

This summary provides an overview of the intermediary scheme in England and Wales in 2024. It may not capture all the differences in intermediary work across England and Wales, neither does it offer a critique of intermediary schemes' compliance with the UN Convention on the Rights of Persons with Disabilities ([UN Convention on the Rights of Persons with Disabilities](#)). This summary was created for [The Access to Justice Knowledge Hub](#)

England and Wales

The Intermediary in the Justice System

In England and Wales, intermediary is the term used to refer to the professional who assists with communication when a vulnerable person gives evidence. If the intermediary is supporting a vulnerable complainant or a witness, they are called a 'registered intermediary.' If the support is given to a vulnerable defendant, it is a 'Court Approved Intermediary. See [HMCTS intermediary services - GOV.UK \(www.gov.uk\)](#). This is due to the legislation, which expressly recognises the right of a witness, but not a defendant, to access an intermediary. In practice, due to the new HAIS¹ framework introduced by HMCTS, intermediaries are assisting defendants, respondents and appellants in criminal and family courts and immigration and employment tribunals. The new HAIS framework has developed a structure of ASPs (Approved Service Providers) and MASPs (Managed Service Providers). The new framework does not cover suspect interview or parole hearings although intermediaries are increasingly becoming involved with these areas.

There are also other forms of support such as Appropriate Adults, who are only present at police station for suspects who are considered vulnerable. Their job is to ensure that the suspect is treated in a fair and just manner, has their welfare needs met and is able to participate effectively. Appropriate Adults do not conduct formal assessments, are not qualified as communication experts and are not specialised in communication needs. Appropriate Adults may be a family member, a volunteer or from an organisation (e.g. the National Appropriate Adult Network).

In some rare instances, police services will also fund a non-registered intermediary for vulnerable suspect interviews. An Appropriate Adult is still required as the roles are different. The law does not yet specify that vulnerable suspects will get their communication needs met by assistance from a non-registered intermediary.

Another source of possible support for vulnerable suspects in some geographic areas are professionals from Liaison and Diversion Services, who may identify vulnerable suspects at the police station. They are usually health professionals (e.g. psychiatric nurses, speech and language therapists).

Expert witnesses are different from intermediaries. The term expert witness usually refers to psychologists and psychiatrists consulted by the court and paid for by the parties.

The law

Intermediaries are regulated since 2003 for criminal witnesses in the Youth Justice and Criminal Evidence Act 1999. There is no basis in the law for other jurisdictions. The

¹ HM Courts and Tribunals Services Appointed Intermediary Services (HAIS)

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intermediary makes recommendations for the best way the court and police, can adapt to meet the needs of the vulnerable person. This includes emotional regulation and possibly use of communication aids. The law defines who is eligible for an intermediary through the concept of 'vulnerable person.' This is then interpreted by the court, which decides on a case-by-case basis if the vulnerability requires the involvement of an intermediary.

The court uses its inherent power of the court for granting a Court Approved Intermediary for a vulnerable defendant/appellant/respondent.

The intermediary's role

The role of the registered intermediary is to assist two-way communication between the police or court and complainants or witnesses with communication needs. In order to do so, the intermediary meets the witness before the proceeding and carries out a communication assessment, which is detailed in a report. The report is specifically non-evidential and covers the person's communication and emotional regulation needs, without any reference to the legal case. The report does not comment on competency, fitness to plead or telling truth/suggestibility. The reports are detailed and may be around 20-30 pages long.

Intermediaries do not have to follow recommendations for accommodations from expert witnesses (e.g., psychiatrists, psychologists) unless the intermediary has assessed the person and believes it is the best thing to do. The intermediary must have a neutral role and has a duty to remain impartial. Each intermediary must be able to justify their recommendations in court.

The court decides on the basis of the legal provision whether an intermediary is required. In practice, the use of intermediaries is not consistent and may vary by each court and also by each Judge. Some judges believe that advocates (the lawyer in court) are 'experienced' and have been trained to question vulnerable witnesses, thus not needing the involvement of an intermediary. Any barrister training cannot equate to the years of training and experience that intermediaries must have from their first profession in assisting vulnerable people with communication needs.

Another misunderstood barrier to intermediary use is the financial cost, as historically intermediaries have been considered by some to be 'expensive.' Both Registered and Court Approved Intermediaries can only charge at the respective specified rates set by the police and courts, through the Ministry of Justice for each scheme. These rates are often significantly less than what intermediaries would earn in their first profession.

Registered Intermediary assignment to criminal witness cases is done through the database of the Ministry of Justice (National Crime Agency) on the basis of geographical proximity and competencies of the intermediaries' skill sets. The competencies of each intermediary have to be registered in the database to allow for appropriate allocation. For example, an intermediary whose professional background was in psychiatric nursing would not be appointed to work with a person recovering from a stroke, and a primary school teacher would not be allocated a person with dementia.

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With the emergence of the Framework 2022, Court Approved Intermediaries are monitored either by the MASP they work with or work independently as an ASP but are also governed by the Ministry of Justice. Court Approved Intermediary allocations often occur through the solicitor (lawyer acting outside of the court) or locally through the court.

Registered Intermediaries are often involved at interview stage for criminal witnesses and for some defendants, and advise the police, following an assessment, on best methods for communicating with the person. Police may commission an intermediary to assess vulnerable witnesses in criminal investigations and vulnerable suspects for advice on their police interview.

If/when the case goes to court, the intermediary is appointed to assist the witness for evidence, and in some cases, the defendant in criminal cases, the respondent in family cases and appellant in immigration and employment tribunals, throughout the trial. Intermediaries are appointed as officers of the court, not partial to either side.

Intermediaries usually assist the vulnerable witness/defendant with a pre court visit that should include live link familiarisation. This acts as an assessment opportunity to provide further information about reasonable adjustments that a particular vulnerable person may need for giving their evidence at court.

They also attend pre-trial conferences, Ground Rules Hearings and may prepare resource material to assist examination if required. A valuable component of their role is often reviewing the draft cross examination questions and making suggestions regarding rewordings that are necessary for a vulnerable person to understand the question. They may also advise on the wording to put the case so that the vulnerable person can remain regulated to still understand and respond to the question.

The Registered Intermediary usually assists until the witness finishes giving their evidence. Sometimes Registered Intermediaries will also help a vulnerable witness provide a Victim Personal Statement to police for use after the verdict to help inform sentencing. They may also help a witness understand the verdict in some cases.

The Registered Intermediary Procedural Guidance includes a Code of Ethics and a Code of Practice and explains how the scheme works, including reporting templates. [Registered Intermediary Procedural Guidance Manual.pdf](#)

A Court Approved Intermediary assists until any point in the trial when a judge decides they are no longer needed for a defendant (e.g. after she/he has given evidence, after the jury go out to decide verdict, or in some cases they stay until sentencing).

Training and Quality Standards Monitoring

A registered intermediary is trained, and their competency assessed and then monitored by the Ministry of Justice.

Court Approved intermediaries need to demonstrate their ability to the Ministry of Justice or to the MOJ Approved Managed Services. They are required to hold a university degree and most applicants are speech and language therapists, psychologists, special needs teachers,

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occupational therapists or psychiatric nurses. The experience criteria focus on abilities in assessing communication and writing reports on recommendations for maximizing communication (approx. 70% of the registered intermediaries are speech and language therapists as of 2024). Most recruits have over 10 years working experience with people with disabilities, and there are very few from legal backgrounds.

For registered intermediaries, there is a seven-day training course plus expected attendance at mentoring sessions during the first few cases.

The content of the training for registered intermediaries covers the role of an intermediary, the law that frames this work, the accommodations that are already set in law (called 'special measures') and ideas for additional accommodations, assessment, report writing, liaison with other professionals, how the police interview works, how the court trial works, terminology, etc. There are practical assessments which include report writing and a timed review of draft cross examination question. Trainees are also required to complete and discuss a court observation. The training is delivered by Registered Intermediaries and visiting speakers.

This training may be failed, and some people drop out when they come to understand the unpredictability of the work and income, the need to be assertive in an adversarial system and the emotional demands and risk of vicarious trauma from harrowing cases.

The monitoring system for registered intermediaries includes a negative feedback and complaints process with the Ministry of Justice, a code of conduct and procedural manual, an annual Continuing Professional Development Log submitted for review and a peer review of one report per year. There is currently no supervision or observation scheme organised or provided by the MoJ.

Recently Registered Intermediaries have been able to log any concerns they may have about a case or process on a 'Complaints Log' organised by the MoJ.

Feedback on registered intermediary performance is only gained from the officer in charge of the case or CPS. The witness is not asked for their views.

At the time of writing there are four Managed Services one of which is a cooperative of intermediaries. They recruit, train and supervise approved intermediaries working in the HMCTS framework [HMCTS approved intermediaries - GOV.UK \(www.gov.uk\)](#).

Funding

Registered Intermediaries are directly government funded and do not do voluntary work or through an NGO. This is established within the law and the different authorities involved at the stages of criminal justice fund the work, e.g., police fund interview work, Legal Aid Agency funds pre-trial defendant work and each court funds the work at court. Court Approved Intermediaries are funded in general by HMCTS. While other intermediary schemes around the world may receive public grants to support the service delivered by an organisation, in this case the scheme is upheld and paid for by the government, similar to payment of interpreters. The right to an intermediary is conceived as a duty the justice

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system has towards vulnerable children and adults, and thus must fund this service through the courts.

Pressing issues and future perspectives

The inequity of intermediary services between criminal witnesses and suspects and defendants within the justice system is a pressing issue in England and Wales. While there is legislation in place to treat defendants equally, the government has not yet implemented it, resulting in inconsistent and ad hoc provision of service.

There has also emerged an inequality between MoJ payrates for Registered Intermediaries and Court Approved Intermediaries and a failure to grant pay increases in line with other government agencies or inflation. Some Registered Intermediaries may decide to concentrate on Approved Intermediary work. There is also a risk that intermediaries may decide to return to their original professions for the stability and better pay rates gained there.

Registered intermediary work under the Witness Intermediary Scheme undergoes limited supervision, monitoring or quality control. Moreover, the scheme has significant challenges retaining workers due to the isolation of self-employed individuals working within the demanding legal system, and often inconsistent levels of work. Many legal professionals tend to misunderstand the complexity of the work carried out by intermediaries, often perceiving them as 'supporters' and not recognising their extensive professional expertise. A website raising awareness and providing information is also being developed: <https://www.intermediaries-for-justice.org>. Another non-governmental source of information is <https://www.theadvocatesgateway.org>.

Other useful links:

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