section 4.13](#)

8. Safeguarding

- 8.1 There may be occasions when an RI is required to share concerns about a vulnerable witness because they believe that the witness may be at risk of harm.
- 8.2 If an RI believes that a child or vulnerable adult is at risk of harm then they must act in line with the relevant statutes and guidance including:
- [Children Act 1989](#)
 - [Adoption and Children Act 2002](#)
 - [Children Act 2004](#)
 - [Mental Capacity Act 2005](#)
 - [Care Act 2014](#)
 - [Data Protection Act 2018](#)
 - [UK General Data Protection Regulation 2018](#)
 - [Guidance on 'Working Together to Safeguard Children', Department for Education, \(2018\)](#)
 - [Guidance on 'Information sharing: advice for practitioners providing safeguarding services to children, young people, parents and carers', \(2018\)](#)
- 8.3 If the RI assesses that a child or vulnerable adult is at risk of significant harm, they should contact their local Multi-Agency Safeguarding Hub (MASH) (or safeguarding children/adults board) in the first instance and follow this up in writing within 24 hours. It is advised that the RI separately informs a police officer of their concerns and the action taken.
- 8.4 If the RI encounters difficulty in contacting a local safeguarding body, the RI is advised to notify the 'End-User' and 'The Authorising Person' as shown on the RfS form and any other officer involved in the case whose details are known to the RI. If advice regarding policing procedures is needed, the RI can contact the NCA WIT.
- 8.5 RI's must keep a full record of any reported safeguarding concern, including subsequent contact and decision.

8.6 RI's must notify the NCA WIT of any safeguarding referral made and the outcome.

Safeguarding Concerns about Professionals

8.7 Any allegation made about an individual working with children or vulnerable adults must be referred to the same point of contact as a concern about a child's or adult's welfare. This ensures that follow-up can be coordinated, as necessary.

8.8 An allegation about an individual working with children or vulnerable adults may include:

- That they have behaved in a way that has harmed a child or vulnerable adult
- That they have possibly committed a criminal offence against a child or adult at risk
- That they have related to a child or vulnerable adult in a way that indicates that they may pose a risk of harm to them

8.9 If there is a safeguarding concern relating to another RI, or a concern about their decision making, then this must be reported to the GSB via its secretariat (WIT@nca.gov.uk).

9. Further Information

- 9.1 This section includes additional information that RIs need to make themselves aware of in the course of their work.

Time Commitment

- 9.2 To remain on the register, RIs are required to complete a minimum of 24 days of RI work per year, with a minimum of 12 days of face-to-face casework.
- 9.3 Where RIs anticipate that they will be unavailable to accept cases for a long period of time, they should inform the NCA WIT staff. The NCA WIT will inform the GSB, which is responsible for monitoring whether RIs are meeting the minimum commitments required to remain on the register.
- 9.4 Where an RI has not been practising for a period of six months or more, the GSB will review the situation with the RI to determine the appropriate action. The GSB reserves the right to remove an RI from the register, subject to the specifics of the case at hand.
- 9.5 If an RI who has been removed from the register due to an extended period of inactivity wishes to be placed back on the register, then they must contact the GSB to agree a plan for returning to practice.

Registered Intermediaries Online (RIO)

- 9.6 RIO is the online forum for RIs. Intermediaries will be provided with registration details for joining the online forum by the NCA WIT when they join the WIS register.
- 9.7 RIO is the place to post queries, find out about changes in policy and procedure, access documents and view available cases. Membership of RIO is mandatory and active use of RIO is a CPD requirement. RIO is a professional forum for discussion about matters pertaining to the WIS only and users must conduct themselves accordingly. The RIO Code of Conduct [can be viewed here](#).

Continuing Professional Development (CPD)

- 9.8 CPD is the means through which RIs maintain, improve, and broaden their knowledge and skills and continue to develop the professional qualities and competencies required in the discharge of their duties in the RI role. It is an important means by which the GSB can monitor and regulate the professional

standards expected of RIs in the WIS and, in doing so, provide a guarantee to the GSB and WIS stakeholders of the quality of service to be expected from an RI.

- 9.9 To remain registered, RIs must submit an annual CPD log to the GSB (covering the period 1 April – 31 March). Failure to submit a CPD log will result in suspension from the register unless there are exceptional circumstances agreed by the GSB. Guidance on the completion of a CPD log (including minimum requirements) and a template log [can be viewed here](#).

Support for Newly Qualified Registered Intermediaries

- 9.10 Newly qualified RIs will be provided with the contact details of an experienced RI (mentor) who can provide support and advice (in a manner agreed by both parties) as they begin their RI work. Mentoring is funded by the MoJ up to a maximum of six hours. If the newly qualified RI wishes to continue with a mentoring-type arrangement once these six hours have been used, they can do so by self-funding.
- 9.11 In addition to one-to-one mentoring, the MoJ provides small, facilitated peer group meetings on a monthly basis for the first six months of practice. These groups meet online and provide an opportunity to discuss experiences and ask any questions. If newly qualified RIs would like additional training on any specific elements of the role then this will be arranged at these groups and guests can be invited to speak on any issues that attendees would like to be covered.
- 9.12 Regional Support Groups are also available for all RIs. Newly qualified RIs should attend their local Regional Support Group meetings once qualified to develop their RI support network and keep up to date on local developments and best practice.

Invoicing and Taxation

- 9.13 RIs are self-employed and enter into a contractual arrangement with the end-user when they accept the RfS and send the completed RfS form to them.
- 9.14 RIs are required to invoice according to the WIS remuneration rate schedule that sets out the fees negotiated with end-users and agreed by the MoJ. Invoices via third parties or limited companies will not be paid. Invoices should be sent to the details of the 'Billing' section on the RfS form. A sample invoice [can be viewed here](#).
- 9.15 RIs are personally responsible for fulfilling their obligation to submit an annual self-assessment tax return to HM Revenue & Customs.

Registered Intermediary Identification Cards

- 9.16 RIs can apply for replacement ID cards through the designated application form [accessible here](#).

- 9.17 On submitting an application for a replacement ID card, the NCA WIT will contact the RI with instructions on submitting a passport-style photograph.

10. Documents and Resources

This page contains links to key documents and resources such as templates, quality assurance policies, scheme reference materials, and other resources. These can be viewed online; internal documents require a RIO account to access.

Legislation

- [Youth Justice and Criminal Evidence Act 1999](#)

Essential Templates for Registered Intermediaries

- [Continuing Professional Development \(CPD\) Log Template and Guidance](#)
- [Court Report Template](#)
- [Police Preliminary Report Template](#)
- [Invoice Template](#)

Governance and Standards Board Materials

- [Feedback and Complaints Policy](#)
- [Continuing Professional Development \(CPD\) Policy](#)
- [Fitness to Practice Policy](#)
- [Managing the Register Policy](#)
- [Mentoring and Support Policy](#)
- [Sanctions Policy](#)

Witness Intermediary Scheme Reference Materials

- [Witness Intermediary Scheme Remuneration Rate Schedule and Guidance](#)
- [Request for Service \(RfS\) Form](#)
- [Example End-User's Feedback Form](#)
- [RI ID Card Application Form](#)

- [Witness Intermediary Scheme Concerns Log](#)

Information Commissioner's Office Guidance (Data Protection)

- [Information on Data Controllers](#)
- [Checklist for Data Controllers](#)
- [Information on Data Protection Fees](#)

Other Resources

Resource	Description
Registered Intermediaries Online	The online forum for RIs, used to view available cases, access documents, monitor key updates, and post queries
Achieving Best Evidence in Criminal Proceedings	Guidance on interviewing victims and witnesses, and guidance on using special measures
CPS: Special Measures	Information about the range of special measures available to eligible witnesses
Criminal Procedure and Investigations Act 1996	Information on the prosecution's duty to disclose material to the accused that might reasonably be considered capable of undermining the case against the accused or assisting the case of the accused. Specifically, section 3(3a) & 3(3b) relating to duties arising from recorded material.
Equal Treatment Bench Book	Aims to increase understanding of the different circumstances of people appearing in courts and tribunals
The Advocate's Gateway	Provides free access to practical, evidence-based guidance on communicating with vulnerable witnesses and defendants
GOV.UK: WIS Webpage	Information about Registered Intermediaries as part of the MoJ Witness Intermediary Scheme (incl. annual reports)
GOV.UK: Working Together to Safeguard Children	Statutory guidance on inter-agency working to safeguard and promote the welfare of children
GOV.UK: Information Sharing Advice (Safeguarding)	Guidance on information sharing for providers of safeguarding services to children, young people, parents, and carers
GOV.UK: Victims' Code	Focuses on victims' rights and sets out the standard that organisations must provide to victims of crime

RI Training Programme Materials	Materials used in the MoJ's RI training programme
Going to Court: Younger Children	HMCTS support videos for children involved in court proceedings
Going to Court: Older Children	
The Role of the Independent Sexual Violence Adviser: Essential Elements	ISVA National Guidance

Annex A: Report Writing Checklist

Reports should meet the following minimum standards:

- Suitable front page, including the RIs CJSM email address (based on front page in template)
- Contents page (if longer than 10 pages)
- Written in the first person
- Suitably structured and headed/sub-headed (following the layout in the template)
- One and a half (1.5) line-spacing
- Set out with wide margins
- Printed single-sided (if printed rather than emailed)
- Arial font must be used
- Font size twelve must be used
- Written in plain English and avoiding jargon
- Written in short sentences and with short paragraphs
- All assessment findings and recommendations should be functionally appropriate and written in the context of a trial
- Any medical or communication abbreviations and terms used should be explained, i.e. 'X has dysphasia. This means they have difficulty understanding words they want to say to express their meaning, in the absence of a cognitive impairment.'
- Page-numbered. This should be in the bottom right-hand corner of the page

- Paragraph-numbered, i.e. 1.1, 1.2, 1.3, etc. Sub-paragraphs should be reflected in numerical order and, if required, further divisions should be reflected in alphabetical order, i.e.

1.1

1.1.1

a)

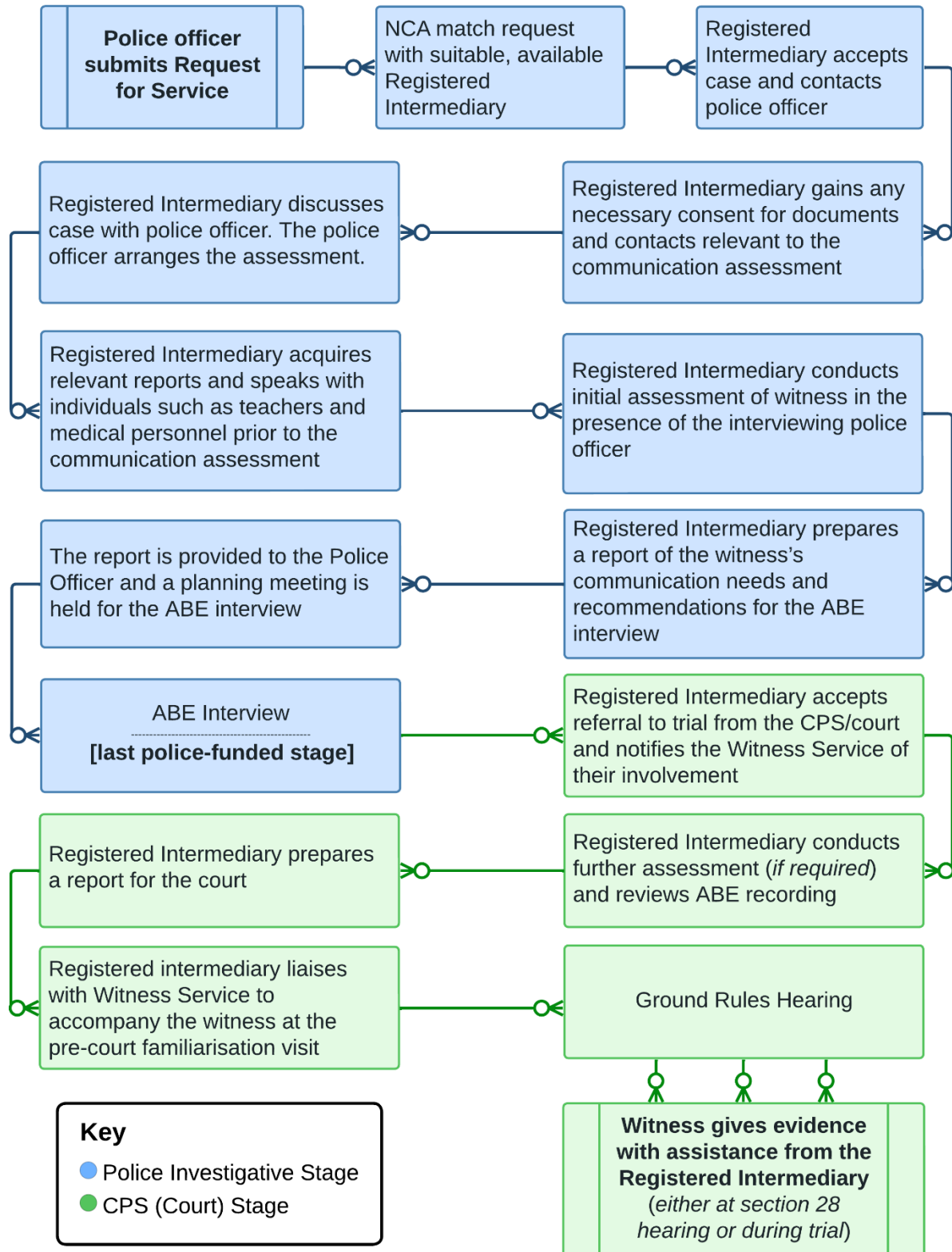
- Headed on each page with case name and number
- A clear summary of conclusions and recommendations before main body of report
- Key recommendations clearly set out for viewing ‘at a glance’ – a table may be used for this purpose
- Signed under the RI declaration
- Dated
- Proof-read and free of grammar, spelling, and typographic errors

Annex B: RI Duties at Court Checklist

- An RI owes their primary responsibility to the court and to upholding the overriding objective that criminal cases are dealt with justly
- The RI should discuss any witness preparation needs with the court-based witness service so they can address them fully
- They should confirm their understanding of their duties and make their declaration at the start of the ABE interview and again at trial
- They will not discuss any aspect of the case or the witness's testimony with the witness
- They will communicate questions put to the witness by the court or legal representatives as accurately as possible, in a way that facilitates the witness's understanding
- They will communicate the witness's answers to questions to the court as accurately as possible
- They will communicate the witness's reply as given, however irrelevant or illogical it might seem. It is for the court to seek clarification if necessary
- They will seek clarification from the court of any questions that they have not understood before putting the question to the witness in the form the court wishes. Such clarification should relate to matters of understanding and comprehension and not any legal issues
- They will not interrupt the advocate's question unless there is an urgent need to seek clarification or to indicate that the witness has not understood something
- They will not hypothesise as to the intentions or motives of the witness
- They will not anticipate the intention of the questioner
- They will not alter the question put or answer given in the first instance but may if required offer an alternative form of the question to facilitate understanding
- They will not alter the precise nature or thrust of the questions put to the witness or the witness's answer in order to shield or protect the witness

- They will not unnecessarily impede or obstruct the pace and flow of court proceedings
- They will follow the directions of the court as instructed by the judge or magistrate and will respond to the directions and requests when required to do so
- They will not engage in private conversation with the witness during the giving of evidence or in any way distract the witness from attending to the court process
- They will address the court through the judge or magistrate unless invited to respond to others by the judge or magistrate
- They will conduct themselves in a manner which is consistent with their role as an RI and in accordance with the RI Codes of Practice and Ethics
- They will make use of appropriate pauses and breaks in the court process to raise any matters of concern affecting the quality of the witness's evidence or when necessary, bring matters of immediate concern to the attention of the court at the time they occur
- They must not discuss any evidential aspect of the case with the witness on any future occasion

Annex C: Overview of Registered Intermediary Duties in the CJS



Annex D: Witness Intermediary Scheme Feedback and Complaints Policy

Date: June 2023

1. Purpose

- 1.1. The Ministry of Justice (MoJ) Witness Intermediary Scheme (WIS) is overseen by the WIS Governance and Standards Board (GSB). The Registered Intermediary (RI) role is set out in the MoJ's RI Procedural Guidance Manual (RIPGM).
- 1.2. This policy is designed to promote quick, clear, and fair responses, to feedback on RIs received by the WIT and notification of possible breaches of the RIPGM. The desired outcomes are the maintenance of best practice for witnesses, fairness for all RIs and continuous improvement.
- 1.3. This policy provides clarity for GSB, so that it can fulfil its responsibilities with regards to standards of practice, and for RIs to understand how the feedback and complaints policy should work.

2. Scope of Policy

- 2.1. This policy applies to all RIs.
- 2.2. The emphasis within the policy is on informal resolution and a constructive approach to learning from feedback. Formal action will only be taken in situations where the causes for concern are considered sufficient to merit a full investigation (some examples are outlined in Annex 1).

3. Interpretation

- 3.1. 'Complaint' means a formal written declaration of dissatisfaction or concern with request for action to be taken under this procedure.
- 3.2. 'Complainant' means the person raising the complaint.
- 3.3. 'Feedback' means information or statements of opinion which are shared on an individual or service.
- 3.4. 'Determination panel' means the panel appointed to review the investigator's report and agree the final outcome of the complaint.
- 3.5. 'Informal resolution' means dealing with a complaint by solving, explaining, clearing up or settling the matter directly with the complainant, without investigation or formal proceedings.
- 3.6. 'Investigator' is the 'GSB Feedback and Complaints lead.' The investigator is a neutral party who will seek to establish the views of the parties as part of a full investigation.

- 3.7. 'GSB Feedback and Complaints lead' means the independent GSB member with responsibility for complaints and negative feedback.
- 3.8. Registered Intermediary (RI) means a self-employed communication specialist who assists communication between vulnerable witnesses and complainants, to give evidence to the police and to the court in criminal trials, who is on the Witness Intermediary Scheme register.

4. Principles

- 4.1. Following the standards set out by the Parliamentary Ombudsman, this policy is underpinned by the following principles.
- *Getting it Right*: in terms of clear, prompt handling, which is outcome focussed and improvement driven. Promoting a culture that welcomes feedback and learning. Customer Focussed: in relation to good, clear communication, which is sensitive to the needs of those involved.
 - *Being Open and Accountable*: in terms of being open and honest about decisions, providing clear evidence, documented, and maintained in reliable and usable records.
 - *Acting Fairly and Proportionately*: in terms of understanding and respecting the diversity of people involved. Ensuring that responses are thorough and proportionate, avoiding undue delay.
 - *Putting Things Right*: in terms of action to address any identified gaps.
 - *Seeking Continuous Improvement*: in relation to ensuring that lessons learnt are shared appropriately, translated into action where required and impact is reviewed.

5. Providing feedback and/or making a complaint

- 5.1. Feedback or complaints concerning a RI should be submitted in writing to WIT@nca.gov.uk. The name of the RI concerned should be provided together with the details of the feedback provided or grounds of the complaint. The name and contact details of the individual providing feedback or writing a complaint should be included.
- 5.2. The WIT will acknowledge receipt of a complaint within 3 working days and pass it to the designated GSB Feedback and Complaints lead. The WIT will also notify the MoJ of the case of negative feedback.
- 5.3. The designated GSB Feedback and Complaints lead will review the feedback and/or complaint within 5 working days of receipt from the WIT, and determine the causes for concern and if the matter:
- i. Can be addressed through informal resolution.

- ii. Requires full investigation based on possible breaches of RIPGM indicated by the information provided.
- 5.4. Where further clarity is needed, the GSB Feedback and Complaints lead should contact the complainant to gather further details.
- 5.5. The GSB Feedback and Complaints lead will consider safeguarding and fitness to practice issues in order to assess:
- i. If the causes for concern must be reported to an external body, such as a Local Authority Designated Officer²⁷.
 - ii. If the RI should remain on the register, or in very rare cases be temporarily or permanently suspended from the register.
- 5.6. The GSB Feedback and Complaints lead will share this initial risk assessment with the MoJ (registered.interme@justice.gov.uk) within 5 working days of receiving the feedback (as outlined in 5.3) and/or complaint in order to:
- i. Outline and agree any cause for concern in accordance RIPGM.
 - ii. Confirm action to be taken and next steps. If an informal resolution is appropriate, feedback will be shared with the RI and the CPD lead will support with this process. If a formal investigation is necessary, the scope should be defined.
- 5.7. The MoJ will respond to the GSB Feedback and Complaints lead to confirm receipt of the initial risk assessment.
- 5.8. The MoJ will write to the complainant within 2 working days of receiving the complaint lead's notification to inform them of the next steps which will either be to:
- i) take no further action;
 - ii) facilitate informal resolution through feedback;
 - iii) or undertake an investigation. This notification should include the scope of the investigation, the name of the Feedback and Complaints lead and the date they will be in touch with the outcome.
- 5.9. In all circumstances the complainant must be informed of the rationale behind action taken by GSB. The complainant will be provided with a copy of the feedback and complaints policy.

6. Investigation

- 6.1. The GSB Feedback and Complaints lead will either investigate the complaint or appoint a GSB member as an investigator, no later than 5 working days from the determination of the need for an investigation. In the event of unavoidable delay, the

²⁷ The LADO is the nominated person within a local authority who is responsible for coordinating investigations into possible abuse by a professional.

secretariat will write to both the complainant and the RI to notify them and explain the cause and extent of the delay.

- 6.2. Investigations should be conducted in writing, with meetings used only where disproportionate time and effort would otherwise be required to achieve clarity.
- 6.3. The investigator will discuss any additional information needed with the secretariat and confirm the date that the investigation commenced.
- 6.4. The investigator will write to the RI to confirm the detail of the complaint, the causes for concern and scope of the investigation. The investigator will request a response of not more than two pages of A4 giving a statement of the RIs position in relation to the specific concerns raised and providing any supporting evidence specific to the complaint within 10 working days.
- 6.5. In the event the investigator determines a meeting is needed with any of the parties, the investigator will agree a mutually convenient appointment within 10 days and, unless technologically unfeasible, arrange for this to be conducted virtually. This meeting will be recorded, and a summary of the meeting will be produced by MoJ and circulated for the agreement of participants.
- 6.6. In the rare event that evidence is identified in the course of the investigation that calls into question other aspects of the RIs practice or raises a safeguarding risk, the GSB feedback and complaint lead will conduct a new risk assessment to determine whether to expand the scope of the investigation and whether any additional fitness to practice actions are required. The complaint lead will share this updated risk assessment with the MoJ (as in 4.6 above). Unless this threshold is met, additional concerns are to be handled solely through learning points in the final report.
- 6.7. The investigator will notify the MoJ of any expansion of the scope of the investigation (see 5.8 above). This must include updated causes for concern and next steps.
- 6.8. The MoJ will write to the RI to inform them of the expansion to the scope of the investigation and any changes to the timescale.
- 6.9. The investigator will produce a short report that provides a recommendation as to whether the complaint should be upheld wholly, partially or not at all. The report must clarify if further action is recommended, referenced to the relevant policy (Fitness to Practice and /or Sanctions).
- 6.10. The report must be submitted to the MoJ, along with the evidence gathered in the course of the investigation, within six weeks of the investigation start date. Where a complaint is complex or investigation processes are delayed, timescales may be extended by up to one month. Possible delays must be identified at the earliest opportunity and all relevant parties advised accordingly by the MoJ.

7. Determination

- 7.1. When a complaint is determined as requiring investigation, the secretariat should estimate the report date and identify a determination panel. Upon receipt of the

report, the MoJ (as GSB secretariat) should convene a determination panel, comprised of the investigator, one GSB member²⁸ and, wherever possible, an Accredited RI (to act confidentially and neutrally as a peer reviewer). To inform the appointment, the Accredited RI will be asked to declare any conflict of interest.

- 7.2. The investigator should send the report, and supporting evidence, to the members of the determination panel, for review at an online meeting within 5 working days. Panel members must indicate whether they concur with the recommendation of the report and any further action. The panel will agree the final outcomes.
- 7.3. The GSB secretariat will write to the RI to inform them if the complaint has been upheld, the basis on which it has been upheld (attaching a copy of the investigator's final report), and where relevant, what action is recommended in terms of fitness to practice or sanctions.
- 7.4. The RI is able to request the evidence supporting the determination within 10 working days, if necessary. The panel will consider this request and the sensitivity of any evidence, before providing the evidence to the secretariat to share with the RI.

8. Appeals

- 8.1. If either the complainant or the RI is not satisfied with the outcome of the complaint, then they should set out the grounds for an appeal in writing and send it to WIT@nca.gov.uk. Appeals should be submitted within 10 working days of receiving the outcome of a complaint.
- 8.2. The MoJ (as secretariat of the GSB) will acknowledge receipt of the appeal within 3 working days. The Chair of the GSB will consider whether grounds for appeal exist. These are:
 - i. That the matter was not investigated in a fair and reasonable manner by the investigator; or
 - ii. That the determination of the panel is unreasonable in light of all of the available evidence.
- 8.3. If the Chair does not consider that there are grounds for appeal then they will confirm this in writing within 5 working days of receipt and close the appeal.
- 8.4. If the Chair considers that there are grounds for appeal then an Appeal Panel will be appointed within 10 working days of receipt and the parties to the complaint will be notified by the GSB secretariat.
- 8.5. The Appeal Panel will consist of an accredited RI and a member of the GSB who has not previously been involved in the complaint investigation, and the Chair. The Panel will meet, insofar as it is possible, within 10 working days of their appointment to consider the complaint, the investigation, and the decision. They may decide to:
 - i. Terminate the complaints procedure by dismissing the appeal.

²⁸ Excluding the Chair of the GSB.

- ii. Issue an appeal outcome.

8.6. The parties to the complaint will be informed of the Appeal Panel's decision by the Chair within 5 working days of the Panel meeting. This decision will be final.

9. Learning and action

- 9.1. Where relevant and following the formal conclusion of the complaint, investigators must provide the MoJ with a written summary of the learning outlining possible gaps in practice and recommending action. Examples of recommended actions include enhancements to the RIPGM, CPD opportunities, additions to training or learning summaries made available on RIO.
- 9.2. Investigators must also draw GSB's attention to possible learning/action points for partners such as police, CPS and HMCTS.
- 9.3. GSB must consider all learning, ratify action required and ensure agreed changes are implemented.

10. Communication of outcome to other professional bodies

- 10.1. In cases where a complaint is upheld and the panel determines that the breach is serious enough to require the removal of the RI from the register, this sanction will be communicated to any other relevant professional body with which they are registered at the conclusion of the appeals period.

11. Governance and review

- 11.1. This policy was approved by the GSB (formally the Quality Assurance Board) on 26 April 2023 and ratified by the Intermediaries Registration Board on 6 May 2023.
- 11.2. GSB will undertake a review of the policy every two years from implementation. The next review of this policy will be undertaken by June 2025 at the latest.



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