

Justice Intermediary Starter Kit

MODULE 12

NEXT STEPS

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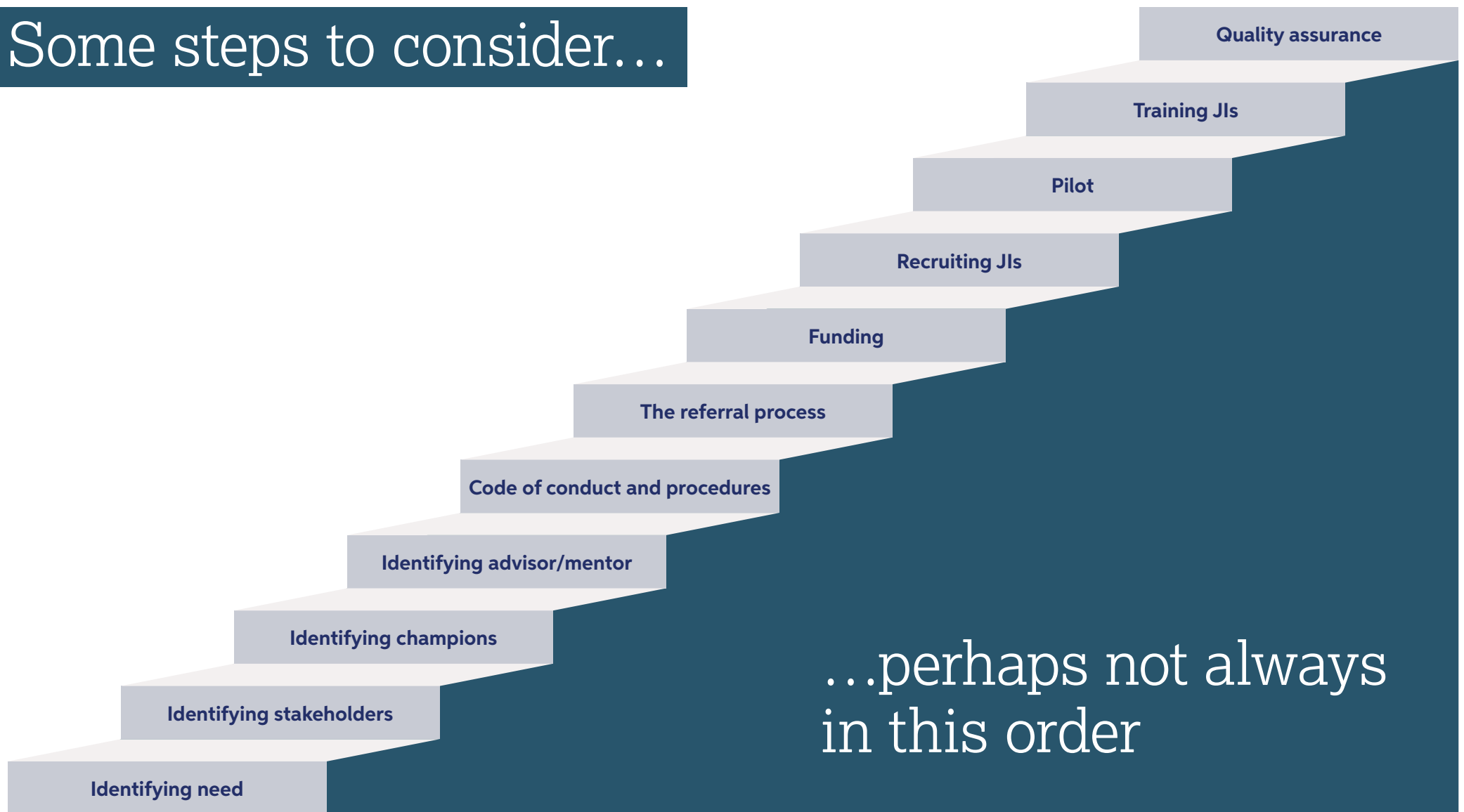
Review of modules

This module is aimed at users who have read most of the Starter Kit. The reader should now have grasped the concept of a Justice Intermediary (JI), the characteristics of potential practitioners, the types of disabilities and communication needs likely to require assistance, how assessments and reports can be designed and accommodations that make a difference to the level of effective participation of the person with disability.

Throughout the modules, it has been stated and reiterated, that each country will need to find their own approach, that meets its unique needs. This module seeks to encourage the thinking, negotiating and practical steps that may be appropriate for the development of a JI scheme.



Some steps to consider...



...perhaps not always in this order

Identifying the need

Convincing local justice systems to introduce a JI scheme requires establishing the need. Concrete evidence will support the process and identify the extent of need. Collect information wherever possible. For example:

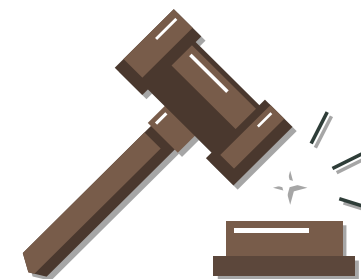
- What information is available about the number and characteristics of people with disability in the local population, and more specifically among those interacting with the justice system?
- Are there any current schemes for assisting these people? For example, charitable organisations, human rights organisations, family or health workers, who assist the person with disability in the courtroom or police station. What is their experience of accessibility and accommodations?
- What do people with disability who have experienced the justice system think about the level of accessibility?
- And what do they think about how the judge, lawyers, court staff and police communicated with them?
- Offenders and ex-offenders can provide useful insights into the experience of the justice system
- International evidence which is relatable to the local situation.

Identifying stakeholders

There are many stakeholders in the development and introduction of a JI system (in no order of priority):

- Pressure groups/NGOs
- Disabled Persons Organisations
- Senior police
- Members of the judiciary
- Lawyers
- Court administrators
- Politicians.

Identify those you already know, have a connection with, ask others to refer you, and find those stakeholders who might be already interested in equality, disability rights, human rights issues



Identifying champions

Along with the stakeholders who are already interested in disability rights, look out for any public figures or influencers who might be interested in actively supporting the development and introduction of the JI scheme.

Identifying mentoring/support from those with experience

Connecting with other JI schemes around the world, and finding a possible mentor or advisor who can provide guidance based on experience may be worth considering. It is hoped that JISK can start to identify potential mentors for new schemes in the near future.

In **Module 9 Around the World**, there are more ideas about what is happening in other countries.

Recruiting Justice Intermediaries

- Consider **module 2 Defining JIs** and **module 8 Emotional Resilience and Boundaries**, where the person specifications and demands of the role are explored
- Review **module 9 Around the World**, where other schemes have described the type of person recruited
- Consider the local availability – there may be professionally experienced people with related skills, or there may be a need to recruit on personal attributes/life experience and increase the academic aspects of the training
- Consider the population of people with disabilities, and where the majority of the need may come from. For example if there are a significant group of minority cultural background/languages, the recruitment of JIs should reflect this. Intersectionality may well be important here. For example, in New Zealand the needs of the Maori community are considered in the design of the JI scheme.

Pilot scheme

A small pilot scheme, in a police area or specific court may be useful:

- To iron out logistical issues
- To show impact
- To encourage more champions
- To increase confidence
- To share results with national or regional stakeholders.



Code of conduct and procedures

To establish credibility and professionalism, the JI scheme will need consistent procedures and a code of conduct.

For example:

- Setting out the criteria for persons with disabilities to use the JI scheme
- Setting out the impartiality of the JI role and how this will be ensured
- Setting out the referral processes, funding, and boundaries of the role
- Describing the relationships between the JI and others in the justice system
- Describing lines of responsibility, quality assurance and documentation

Refer to **Module 9 Around the World** and **Module 10 Practical Issues** for ideas about how other schemes have worked, and refer to **Module 11 Resources** for further information.

Funding

Finance is clearly an important issue. To recruit high-calibre JIs and provide a professional service will require significant funding.

In some parts of the world, NGOs have provided JI services from within their budgets. This may be a short-term answer but for stable financial support, the JI scheme may need to be integrated into the justice system.

The identified stakeholders and champions will be crucial in resourcing the funds.

Quality assurance

Identifying the characteristics of a quality JI scheme at the beginning of the development process will add to the credibility and value of the service.

There are many indicators within this Kit that suggest 'best practice'. Local systems will clearly impact on what is both possible and appropriate.

Ongoing supervision and peer support for JIs, and feedback from users of the scheme, will help with continuing improvement and development.

Training

Although JISK has provided substantial information and guidance about the introduction of a JI scheme, it is not a training course. Depending on the recruited JIs in the local area, training will need to be adapted to suit the gaps in their knowledge and skills.

For example, in New Zealand all recruits are speech language therapists, so training does not address assessment of communication, but they need to learn about the legal system as this is likely to be a new area of work. In Israel, JIs are often legal professionals who need less training on the legal system but may need more on communication.

Even if the recruits have the same professional background, the legal procedures and processes will vary enormously. For example, a New Zealand JI could not move to the UK and work effectively without further training on the local legal system. As has been made clear throughout these modules – every country will have their own unique circumstances and the development of their JI scheme, and necessary training for JIs, will be different. It is for this reason that JISK doesn't suggest or provide a generic training programme for JIs.

That said, in the future, training resources on specific aspects of the role of JI – such as assessing communication needs, report writing, commonly used accommodations may be added. In developing your training, you may want to consider:

- Length of training
- Format of training, for example classroom/online/observational
- Induction post training including mentoring, supervision and peer support
- Pilot schemes within a specific court/locality.

Increasing awareness

The JI cannot work in isolation and will need the buy-in of stakeholders and the various roles working in the justice system. This should also include the administrative roles, for example court clerks, security officers, and any other services provided to the person with disability when they interact with the justice system.

Awareness workshops, video presentations and written information can be developed. In particular, the referring agencies, as identified in the local scheme will need to know how to recognise the person with disability who may require a referral to the JI scheme.

Challenges

We asked JIs around the globe about the major challenges associated with setting up their scheme. They identified:

Funding

As many JIs are working without governmental funding, there is a lack of certainty and long-term view. The justice system often sees a JI scheme as an additional cost. This is not always so. For example, a suspect or defendant who is assisted by a JI to fully understand the evidence against them may plead guilty, substantially reducing court costs.

Standards of service

Ensuring a quality service requires monitoring and control. JIs often work independently and alone, so there is a lack of observation and peer review in-situ.

Some schemes ask other justice professionals such as police and lawyers, to comment on quality of JI work, which is not always appropriate.

JIs being involved at the most effective stages of the legal process

In some schemes a JI is limited to working only at the stage of testimony. In other countries, only witnesses can be assisted by a JI. This is an inequality that needs to be addressed.

Clarity of the JI role

As mentioned in other modules, the blurring of role boundaries can cause conflict for the JI. For example, where an emotional supporter is asked to be a JI, resulting in reduced impartiality.

Recognition of the JI role by other legal professions

In some schemes the JI is not recognised a skilled professional, and their recommendations are dismissed. The JI is usually a newcomer to the legal establishment built on decades of tradition.

Recruitment and retention

As the JI role is new and has some of the issues mentioned above, the willingness of suitably qualified professionals to retrain and the lack of supervision and support may lead to retention issues.

The complexity of the work

The JI will be working with complex cases, and will need to draw on many resources to effectively implement accommodations.



... but worth it!

Published evaluation of JI schemes has been limited to date, but the feedback from people with disabilities, the legal professionals is overwhelmingly positive. Justice Intermediaries are paving the way to more accessible justice.

Here is one evaluation paper which examines the impact of a JI scheme for witnesses and complainants.



Dame Joyce Plotnikoff, an advisor to several countries on the use of JIs says:

“ We have taught judges from over 30 countries around the world. No justice system readily acknowledges problems in dealing with adults with communication difficulties or children. However, once judges, lawyers and others worked with intermediaries, most quickly acknowledged the benefits and an extraordinary cultural shift began. The influence of intermediaries has been demonstrated in landmark cases, official guidance and in training for the judiciary, advocates and the police.

Intermediaries have made an enormous contribution to access to justice and fairness of proceedings, allowing the participation of many who previously went unheard because of their communication needs. We encourage any jurisdiction to explore the benefits of a pilot scheme. ”



And the final words to a person with disability:

“ After many months of struggle, I finally had access to an intermediary. She arranged for us to have access to a private room at court which reduced my anxiety and sensory overload. She facilitated communication between my legal team and I by encouraging them to create, and stick to, an agenda, and by spotting when misunderstandings might be beginning to occur.

She also spoke to the court and advocates and made sure that they all understood my needs. As a result, during my evidence, questions were phrased in a way that I could answer, changes of topic were signalled to me and I had the breaks I needed. I cannot stress enough the importance of everything my intermediary put in place and I strongly believe it should be given to everyone in my position. ”

Reflection Tool: Module 12

This is the time for an action plan. Identify your stakeholders, champions and address each of the steps in the order that is most appropriate to your local situation. If you would like to put some notes down here and send them to us, that would be much appreciated. No obligation.

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