

# Justice Intermediary Starter Kit

## MODULE 1

### INTRODUCTION AND TARGET AUDIENCE

[www.justiceintermediary.org](http://www.justiceintermediary.org)



# Justice Intermediary (JI) Starter Kit modules

MODULE 1  
Introduction and Target Audience

MODULE 4  
Understanding Disability

MODULE 7  
Accommodations

MODULE 10  
Practical Issues

MODULE 2  
Defining the Justice Intermediary

MODULE 5  
Life Stories

MODULE 8  
Emotional Resilience and Managing Boundaries

MODULE 11  
Resources

MODULE 3  
Understanding Communication

MODULE 6  
Assessing Needs and Report Writing

MODULE 9  
Around the World

MODULE 12  
Next Steps

# Aim of the Justice Intermediary Starter Kit

## This Starter Kit aims to provide:

- a starting point for training Justice Intermediaries in a country that has no such provision
- references for further reading
- some examples of how the Justice Intermediary role has been introduced around the world.

**GLOSSARY of TERMS**

Justice Intermediaries have been introduced in several countries to improve equity of access to justice for people with intellectual and/or psychosocial disability, particularly where that impacts on their ability to effectively communicate in the justice system.

This Starter Kit is a set of resources which enable a key person, already aware of the general disadvantages of people with disability to access justice in their country, to train/upskill individuals and/or groups of potential justice intermediaries.

These resources will impart the knowledge and skills essential to working as a Justice Intermediary.

The Starter Kit does not dictate the way forward; each jurisdiction will need to be considered when setting up a Justice Intermediary service that is most appropriate and realistic.

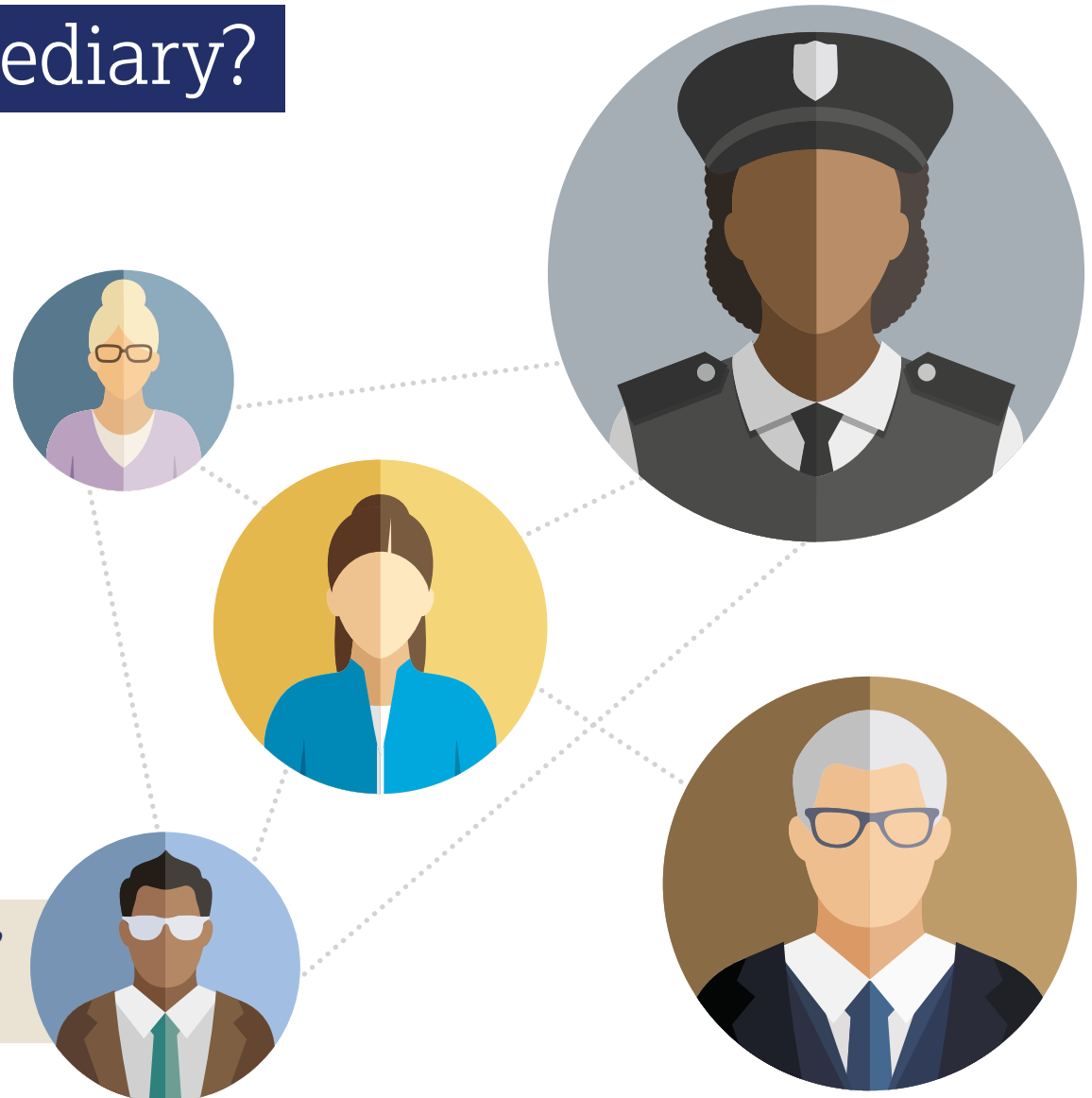
## The Starter Kit will NOT...

- Find the key person and motivate them to recognise the need in their country. This is outside the Kit's remit at present. It is assumed that the key person is someone who has already become aware of the inequity of access to justice for people with disabilities in their region/country and would like to consider the role of Justice Intermediary as a potential agent of change.
- Address the issues of specific jurisdictions, as these will be idiosyncratic to each state/country.
- Suggest methods for introducing JI to the local justice system, although relationships with stakeholders will be examined and current projects described as examples of the variation in implementation.

**It is anticipated that these issues will be addressed outside the project within each state/country or may form part of a future project from this forum.**

# What is a Justice Intermediary?

- Effective communication is essential for equal participation in the justice system. The JI is a communication specialist advisor to the justice system
- Communication includes both the linguistic, non-verbal and contextual skills, as well as the emotional regulation to maximize understanding and expression in a formalized legal environment
- The JI is not a legal advisor, emotional supporter or advocate. The JI is impartial to the case
- JIs are appointed specifically for persons with communication disabilities (whether this is based on physical, intellectual, psychosocial or a combination), to maximize the person's ability to effectively participate at all stages of their involvement in the justice system.



**MODULE 2 'Defining the Justice Intermediary' gives more details on this topic.**

# Human Rights and Access to Justice for Persons with Disabilities

## The Convention on the Rights of Persons with Disabilities (CRPD)



### Article 13 – Access to Justice:

“ Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages. ”

## The Right to Equality

When persons with intellectual, psychosocial or communication disabilities cannot properly explain their version of events in the police station or the court room, or when individuals cannot properly relate what they experienced and remember, they are in fact experiencing discrimination on the basis of disability.

Discrimination often means that equal weight is not given to a person's testimony and their competence to testify is questioned due to their disability. Their right to equality requires the necessary accommodations. Deeming them inherently incompetent to testify or stand trial is not an option.

The fact that their disability may hinder their chances in the process is discriminatory.

## Fairness

The right to fair proceedings and justice are central in the criminal process. Basic fairness means it is vital that everyone has an opportunity to be heard.

This is especially important for a defendant whose freedom, reputation, finances or otherwise is being decided upon. However for a complainant, it is important to know that their account is heard fairly. A person must have their chance or 'day in court'.

The rights of persons with disabilities to a fair process is even more important as their position may be even more fragile.

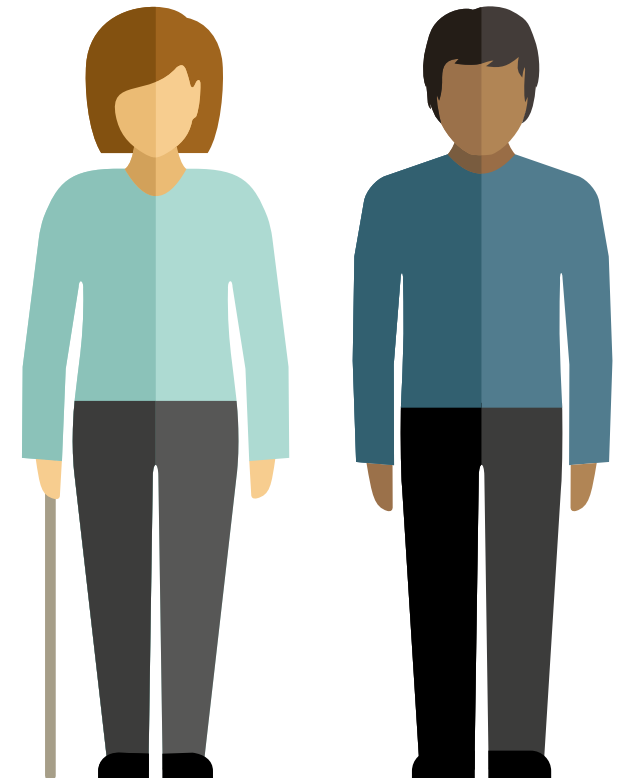
Persons with disabilities have to cope with greater obstacles in these proceedings which consequently lessen their chance of receiving a fair trial unless appropriate accommodations are made.

## Who helps to minimise the disability?

The disability a person presents with may only be a disability if the appropriate adjustments or accommodations are not made. In other words, the level of disability will be strongly related to how others interact with the person.

For example, a person who has injured their leg and cannot walk into a courtroom may be considered disabled. However, if the environment is adapted so that there are no stairs, and the person is provided with a walking stick, the person can now walk and is no longer disabled in that environment.

It is therefore others' responsibility to adapt, accommodate and change to minimise the disability.



NB a physical disability is used here for simplicity, although JIs mostly work with intellectual/psychosocial disabilities.

## Don't worry Miss, it's not serious!

“ A few years ago I was working with a young man who, it became clear to me, had pleaded guilty to an offence he couldn't have committed. I wasn't quite sure I'd understood correctly so I checked this out with him. He confirmed I'd understood correctly but he felt it wasn't serious because there were lots of other things that he had done and hadn't been caught for. Even so, I asked why would he plead guilty when he wasn't. He declared that he didn't understand anything that was said in court and it was always the same anyway – ‘Blah, blah, blah, guilty!’ – so there was no point. ”



Kim Turner  
Human Communications, Sheffield University, UK

To read or listen to a blog on the impact of disability on access to justice visit [www.clinks.org/community/blog-posts/dont-worry-miss-its-not-serious](http://www.clinks.org/community/blog-posts/dont-worry-miss-its-not-serious)

## Serving justice

The criminal process serves a wide range of social objectives. Judicial systems may emphasize certain goals over others, but common to all is obtaining justice and management of social behaviour.

These social aims are compromised when persons with disabilities are unable to effectively participate in the criminal process. If, for example, their testimonies though vital to the trial do not receive proper weight, the objective of establishing the truth and putting the blame where it is deserved is compromised.

If people with disabilities are convicted of crimes that they did not commit, or individuals who committed crimes against persons with disabilities go unpunished because testimony against them was not given proper weight due to the victim's disability, then justice is not achieved.

**'A voice for the voiceless' a UK intermediary service film.**

## TARGET AUDIENCE

## Who is this Kit for?

- A person with experience of working with people with disabilities, with a recognition of the issues around access to justice in the local legal system, who would like to learn to take the role of Justice Intermediary
- A person who has knowledge of the inequitable access to justice of people with disabilities, and who would like to recruit suitable professionals to take on the role of Justice Intermediary.



This is a short-film about Victor, a man with psychosocial disability and his experience of the justice system [www.youtube.com/watch?v=okUZBll4s2w](http://www.youtube.com/watch?v=okUZBll4s2w)



## NARRATED

# Comments from people with disabilities about their experience in the justice system

"I was upset; I didn't know why I was there. I really didn't think I had done anything wrong."



"We are not believed. Right away, the cops think you asked for it. So, you really do have to keep tellin'. They don't even think that we're reliable witnesses."



"I couldn't really hear. I couldn't understand but I said 'yes, whatever' to anything because if I say, 'I don't know' they look at me as if I'm thick. Sometimes they tell you two things at once."



"I didn't know what 'remanded' meant. I thought it meant I could come back later."



"I didn't know what was going on and there's no one there to explain things to you. They tell you to read things and in court you can't just ask for help. The judge thinks you can read and write just because you can speak English."



"The judges don't speak English, they say these long words I have never heard of in my life."



"They think if you got a disability that means you lie, that you can't really tell the truth or you don't know what the truth is."



# The experience of a person with disability in the justice system

[www.youtube.com/watch?v=yrrwGGdDCa94](https://www.youtube.com/watch?v=yrrwGGdDCa94)



**Please note:** if you have trouble understanding the accents and use the subtitle function, you may find it is not very accurate, and may need to guess some of the words – sorry about this. There is a transcription here.

Also in the UK, the term ‘learning disability’ is used for intellectual disability.



## How a JI can make a difference

**A person with a life-long diagnosis of high functioning Autistic Spectrum Condition and more recently diagnosis of Paranoid Schizophrenia, speaks briefly about his experience of attending court with a Justice Intermediary.**

# How can a JI be involved?

Stages of involvement of a JI include police investigation, witness evidence, instructing legal advocates, attending court or tribunal, giving testimony in court and this may be in any jurisdiction including criminal, family and civil matters.

Choosing this profession for yourself, and/or choosing the people to train for this profession, requires an understanding of the demands of the work, the pre-course skills and knowledge expected for those embarking on the Justice Intermediary Starter Kit.



## Who might be suitable for training as a Justice Intermediary?

**To see a sample person specification [click here](#).  
More information follows in Module 2 'Defining a Justice Intermediary'.**

## Justice Intermediaries talk about their work

[www.youtube.com/watch?v=j-Z-Jbc46pQ](http://www.youtube.com/watch?v=j-Z-Jbc46pQ)

[www.youtube.com/watch?v=uwnzaBcZ4D0](http://www.youtube.com/watch?v=uwnzaBcZ4D0)

[www.youtube.com/watch?v=kGcaLKQDUxg](http://www.youtube.com/watch?v=kGcaLKQDUxg)

[www.youtube.com/watch?v=kwMAdqYOyJA](http://www.youtube.com/watch?v=kwMAdqYOyJA)



# The position of the Justice Intermediary in the legal system

The legal system is categorical, inflexible and rigid by nature, and operates by way of logic definitions and concrete distinctions.

The law, and especially criminal law, constructs a complex system and place high demands from all that take part, in every step of the way.



Interrogation by police officer or court officer, questioning by attorney, wording an written statement, preparing for testimony, or answering questions of the court , all entail coping with the formalities of the legal system and all place communication skills at their core.

Entering the legal system, a person may find their communication skills are tested to the limit and their disabilities are enhanced.

This interaction between the diversity of human communication skills and disabilities and the rigid nature of the law is the unique and significant place of the Justice Intermediary.

Justice Intermediaries are often described as ‘thinking outside the box’ or ‘pushing the boundaries’ in trying to accommodate individual needs within the system.

## Next steps

**Now that the scope of the Starter Kit and the Target Audience for use of the Kit has been explained in this module, the user is encouraged to work through the other modules.**

**There is a natural progression through the modules which is identified by a number eg Module 6 Assessing and Reporting, but each user will engage with the Kit in the way that best suits them.**

**There is no obligation to complete the whole Kit, but it is more likely to make sense if all modules are viewed.**

**Module 11 Resources has details of further reading and development of issues that may interest the user.**

## REFLECTION

How do you think your local legal system will respond to the introduction of a Justice Intermediary service?

This is an opportunity for the user to reflect on the content of the module and also assist us with continued improvements and updates.

Please [Click here](#) to contribute your reflections.

1.

2.

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# Glossary of terms

This is not an exhaustive list, but hope it helps define some of the terms used in JISK that may not be clear to the user, and to allow for some general terms to be used as shorthand.

**PERSON WITH DISABILITY:** this refers to the person the Justice Intermediary (JI) is asked to assist. This may include a wide range of disabilities, and may also refer to persons who have specific communication needs, while not suggesting a disability, that differ from the majority population, for example indigenous communities. There is no age limits defined in this Kit, and intermediaries have worked with child witnesses as young as 2 years old and elderly defendants in their nineties.

In some jurisdictions, people affected by **DISABILITY** includes:

- **INTELLECTUAL DISABILITY:** a disability characterized by significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behavior, which covers a range of everyday social and practical skills.
- **PSYCHO-SOCIAL DISABILITY:** an internationally recognised term under the United Nations Convention on the Rights of Persons with Disabilities, used to describe the experience of people with impairments and participation restrictions related to mental health conditions.
- **NEUROLOGICAL AND NEURO-DIVERSE DISABILITY:** there is a full range of disabilities

related to changes in brain function that may occur at birth, before birth or later in life. These include Foetal Alcohol Syndrome, Cerebral Palsy, Attention Deficit Hyperactivity Disorder, Autistic Spectrum Disorder, Multiple Sclerosis, Stroke, Brain Tumour, Dementia and many other conditions that impact on communication.

**JUDGE:** has been used to include, where appropriate, all judicial office holders. Similarly, on many occasions the term ‘court/courts’ has been used to encompass all courts and tribunals.

**JUDICIARY SYSTEM:** the system of law courts that administer justice

**THE JUDICIARY:** the part of a country's government that is responsible for its legal system and which consists of all the judges in the country's courts of law.

**LAWYER:** a person whose profession is to represent clients in a court of law or to advise or act for clients in other legal matters. This might be called barrister, solicitor, attorney, depending on local terminology.

**MIRANDA'S LAW:** Miranda rights are specific rights that any person who is taken into police custody is entitled to. Law enforcement officers are required to

inform a suspect in custody of their Miranda rights. Miranda warnings are often given verbally upon arrest and on paper before a written confession is taken. In other jurisdictions, this is referred to as a ‘caution’.

**PROSECUTION:** the side of a legal case which argues that a person who is accused of a crime is guilty.

**DEFENCE:** the side of a legal case which argues that a person who is accused of a crime is not guilty.

**LINK ROOM/VIDEO LINK ROOM:** a facility that has a video connection with the courtroom, so that a participant in a court hearing can sit separately from the court, and if required as a witness, interact in real time with the court. This may be in the court building or in a remote location.

**EVIDENCE IN CHIEF:** the evidence given to the court by a witness that is in support of their case, for example when a defendant is questioned by a defence lawyer, or when a complainant is questioned by a prosecution lawyer.

**CROSS EXAMINATION:** the questioning of a witness called by the other party in a court of law to challenge the evidence already given.