

# Creating a Level Playing Field Intermediaries in the Justice System

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Registered  
and Court Approved Intermediary



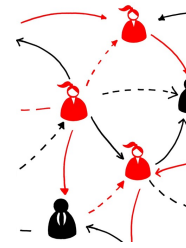
## Today's Presentation:

- Understanding the Role of Intermediaries
- The Communication challenges faced by vulnerable individuals in the Judicial System
- Intermediaries and Disability Discrimination
- Challenges and the Future of intermediaries in the Justice System



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# Understanding the Role of Intermediaries



## Who are intermediaries and what do they do?

### Role of Intermediaries

Intermediaries play a crucial role in assisting vulnerable individuals during legal proceedings. We are neutral, we work for the court and our job is to facilitate two-way communication.

### Supporting Vulnerable Individuals' communication

We provide communication support to individuals with disabilities, enabling them to understand and participate actively in the judicial process.

### Supporting Justice Professionals to Communicate and recommending adaptations in line with need

We also help Justice professionals to moderate their communication style in line with the individual's needs.



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## Who are intermediaries?

Intermediaries come from a variety of backgrounds including:

- Speech and language therapists
- Psychological and mental health professionals
- SEN Teachers
- Social workers



Experienced communication professionals.

There is further training which is undertaken in order to attain the skills required to work as a communication specialist in the justice system.



## How do you find an intermediary?

### Intermediary Services

Slightly different arrangements for intermediaries depending on whether they are

a witness in a criminal trial

OR

involved in proceedings, as a party, a witness or an intervenor in any other court in England and Wales

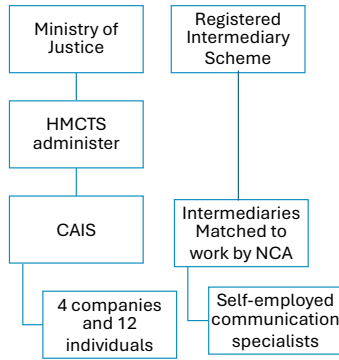
### Intermediary Provision

Registered Intermediaries and Court Approved Intermediaries

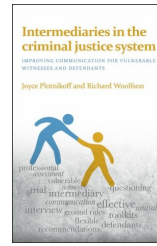


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## Frameworks



## Where did we first appear?



Youth Justice and Criminal Evidence Act 1999 (2004 pilot scheme)

Criminal Procedure Rules and Practice Directions

Family Procedure Rules and Practice Directions-2017 3A and 3Aa

Civil Procedure Rules and Practice Directions 2022



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## Types of Support Provided by Intermediaries

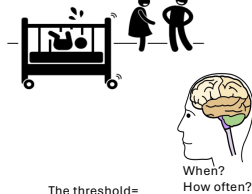
### Adapting Communication throughout the Legal Process

Intermediaries help make complex legal language more accessible, throughout a hearing and when the individual interacts with their legal team.

Intermediaries enable people with communication difficulties to understand and be understood.

We also assist with simplification of legal advice, and we help lawyers to take instructions, outside the court room

Neglect  
(not looking after children well)



The threshold=  
The list of worries



## Types of Support Provided by Intermediaries (cont.)

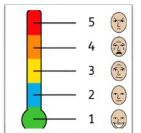
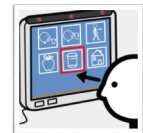
### Cross Examination

We assist individuals to understand questions, clarifying any confusion, and facilitating better communication. We also help justice professionals to produce questions which are tailored to the person's needs.



### Working with focus, attention and emotional regulation

Think: ADHD-----Mental health conditions-----  
Physical Impairments



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## Instances when an Intermediary may be required

- A person may have **difficulty with their literacy**.
- A person may be **struggling with their social use of language**.
- A person may **struggle with their speech**.
- A person may have a **background requiring additional support**.
- A person may have **difficulty regulating their emotions**.
- A person may have **difficulty understanding**.
- A person may have **challenges with attention, listening, and concentration**.
- A person may have **trouble explaining**.



The Intermediary Cooperative

## Use of Communication Aids

- Communication strategies and aids, to communicate about subjects they find difficult for any reason.
- These aids can contribute to stress reduction and can be more discreet. They are often vital for people with limited verbal communication.



Visual key events timeline



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## “Special Measures”

We can also make additional recommendations which will assist the vulnerable person to communicate



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## The Communication challenges faced by Vulnerable Adults and Children in the Judicial System

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## Identifying Vulnerable Individuals

Vulnerability is a term used to describe when a person's ability to participate in proceedings or give evidence is diminished.

The Judge must consider a number of factors, including age, mental health, neurodiversity and disability

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## Identifying Vulnerable Individuals-criminal court

Vulnerable witnesses are defined by [section 16 YJCEA](#) as:

- All child witnesses (under 18); and
- Any witness whose quality of evidence is likely to be diminished because they:
  - are suffering from a mental disorder;
  - have a significant impairment of intelligence and social functioning; or
  - have a physical disability or are suffering from a physical disorder.

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## The Family Court Procedure Rules and Practice Directions amended in 2017..wider?

- intimidation,
- mental disorder or otherwise has a significant impairment of intelligence or social functioning;
- physical disability or suffers from a physical disorder; or undergoing medical treatment;
- the issues arising in the proceedings including (but not limited to) any concerns arising in relation to [abuse](#); (Abuse can include any concerns arising in relation to [abuse or discrimination based on gender or sexual orientation](#))
- the [age, maturity and understanding](#) of the party or witness;
- the [social and cultural background and ethnic origins](#) of the party or witness;
- the [domestic circumstances and religious beliefs](#) of the party or witness;
- any [characteristic of the party](#) or witness which is relevant to the participation direction which may be made

**Balanced against**

**whether any measure is available to the court; the costs of any available measure.**

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## The Civil Procedure Rules... 2022

A person should be considered as vulnerable when a factor – which could be personal or situational, permanent or temporary – may adversely affect their participation in proceedings or the giving of evidence.... To include

- (a) Age, immaturity or lack of understanding;
- (b) Communication or language difficulties (including literacy);
- (c) Physical disability or impairment, or health condition;
- (d) Mental health condition or significant impairment of any aspect of their intelligence or social functioning (including learning difficulties);
- (e) The impact on them of the subject matter of, or facts relevant to, the case (an example being having witnessed a traumatic event relating to the case);
- (f) Their relationship with a party or witness (examples being sexual assault, domestic abuse or intimidation (actual or perceived));
- (g) Social, domestic or cultural circumstances.

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## Common Challenges Faced in Court

### Functional Communication Barriers

Many vulnerable individuals face significant communication barriers that prevent them from expressing their needs and understanding proceedings.

### Emotional Dysregulation

Emotional dysregulation can severely impact vulnerable individuals' communication. It can also affect their ability to engage in legal processes.

### Understanding Legal Proceedings

A lack of understanding of legal proceedings can lead to confusion and fear, preventing vulnerable individuals from participating effectively in court.



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## Case Studies Highlighting Specific Needs

### Case studies



### Understanding Vulnerability

Case studies help us understand the unique vulnerabilities faced by individuals in court settings.

### Illustrating Support Strategies

Examining case studies provides insights into effective strategies for supporting vulnerable individuals during legal proceedings.

### Demonstrating how we can provide a Voice for people with communication disabilities or differences

It is crucial to ensure that the voices of vulnerable individuals are heard and acknowledged in court.



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# Intermediaries and Disability Discrimination



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## UK is a signatory to the UN Convention on the Rights of People with disabilities

- Everyone should, on an equal basis with others, enjoy the rights to equality before the law, to equal protection under the law, to a fair resolution of disputes, to meaningful participation and to be heard. States must ensure equal access to justice for all persons with disabilities by providing the necessary substantive, procedural, and age- and gender- appropriate accommodations and support.
- [UN International Principles and Guidelines on Access to Justice for Persons with Disabilities August 2020](#)



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## Article 6 Rights

- The person must have a genuine opportunity to present his or her case.
- This can mean adjustments to ensure a Disabled person can effectively take part in proceedings.
- Both parties **should have equal chances to put forward their arguments, examine evidence, question witnesses and the court should give reasons for its decision.**



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## Barriers to Fair Access to Justice

- Attitudinal (eg stereotyping, stigmatising)
- **Communication Barriers for people with communication impairments**
- **Physical Barriers**
- **Social Barriers**
- **Transportation barriers**



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## Overview of England and Wales Disability Discrimination Laws

### Purpose of Disability Laws

The Equality Act 2010 prohibits discrimination against people with disabilities, including those with learning disabilities and neurodiverse conditions.

The Act defines a disabled person as someone with a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

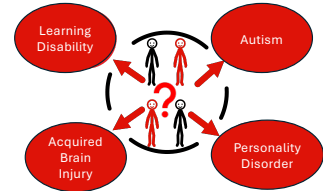
**Definition of Disability:** The Act covers a wide range of impairments, including developmental conditions such as autistic spectrum disorders (ASD), dyslexia, and dyspraxia, as well as mental health conditions like anxiety, depression, and bipolar affective disorders (Section A5).



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## Discrimination

- Disability discrimination can impact the right to a fair trial by creating barriers to understanding and participation in the legal system. This can lead to unfair treatment and exclusion from proceedings.



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## Equality and Accessibility in Court

### Role of Intermediaries

Intermediaries facilitate communication and understanding in court, facilitating equality of access to justice for participants.

### Accommodating Disabilities

Court proceedings must be designed to meet the needs of individuals with disabilities, ensuring fair access to justice. We can recommend "Special Measures" to facilitate the giving of evidence and participation in general (e.g remote participation, therapy dog, visual aids, adaptation to court environment, typing in place of speaking etc. Remember the tent...?)

We can also recommend adaptations to language, pace, tone, question forms etc



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## Role of Intermediaries in Preventing Discrimination

### Creating a more level playing field for Vulnerable Individuals

Intermediaries play a crucial role in advocating for vulnerable individuals, ensuring their voices are heard in legal proceedings.

### Mitigating Discrimination

By assisting in communication and understanding, intermediaries help mitigate discrimination and promote fair treatment in the courtroom.

### Fostering Inclusivity

The presence of intermediaries fosters a more inclusive environment that respects the rights and dignity of courtroom participants.



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## Impact of Intermediaries on Fairness

### Enabling Effective Participation

Intermediaries play a crucial role in supporting effective participation during legal proceedings by bridging communication gaps.

### Reducing Misunderstandings

Effective intermediaries help to minimise misunderstandings, ensuring clearer dialogue among parties involved in legal matters.

### Promoting Justice

The presence of intermediaries promotes equality of access to justice by enabling voices to be heard and considered in legal processes.



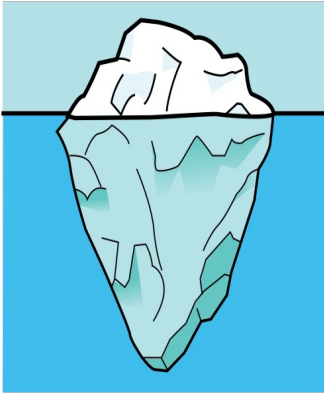
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## Challenges and Future Directions



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## Current Challenges Faced by Intermediaries: being seen (but not seen)



- In the court room (masking)**
- Pre-hearing in court meetings
  - Conferences with Counsel
  - Arriving in Court (security)
  - Waiting in Court
  - Preparing and deploying visual resources
  - Sensory support
  - Emotional regulation
- In assessment: explaining the basics, rapport building**
- Pre-assessment – background prep work.**



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## Some bumps in the road...

### Registered Intermediary Provision

Changes in the provision we can offer as Registered Intermediaries in a legal system under strain

### CAIS work

Cost savings are required

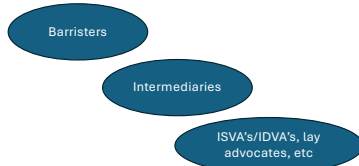
Variable quality in intermediary provision (Experienced, Skilled Communication Specialists only)

has potentially led to some confusion in the roles.



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## Understanding the differences in skill sets and role



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## Future Trends and Potential Improvements

### Public Awareness

Increasing public awareness of the intermediary role can enable more people who have some form of communication impairment or difficulty to access the right support.

Reduce (unconscious) discrimination within the court/tribunal process

Improve Outcomes within the Legal system

### Supporting Judges in making difficult decisions?

Information required to determine whether vulnerability exists?



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## What is reasonable?

Baroness Hale said in the Cheshire West case:

“Far from disability entitling the state to deny such people human rights: rather it places upon the state (and upon others) the **duty to make reasonable accommodation to cater for the special needs of those with disabilities.**”



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## Conclusion

### Role of Intermediaries

Intermediaries provide crucial communication support to vulnerable individuals during legal proceedings, ensuring their voices are heard and that they can understand the proceedings.

### Challenges Faced

The balancing act between rights and reasonable adjustments.

### The Future?

Lessons learned and the costs of not enabling effective participation...



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## Thanks for listening

- For more information:



<https://www.intermediaries-for-justice.org/>



<https://theintermediarycooperative.co.uk>

[TIC Flipbook](#)

The thoughts expressed in this presentation are my own and not those of the organisations I belong to.  
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