

Focus on INTERMEDIARIES: Role, professional responsibilities and practice

Dr Tina Pereira

Registered Intermediary

HMCTS Appointed Intermediary

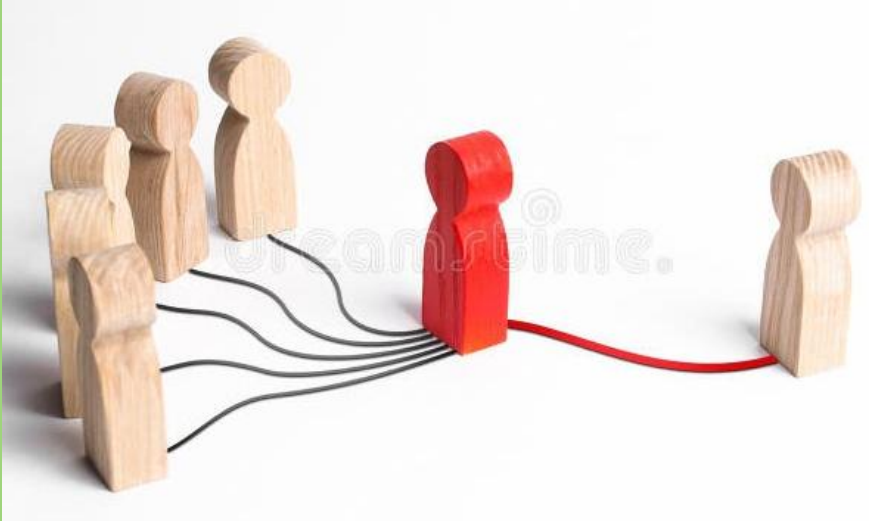
Honorary Research Fellow, City St George's University of London

19-11-25

Overview

1. **Role of an intermediary and legal context**
2. **About intermediaries in legal settings**
3. **Professional responsibilities**
4. **Work in practice**
5. **Key differences RI and ISVA**
6. **Case study**
7. **Working together: Intermediaries and ISVAs**
8. **Questions**

Role of intermediary



An intermediary is a **communication specialist** whose role it is to facilitate **two-way communication** between justice system professionals and legally defined vulnerable people.

<https://www.gov.uk/guidance/ministry-of-justice-witness-intermediary-scheme>

An intermediary aims to improve the quality (completeness, coherence and accuracy) of communication between two parties (Judicial College 2024).

Legal context and history

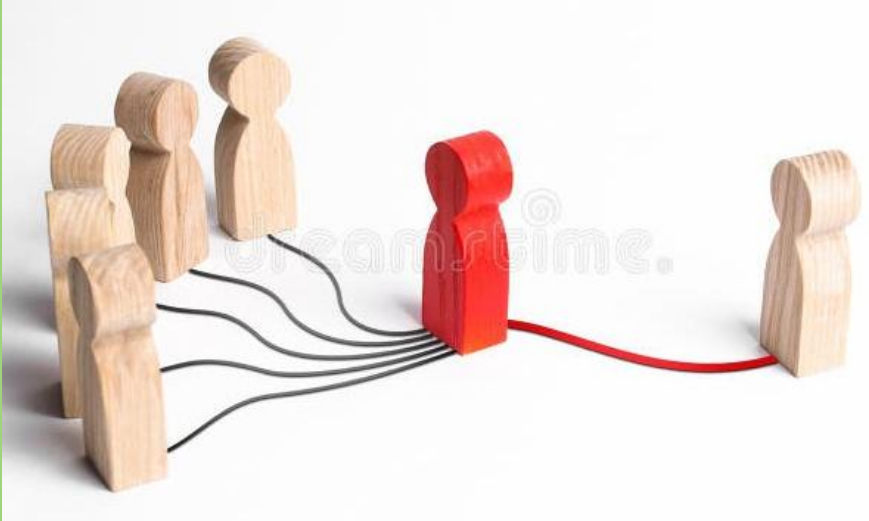
- 1998: Speaking up for Justice (Home Office 1998).
- 1999: Youth Justice and Criminal Evidence Act (YJCEA 1999):
 - Range of Special Measures for legally defined vulnerable **witnesses**
 - S29: Examination through intermediary
- 2004: Development of the **Witness Intermediary Scheme (WIS)** governed by the Ministry of Justice and operationally run by National Crime Agency (NCA).

- WIS: Registered Intermediaries (RI) for **witnesses & complainants** in **criminal** matters.
- 2022: Intermediary provision rolled out in **other jurisdictions** **HMCTS Appointed Intermediary Scheme (HAIS)**: Intermediary assistance for **defendants, other parties** etc.
- Amendments made to Criminal Practice Rules and Directions, as well as Family Procedure Rules and Practice Directions.

About Intermediaries in legal settings

- Majority come from communication-based professions e.g. speech and language therapy, psychology, special education etc.
- Additional training in legal processes.
- Self employed, remunerated by end user.
- Police/CPS request NCA for RI; matched based on RI's suitability to specific vulnerability, geographic area & availability.
- MoJ retains overall governance, strategy and policy management of the WIS, monitoring and regulation of professional standards is undertaken by WIS's Governance and Standards Board.

Professional responsibilities



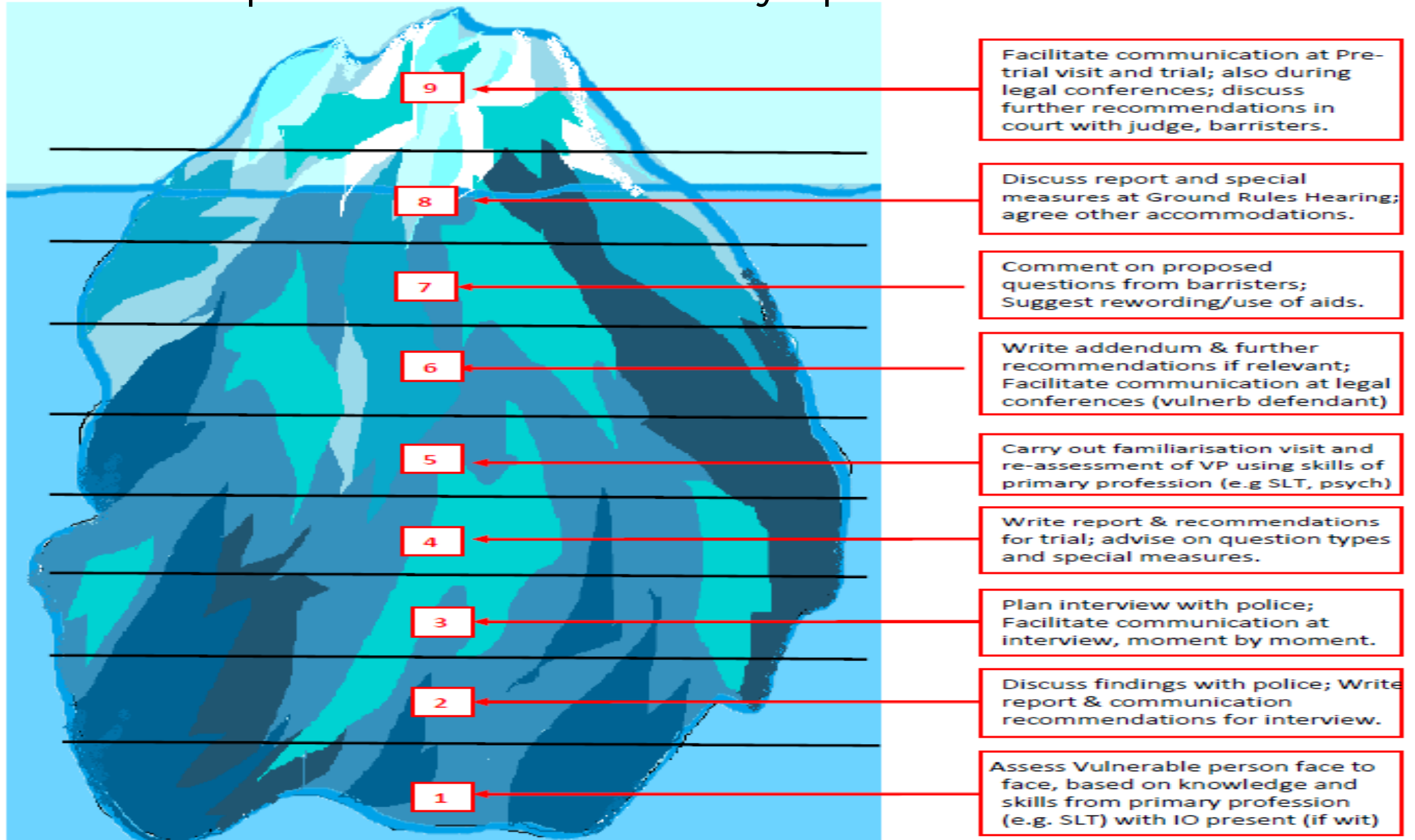
1. RIs are impartial, neutral and non-partisan, with a duty to the court and the court process.
2. Focus on two-way communication
3. Assist VP, as well as barrister/judge and court (i.e. RIs do not 'support' a VP only)
4. Therefore, an intermediary is NOT
 - An appropriate adult
 - A lay advocate
 - A supporter or Mackenzie friend
 - An expert witness
 - A 2nd interviewing officer

How does an intermediary work in practice?

An intermediary will (MoJ 2024):

1. Carry out a detailed person specific **communication assessment** (incl need for aids) using knowledge and skills from base profession.
2. Identify and **recommend special measures** and personalised communication related **strategies** to enable a VP to understand and communicate more effectively at interview and/or trial.
3. **Plan** interview with police and **intervene** in situ when necessary.
4. Discuss recommendations for special measures at **Ground Rules Hearing**; assist at **pretrial visit**.
5. **Sit alongside** a VP (witness box, video link, dock) and **intervene** where necessary.

Schematic representation of intermediary input



When is an intermediary assessment recommended?

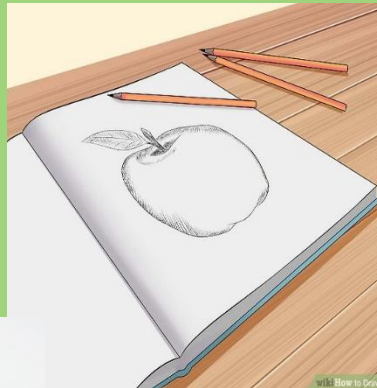
1. VPs with **diagnoses** impacting communication
e.g. Autism, Attention Deficit Hyperactivity Disorder (ADHD), Intellectual Disability (or Learning Disability), Mental health conditions (Post Traumatic Stress Disorder, Anxiety etc), Dementia, Stroke, Parkinson's Disease.
2. **Undiagnosed**, but VPs demonstrating difficulties relating to understanding, communicating, paying attention/focussing, regulating emotions and/or sensations, experiencing sensory issues.
3. **Children** up to age 18.

Key differences RI and ISVA

1. **Function of intermediary (YJCEA 1999 S29) is to communicate:**
 - i. to the witness, questions put to the witness, and
 - ii. to any person asking such questions, the answers given by the witness in reply to them and to explain such questions or answers so far as necessary to enable them to be understood by the witness or person in question.'
2. Work with a **Vulnerable Person (VP) only** and not with Intimidated Persons.
3. **Impartial** and **neutral** officer of court

Case Study: Child

Interview stage



PRIOR TO INTERVIEW:

1. 6 year old without medical diagnosis.
2. Police: “She is fine”, “absolutely no problems” although quite “lively”.
3. Allegation: parents engaged her in sexual activity over a number of years.

ASSESSMENT: interviewing officer, RI & witness in room; RI offered officer contemporaneous advice:

1. Maintaining attention (5-7 minutes)
2. Framing of questions; Eliciting sequence of events in allegation using mannequins
3. Discussing abstract concepts e.g. time
4. Preventing acquiescence

A note about communication aids recommended

1. Special measure S30
2. Selected, introduced and managed by trained intermediary only.
3. Communication aid use is never haphazard, random or untested.
4. Always assessed, planned, systematic and well thought through.
5. Always used in non-leading manner.

Prior to trial



**CHISVA now
liaising with
child
complainant**

PRE TRIAL VISIT to court:

1. RI met witness service prior to child arriving.
2. Explained and suggested plan for visit with reasons based on RI's assessment.
3. Liaised with usher re asking non trial related practice questions targeting court room skills.
4. Met child + CHISVA + complainant's mother to explain plan; all agreed.

LIAISON BY EMAIL: RI commented on cross examination questions from defence barrister.

RI attended **GROUND RULES HEARING** discussed report with Court, including suggested question amendments and other special measures.

At trial

1. RI sat at right angles to child complainant, CHISVA sat just outside door of video room, minimal visual and auditory distraction in room itself.
2. Carried out some intervention regarding complex questions.
3. Child took one break to speak to CHISVA outside room.
4. Cross examination concluded; child spent time with CHISVA.

Working together: RI and ISVA

1. Case by case basis
2. Acknowledgement of different but equally relevant roles
3. Agree manner of joint working prior to trial
4. Always in best interests of witness
5. Judge's ruling is final.

References

- Judicial College 2024. Equal Treatment Bench Book
<https://www.judiciary.uk/wp-content/uploads/2022/09/Equal-Treatment-Bench-Book.pdf>
- Home Office 1998. Sanders, A.; Creaton, J.; Bird, S. and Weber, L. 1996. *Speaking up for Justice*. London: Home Office Research and Statistics Directorate
- Ministry of Justice 2024. Registered Intermediary Procedural Guidance Manual.
- UK Parliament. 1999. Youth Justice and Criminal Evidence Act 1999 London:
<http://www.legislation.gov.uk/ukpga/1999/23/enacted>

Questions

tina.pereira@regintermediary.cjsm.net

tina.pereira@theintermediarycooperative.co.uk

