



A Voice for the Voiceless:

The Victims' Commissioner's Review into the Provision of Registered Intermediaries for Children and Vulnerable Victims and Witnesses.

January 2018

FOREWORD BY THE VICTIMS' COMMISSIONER: THE BARONESS NEWLOVE OF WARRINGTON



As part of my focus on the support given to vulnerable victims, I have undertaken this review of the provision of Registered Intermediaries (RIs) for vulnerable victims and witnesses through the Witness Intermediary Scheme (WIS).

RIs are specialists in communication, provided to children and vulnerable victims to enable them to have a voice in the criminal justice system. Beforehand, many victims and witnesses with communication needs may never have been interviewed by the police or have their evidence used as the basis of a criminal charge and conviction.

RIs enable the police to gather complete, coherent and accurate evidence from vulnerable victims. In doing so, they give these victims access to justice. They have an important role to play within our justice system.

This review considers the whole operation of the Witness Intermediary Scheme, the availability of RIs to those who most need them, the benefits of the scheme, how they integrate with other criminal justice partners and how the scheme is managed. I want to be sure that all vulnerable victims and witnesses, however young, traumatised or scared, have their voices heard *loudly* and *clearly* in criminal proceedings.

Equal access to justice must be a *primary objective* of our justice system.

I have been impressed by the passion and commitment of RIs. My review found widespread support for the work of RIs by police and prosecutors, both of whom rely upon them to help obtain the best available evidence.

However, my findings have led me to believe that not all eligible vulnerable victims and witnesses are being offered the support of a RI.

Despite a *fourfold increase in the number of requests for a RI*, there has been no corresponding increase in the number of RIs being recruited. There are, on average, 20 cases a month where requests for a RI are not matched. This amounts to nearly 250 vulnerable victims and witnesses every year possibly being deprived of their access to justice. This needs to be addressed *urgently*.

As well as an inability to match every request, I am truly not convinced that requests are being made for RIs in every case where this might be called for. My report includes an analysis of the number of RIs requested per 1,000 recorded crimes. This shows, pro rata, wide variations in the number of requests compared to the national average. For example, the number of requests per 1,000 recorded crimes in Cumbria is 5 times higher than in London.

I am concerned this implies that access to a RI may be becoming a *postcode lottery*.

Evidence from this review also suggests that vulnerability and the need for RI assistance is not being assessed consistently, with some police officers using their own judgement to determine need. This most likely leads to inconsistency not only across forces, but within forces.

From the point at which a RI is requested to a RI first assessing a witness, there is, on average, a four-week wait. The National Crime Agency put this delay down to the lack of RIs. This presents police officers with a dilemma. Faced with a young or vulnerable adult victim, there is an understandable desire to take down their evidence as quickly as possible. Do they proceed without a RI, or wait several weeks for a RI to become available? Given the Government's drive for speedy and efficient justice, this needs to be addressed.

RIs reported that police, prosecutors and judges often do not understand the intense work that RIs carry out with witnesses when building the background of a case. They said police don't always appreciate the work that goes into building a rapport with a vulnerable victim or witness. Neither is the judge aware of the amount of work that goes into preparing questions with the lawyers. Many of the police officers who participated in this review (all of whom were specialists) had no training on the role of RIs or how to work with them. There is online CPS training for prosecutors, but this isn't *mandatory*. If the criminal justice system is to obtain maximum benefit from RIs there needs to be a greater awareness of their skills and how they can help in the delivery of justice.

Many of the RIs who took part in my review identified wide ranging deficiencies in the management of the Witness Intermediary Scheme. Their concerns covered managerial support, training, mentoring, continuing professional development, quality assurance, supervision and late payments. In particular, there was criticism of the Ministry of Justice and its perceived lack of interest or engagement with the service.

For example, a lack of funded mentoring for new recruits, and the limited capacity to undertake quality assurance of RI work both give me cause for concern. It is disappointing that RIs who are laid open to the most distressing of evidence are not provided with supervision or access to counselling to cope with the stresses of their role.

Lengthy delays in receiving payments have prompted RIs to avoid working for certain police forces. Some RIs report having pressed the Ministry of Justice for up-to-date personal identification badges for their work for over two years but without success.

Every one of these issues, directly or indirectly, impact on the quality of the service received by victims and therefore must be tackled.

The Ministry of Justice has announced an upcoming recruitment campaign for 30 RIs across the East Midlands. It is not clear how this figure has been arrived at and, based on the findings of my review, targeted recruitment of RIs across England and Wales would be needed to meet the demand.

I am therefore calling on the Government to implement radical changes to the scheme to make sure it offers all vulnerable victims and witnesses the access to justice that they rightly deserve.

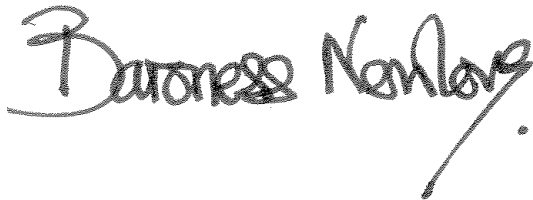
That is why I am calling for a national Registered Intermediary Service, which is centrally supported. It should be led by a national figure who can represent the needs of the service to policy makers and agencies responsible for delivering our criminal justice system. The service will be responsible for recruitment, payment of expenses, overseeing training, mentoring, CPD and quality assurance. It should also publish an annual report so that deficiencies can be made public and that those responsible be held to account.

It is important that criminal justice agencies put in place arrangements to ensure consistency of practice in engaging the services of RIs.

In particular, there needs to be a *fast track* matching service for very young victims so that they can give their evidence without needless delay.

So finally, I conclude my foreword by highlighting a case in which a RI facilitated the communication of a two-year-old victim of sexual abuse. Due to this child's evidence obtained in police interview, the offender pleaded guilty and was sentenced to more than 10 years in prison. This case highlights that sexual predators who target very young children can no longer assume that their victims would never be able to give evidence against them.

A RI gives a voice to the voiceless. I want to be sure that in our justice system, every victim's voice will be heard.

A handwritten signature in black ink that reads "Baroness Newlove". The signature is written in a cursive, flowing style with a long, sweeping underline that extends to the right.

Baroness Newlove of Warrington

Victims' Commissioner for England and Wales

ACKNOWLEDGEMENTS

The Victims' Commissioner would like to thank the RIs, police officers and Crown Prosecution Service staff for taking part in this review, and sharing their experiences of the Witness Intermediary Scheme. Thanks also to the Witness Intermediary Team at the National Crime Agency for distributing the survey and providing data to support the review. We are particularly grateful to Dame Joyce Plotnikoff for peer reviewing this report.

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EXECUTIVE SUMMARY

1. This review presents the findings from a research project carried out by the Victims' Commissioner into the provision of Registered Intermediaries (RIs) through the Witness Intermediary Scheme (WIS).
2. RIs provide communication assistance, enabling vulnerable victims and witnesses to give evidence to the police and at trial. They are provided through special measures for vulnerable victims and witnesses under the Youth Justice and Criminal Evidence Act 1999.
3. Previous research has demonstrated that RIs are effective in enabling vulnerable victims and witnesses in giving complete, coherent and accurate evidence at the Achieving Best Evidence interview stage and at trial.
4. Given the impact that RIs have on enabling eligible witnesses to gain equal access to justice, this review focuses on the operation of the WIS and how this influences the provision of RIs for those who need them.
5. The review asks key questions regarding whether victims and witnesses who are eligible and would benefit from a RI are being allocated one. It looks at the management of the WIS, including recruitment, training, continuing professional development, mentoring and supervision of RIs, their pay and work conditions and how their work is quality assessed. The review covers the impact of court listings on the work of RIs. It examines awareness and understanding of the role by police officers and Crown Prosecution Service (CPS) Advocates, along with the training that they receive about how to engage and work with RIs. It identifies how WIS users assess the vulnerability and eligibility of victims and witnesses, and the process of matching requests with a suitably qualified and skilled RI. Supply and demand of RIs is assessed, including the availability of RIs in different geographical areas and skill sets.
6. The Office of the Victims' Commissioner gathered the views of 122 RIs in an online survey (a response rate of approximately 92 percent). Regional focus groups were also conducted with RIs in the North West, Cambridgeshire, the South West, Yorkshire and the North East. In total, 42 RIs participated in these focus groups.
7. Qualitative interviews were carried out with 20 service users of the WIS, comprising of 9 service users from the CPS and 11 police officers.
8. Semi-structured qualitative interviews were carried out with representatives of the National Crime Agency Witness Intermediary Team; Ministry of Justice; the Registered Intermediary Registration Board; the Registered Intermediary Quality Assurance Board; the National Vulnerable Witness Advisor; the College of Policing; Her Majesties Courts and Tribunals Service (HMCTS) Section 28 roll out team and the CPS. A written submission to the research questions was received from the Citizens Advice Witness Service.

9. Evidence from this research and a review of previous literature found that RIs are invaluable in providing communication assistance for vulnerable victims and witnesses, giving them a voice in the criminal justice system (CJS) and in turn, providing them with equality of access to justice. Police and CPS users of the WIS are positive about the impact of RIs and have supplied several case studies which demonstrate their impact in enabling the communication of vulnerable victims and witnesses. RIs are passionate about their work and have also supplied case studies in the review of their success in assisting the communication of vulnerable victims and witnesses.
10. The review found that not all vulnerable victims and witnesses who are entitled and would benefit from a RI are receiving their assistance to give evidence. Requests for RIs from police forces are disproportionate to the levels of recorded crime, so that some of the most populated areas such as London and Greater Manchester request less RIs as a proportion of recorded crime compared with areas with less crime such as Cumbria.
11. There are not enough RIs to meet the current levels of demand. The average waiting time for a request to be matched with a RI is 4 weeks. The long delay leads some police officers to go ahead and interview a vulnerable victim or witness without a RI. The delay also deters some police officers from requesting a RI in the first place. This means that the true level of potential demand is not clear. There is also a particular lack of suitably skilled RIs for older children and adults whose mental health needs impair their communication, as well as for those in some geographical areas, such as North Wales.
12. The review found inconsistency in the way in which vulnerability is assessed by Police and the CPS, also leading to variations across police forces and within them as to whether a RI will be requested. It found a lack of awareness by police and the CPS of the role of RIs, how to work with them and the preparation work that they carry out 'behind the scenes'.
13. The review found that the organisation of court listings has a significant impact on the work of RIs and on vulnerable victims, witnesses and their families. Late bill payments and confusion over whether police or CPS pay for RI services also impacts upon the work of RIs, leaving many unable to rely on it as their main source of income, and with some avoiding working with certain police forces, such as the Metropolitan Police, altogether.
14. There is a lack of overall management and governance of the WIS. The review found particular issues relating to a lack of funded mentoring, diminished provision of continuing professional development, no funded clinical supervision, insufficient quality assurance procedures and a lack of perceived support of the WIS from the Ministry of Justice.
15. The lack of management, governance, mentoring and support has left many RIs feeling that, despite being valued by victims and the police, they are not valued by the Ministry of Justice. In this review, many RIs have called for improvements to these aspects of the WIS.

16. Taking these shortcomings into account, the review concludes that there is a systemic failure in the operation of the WIS which does not effectively manage the provision of RIs for vulnerable victims and witnesses.
17. In summary, whilst the services of RIs are invaluable in providing access to justice for some of the most vulnerable victims and witnesses in England and Wales; the WIS lacks the managerial and governance structure required to provide a professional and consistent service for all those who need it.
18. The Victims' Commissioner has made recommendations to enhance the provision of RIs. These include:
 - a. The provision of RIs to vulnerable victims and witnesses in England and Wales should be undertaken by a centralised national service, situated in one agency.
 - b. A fast track RI service for very young children should be implemented to ensure that they are able to make their ABE statement and give evidence without delay.
 - c. A National Lead Registered Intermediary should be appointed to feed into the policy and practice in the provision of RIs, and to represent RIs' interests across the CJS.
 - d. The National Registered Intermediary Service and National Lead Registered Intermediary should prepare an annual report for publication.
 - e. Inspections of how the CPS and police work with RIs should be included in regular inspections by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, and Her Majesty's Crown Prosecution Service Inspectorate.
 - f. Her Majesty's Courts and Tribunals Service should work with judges and the parties to ensure that trials involving a RI are prioritised where possible, and that vulnerable victims and witnesses are informed more precisely of the date and time when they will give their evidence.
 - g. Awareness of the role of RIs should be promoted to judges, magistrates, CPS and police; in addition, training on their role and how to work them should be a mandatory part of training on special measures.
19. The Victims' Commissioner believes that these recommendations will enhance the provision of RIs for vulnerable victims and witnesses, giving them equality of access to justice and a voice in the CJS.

INTRODUCTION

Registered Intermediaries

1. Registered Intermediaries (RIs) are specialists in communication, provided to children and vulnerable victims through special measures set out in the Youth Justice and Criminal Evidence Act 1999 (see appendix 1).
2. RIs assist vulnerable victims and witnesses in giving evidence in the initial Achieving Best Evidence (ABE) interview with the police, attend ground rules hearings at court which discuss how witnesses can be questioned to enable them to give their best evidence, and can accompany the vulnerable witness during questioning, to monitor their understanding and ensure their answers are understood. They enable the police and courts to gather complete, coherent and accurate evidence from vulnerable victims and witnesses.
3. RIs can provide communication support to defence witnesses (though such appointments are rare) but not to defendants. There is currently no government provision of communication support for defendants. Some defendants receive support for their communication needs through private, unregulated companies or from RIs working outside the Witness Intermediary Service. When working with defendants, these intermediaries are known as non-registered intermediaries rather than RIs. The provision and operation of intermediaries for defendants is not included in the scope of this review. Similarly, RIs only support victims and witnesses in criminal proceedings. There is no central register for intermediaries who work in family courts and civil courts, and these types of intermediaries are not included in the scope of this review.
4. Throughout this review, reference to RIs relates only to communication specialists who work in the regulated provision of communication support through the government run WIS.
5. RIs enable vulnerable victims and witnesses to have a voice in the criminal justice system (CJS). Before the provision of RIs many vulnerable victims and witnesses with communication needs may never have been interviewed at all by the police, let alone have their evidence used as the basis of a criminal charge by the police and conviction in court. Previously, it was not considered possible or perhaps appropriate to interview very young and vulnerable victims; they were excluded from justice precisely because of their vulnerability. Other vulnerable witnesses went to court but were unable to give their best evidence because they were questioned inappropriately or their answers were not fully understood. RIs use their expertise in communication to unlock the ability for such victims and witness to communicate, giving them fair access to justice.
6. The provision of RIs is not restricted to specific crime types, as they should be provided according to the vulnerability and communication needs of the victim or witness, regardless of the severity of the crime. They help to improve the quality

of evidence given by typically developing children under the age of 18 years, as well as children and adults with learning disorders, or who have mental or physical impairments to their communication.

7. RIs assist the communication of victims and witnesses who would find it difficult to understand questions put to them by the police and at trial. They carry out initial communication needs assessments to determine whether a vulnerable victim or witness would benefit from the services of a RI. They prepare reports for the police to identify the specific communication needs of the victim or witness and provide guidance on how these needs can best be met. RIs are always accompanied by police officers when they are carrying out these assessments. RIs can advise on the preparation of questions for police to use in the initial Achieving Best Evidence (ABE) interview. They also attend the ABE with the police officer and facilitate communication with the witness if necessary. Ideally, the same RI will work with a victim or witness throughout their engagement with the CJS, at the police interview stage, at suspect identification procedures (if this is needed), during the court familiarisation visit and in giving evidence at court. If a RI has not been requested at police interview stage, Crown Prosecutors can request a RI to support victims and witnesses' communication needs at court. RIs are required to attend ground rules hearings in which they help barristers and judges decide how best to communicate with the witness. This increasingly involves preparing agreed questions that can be put to vulnerable victims and witnesses at cross-examination. RIs will also accompany the witness while giving evidence at trial, monitoring questions and alerting the court to any miscommunication and conditions that might affect the reliability of the evidence heard.
8. The type of communication assistance provided by RIs will vary according to the specific vulnerability of the victim or witness. For example, RIs may assist in preparing appropriate questions that the victim or witness can understand. They may use neutral props and communication aids, such as dolls or figures, body maps and diagrams, word or letter boards or a series of blinks of the eye for severely paralysed victims or witnesses. They can also propose modifications to the setting or circumstances in which questioning takes place to maximise the effectiveness of communication.
9. RIs come from a range of backgrounds. Though most are speech and language therapists, some are teachers and others come from other therapeutic backgrounds such as psychology, psychotherapy, occupational therapy and play therapy. They have a range of communication skills and specialisms to meet the range of communication needs and vulnerabilities of the victims and witnesses that they work with.
10. RIs are independent. They have a duty to the court, not to the prosecution, the defence or the police. Their role is to assist communication between all parties and so they advise police officers, Crown Prosecution employees, judges, magistrates, the Citizens Advice Witness Service and other court personnel.

11. RIs are recruited by the Ministry of Justice but are self-employed. RIs vary in the number of hours they work, some are part-time, some hold other jobs in addition to their work as a RI, and others work full time hours as a RI. To remain on the register, RIs are required to complete 24 days of RI work per year, with at least 12 days of face to face casework with victims or witnesses.

Victims' entitlement to a Registered Intermediary

12. Victims' entitlements to a RI are set out in the Victims' Code of Practice 2015 which states that victims are eligible for enhanced entitlements as a vulnerable victim if they are under 18 years of age at the time of the offence, if the quality of evidence is likely to be affected because they suffer from a mental disorder¹, if they have a significant impairment of intelligence and social functioning or a physical disability or disorder.
13. The Code states that in addition to other Special Measures, vulnerable victims and witnesses can use communication aids, such as alphabet boards or assistance from RIs. Communication aids are a separate special measure, though in practice they are seldom used unless a RI is involved. The Code goes on to describe RIs as:

'...specialists who help vulnerable witnesses with an assessed communication difficulty to give their best evidence in court. They can also assist victims when they are being interviewed to help them communicate their evidence to the police. The intermediary is approved by the court and can help to explain the questions and answers so far as necessary to help the witness but without changing the substance of the evidence.'

The Witness Intermediary Scheme

14. The Ministry of Justice (MoJ) has overall responsibility for the provision of RIs to vulnerable victims and witnesses through the WIS which is structured across different boards.
15. A pilot scheme for the provision of RIs was conducted between 2004 and 2007 by the Office for Criminal Justice Reform. The scheme was transferred to the MoJ for national roll out across England and Wales. This was completed in 2008. In 2009, the MoJ contracted out the matching service to the National Crime Agency (NCA). The Witness Intermediary Team at the NCA match requests for RIs from the police and Crown Prosecution Service (CPS) using a centrally held list of qualified and trained RIs.
16. The MoJ chairs the Intermediaries Registration Board (IRB) which brings together key stakeholders from across the CJS. The IRB is responsible for the strategic

¹ as set out in the Mental Health Act 1983.

direction, policy management and operation of the WIS and it is the board through which WIS policy decisions are made.

17. The Quality Assurance Board (QAB) has an independent chair. Its role is to recruit RIs to the required standard, to quality assure their work and manage feedback or complaints about RIs. Membership of the QAB is comprised of individuals who are experts in the fields of health and quality management, specifically in professional regulatory issues and monitoring of standards of practice. The QAB has historically met three times per year. The MoJ received feedback from the QAB that the length between meetings was too long and has agreed for the QAB to meet quarterly for the 2017/18 reporting period.
18. There are eleven regional groups of RIs. These groups have no formal management locally and are self-organising. RIs are required to be associated with their local regional group though there are no guidelines as to what that involvement entails. One local RI group reported that they had some members on their books that had never attended a regional meeting and never contributed to the work of the group.
19. The Registered Intermediary Reference Team (RIRT) is a stakeholder consultation group that represents RIs to the MoJ in the development, management and governance of the WIS. Each regional RI group, or two adjacent regional groups combined, have a representative on the RIRT.

PREVIOUS RESEARCH ON REGISTERED INTERMEDIARIES

1. Prior to the introduction of RIs² as part of a raft of wider special measures, the decision to make specific adjustments for vulnerable witnesses giving evidence rested with individual courts (Cooper & Wurtzel 2014). RIs were widely viewed as ‘the first new active role to be introduced into the criminal trial in two centuries’ (Henderson 2015:155). As a result, before their introduction, RIs were regarded with some apprehension in terms of their possible obstruction to the cross-examination of witnesses (Henderson 2015; Cooper & Wurtzel 2014).
2. Existing literature on RIs is variable in terms of both scale and scope. The evidence base is mostly comprised of small scale qualitative studies, though there are also a limited but increasing number of intervention experiments in this field (see Collins, Harker & Antonopoulos 2017; Henry et al. 2017). Two key themes emerging from existing studies are that RIs are important facilitators as well as enablers for vulnerable victims and witnesses (Plotnikoff & Woolfson 2015; Henderson 2015). As a result, these studies have played a crucial role in refuting the early concerns surrounding the introduction of RIs. Despite this, evidence gaps remain, particularly regarding how the WIS as a system is operating for RIs and their service users.

Registered Intermediaries as facilitators

3. The initial evaluation of the pathfinder pilot for the WIS found that overall RIs were viewed positively by criminal justice professionals who interacted with them and/or their work during pilot cases (Plotnikoff & Woolfson 2007). An important finding from this evaluation was that the work of RIs is perceived by RIs themselves, and criminal justice professionals, to facilitate ‘best evidence’. Plotnikoff and Woolfson (2007:ix) found that RIs facilitated communication through ‘informative reports and appropriate interventions; and ensuring that witnesses understood everything said to them, including explanations and instructions’. RIs have been described as doing so in a way that is both neutral and independent (Lord Chief Justice 2011, cited in Cooper & Wurtzel 2014). By consequence, O’Mahony, Smith and Milne (2011) have called for there to be consideration of expanding the WIS; this is so that vulnerable witnesses who are interviewed by agencies such as the Department for Work and Pensions and HM Revenue and Customs maintain access to this support.
4. While many studies tend to focus on how RIs and their work is perceived among criminal justice professionals, there are fewer studies which examine the actual

² Some previous studies have looked at both registered and non-registered intermediaries. Where the term ‘intermediaries’ has been used as opposed to ‘Registered Intermediaries’ or ‘RIs’, these studies did not limit their research to only include practitioners who are operating in their capacity as a member of the WIS.

impact of the presence of RIs at trial, though there are some exceptions. Collins, Harker and Antonopoulos (2017) conducted a recent study investigating how adults perceive children when an RI assists their communication in court. The study was designed to simulate the cross examination of a child witness before a jury, both with and without a RI present. The research found that the presence of a RI in court improved adults' perceptions of children's communication, and the perceived quality of the cross-examination that took place (Collins, Harker & Antonopoulos 2017). Henry et al. (2017) also found in their investigation that children who are typically developing had a significantly better overall performance when a RI was present and working with them; this was during a simulated interview designed to assess the children's ability to recall the details of a specific event. Notably, this study did not find the same result for children with autism spectrum disorder (ASD). The authors suggest that this may be because RIs support individuals with ASD in ways other than volume of recall such as rapport building, which this research did not investigate (Henry et al. 2017). As a result, both studies highlighted the need for further research to be undertaken to examine what exactly underpins the observed results.

Registered Intermediaries as enablers

5. Another key theme emerging from existing literature is the role that RIs play as enablers for vulnerable witnesses and victims. Cooper and Mattinson (2017:364) write that RIs sometimes make recommendations on 'extra special measures'; these are adjustments that fall within Criminal Procedure Rule 3.9(6) requiring courts to take 'every reasonable step' to facilitate the participation of a witness or defendant, especially in an intermediary case. Such steps extend beyond those legislated for, but which RIs believe would benefit a witness's communication ability (also noted in Henderson 2015). These 'extra special measures' include, for example, advocates conducting their questioning face-to-face with the witness in the live link room rather than doing so over the live link from court, and giving witnesses in the live link room opportunity for short in-room breaks during court proceedings without sending out the jury. RIs have also been found to have an influence beyond the primary communication function of their role (Cooper 2014). Plotnikoff and Woolfson (2007), in their evaluation of the pathfinder pilot, received feedback from carers of vulnerable witnesses noting that RIs had helped witnesses cope with the stresses related to giving evidence.
6. The possible scope and influence of the RI role is, therefore, wider than first conceptualised (Cooper 2014). RIs have the potential to influence vulnerable witness's experiences of the criminal justice process, the perceived fairness of the CJS and, therefore, access to justice for witnesses who previously may have been excluded or not enabled to give their best evidence (Plotnikoff & Woolfson 2007; Plotnikoff & Woolfson 2015; Henderson 2015).

Registered Intermediaries and the Witness Intermediary Scheme

7. There is, therefore, a growing evidence base on the role of RIs and their influence on criminal justice processes, particularly in terms of the support they can provide to vulnerable victims and witnesses. Despite this, in contrast to other special measures such as the usage of live link, RIs remain under-researched (Collins, Harker & Antonopoulos 2017). This is exemplified by the 2015 Victim and Witness Satisfaction Survey commissioned by the CPS, whereby only high-level statistics about the offer and take-up of the RI special measure were published (Wood et al. 2015). In addition, there has been no evaluation of the WIS since the pilot evaluation ten years ago. By consequence, there remain gaps in the evidence base as to how the WIS is functioning as a whole system. RIs work in a complex web of interactions that constitute the CJS. There therefore needs to be a critical examination as to how the WIS is organised and run, how improvements could be made to further the use of RIs in facilitating 'best evidence', and therefore how vulnerable victims can achieve access to justice.

AIMS AND OBJECTIVES OF THIS REVIEW

1. This review aims to address some of the gaps identified in the literature review regarding the current operation of the WIS. Previous research has shown that RIs are effective in enabling vulnerable victims and witnesses to give evidence to the police at the Achieving Best Evidence interview and at trial. This review will focus on the operation of the WIS and how this impacts on the provision of RIs for vulnerable victims and witnesses with communication needs.
2. The review will aim to identify whether vulnerable victims and witnesses who would benefit from the services of RIs are provided with them. It will also investigate the impact on victims and witnesses when they work with a RI to support their communication needs, and the impact on victims when they are not allocated a RI.
3. The review will focus on the management of the WIS including recruitment, training and continuing professional development, mentoring and supervision of RIs, their pay and work conditions and how their work is quality assessed. The review will also examine the impact of court listings on the work of RIs.
4. The review will aim to gauge levels of awareness of the role of RIs amongst services users, along with their understanding of what RIs do and how to work with them effectively to support the communication needs of victims and witnesses. It will review the way in which service users assess the vulnerability of victims and witnesses and how they determine whether they would benefit from working with a RI to give evidence. The matching process of teaming victims and witnesses with appropriately skilled RIs will also be examined.
5. This holistic examination of the WIS aims to identify potential areas of improvement in the WIS and to make recommendations that will result in improvements to the provision of RIs for vulnerable victims and witnesses. Such improvements in the provision of RIs would ensure that all vulnerable victims and witness have their voice heard in criminal proceedings and equal access to justice.

METHODOLOGY

1. The Victims' Commissioner's team gathered the views of RIs in an online survey and a series of regional focus groups.
2. In total 122 RIs responded to the survey which was disseminated by the NCA Witness Intermediary Team, a response rate of approximately 92 percent of all active RIs at the time,³ the largest survey of RIs in the history of the scheme.
3. The survey asked RIs about their experience of working in the WIS including which victims' vulnerabilities they are qualified to work with, their working patterns and preferences, views on pay, management and conditions of their employment, working with the Witness Intermediary Team, the extent to which they feel valued by victims and other key stakeholders in the CJS, satisfaction with various aspects of their work as RIs, and how they think the WIS could be improved.
4. A total of 42 RIs took part in focus groups, representing the views of 6 regional groups in London, the North West, Cambridgeshire, the South West, Yorkshire and the North East. The focus groups were approximately one hour long and engaged RIs in in-depth qualitative discussions on the same themes as the survey to gain further insight into their views on working in the WIS, and examples of how they have worked with vulnerable victims and witnesses to give evidence at police interviews and in court.
5. Semi-structured qualitative interviews were carried out with representatives of the NCA Witness Intermediary Team, Ministry of Justice, the Registered Intermediary Registration Board, the Registered Intermediary Quality Assurance Board, the National Vulnerable Witness Advisor, the College of Policing, Her Majesties Courts and Tribunals Service (HMCTS) Section 28 roll out team and the CPS. A written submission to the research questions was received from the Citizens Advice Witness Service. Interviews lasted approximately 45 to 60 minutes and were used to gain the perspectives of key stakeholders in the WIS about the operation and management of the scheme, training, awareness and appreciation of the role of RIs across the CJS, the effectiveness of RIs in maximising the evidence given by vulnerable victims and witnesses, and suggestions for how the scheme could be improved.
6. Qualitative interviews were also carried out with 20 service users of the WIS, namely 9 service users from the CPS and 11 police officers.

³ RIs can inform the Witness Intermediary Team that they are not available to take cases for a short period of time. The number of active RIs fluctuates. The survey was issued on 31st August, on 15th August there were 136 active RIs and 65 who were not active, on 15th September there were 130 active and 72 not active. The approximate response rate of 92% is based on an assumption that there were 133 active RIs for the duration of the survey.

7. These interviews lasted approximately 30 to 60 minutes and included questions about their experience of requesting the services of RIs from the Witness Intermediary Team, training they have received about the role of RIs, working with RIs to gain the best possible evidence at police interview and in court, examples of cases where the use of a RI has had a significant impact, and finally, ways in which they think that the WIS could be improved.
8. Quantitative data from the survey of RIs was collated and qualitative responses were examined for common themes. A thematic analysis of the qualitative focus group data and interviews with stakeholders was carried out to identify key views on the provision of RIs for vulnerable victims and witnesses, to examine the supply and demand of RI services, the governance of the RI system, how the scheme works in practice and to establish actions that could be taken to improve the scheme.

Limitations of the review

9. The authors did not seek to consult victims or their families in the preparation of this review into the WIS. The focus of the review is on organisational aspects of the scheme and how this can be improved. The victims' perspective is represented by proxy through the RIs who work directly with vulnerable victims and witnesses as well as CPS and police service users.
10. The review sought the input of a relatively low sample size of 20 CPS and police service users of the WIS. The in-depth qualitative data achieved through these interviews cannot necessarily be generalised to all service users but it gives a good indication of the experience of the CPS and the police in working with RIs. The review was not able to recruit respondents from paralegal services from the Witness Intermediary Team who are responsible for managing requests for the services of a RI. This experience of requesting RIs was examined with police users of the service.

FINDINGS

1. The impact of Registered Intermediaries on communication for vulnerable victims and witnesses in the criminal justice system

- 1.1. RIs have gone from a new role to a new profession in the CJS in a short period of time. Though few in numbers, RIs are helping to change the culture of the CJS and their influence can be seen across the system, for example in Court of Appeal decisions about developmentally appropriate cross-examination, in Criminal Procedure Rules and Practice Directions about the management of vulnerability and in the development of The Advocate's Gateway toolkit guidance.
- 1.2. The Lord Chief Justice said in 2017: *'The courts are greatly indebted to intermediaries... who have laid the groundwork for this development of the procedural law by the courts in a manner that has been so beneficial'* (R v Rashid [2017] EWCA Crim 2, para 73.)
- 1.3. In a survey of 77 judges, Plotnikoff and Woolfson (2015) reported that 'two-thirds of judges say that working with intermediaries has changed their own practice'.
- 1.4. This review also found wide spread support for the work of RIs by police who request them to work with vulnerable victims and adults, reporting that they are *'invaluable'*, that they have a *'fantastic impact'* and are *'really useful'* and a *'helpful tool.'*

Police Officers' feedback on the work of RIs

'RIs are invaluable! Most definitely couldn't do the job without RIs. There is a shortage and we want more RIs.'

'RIs reports are invaluable. I use the report to plan the interview. They are there to intervene and provide support. At the court stage it is fantastic that RIs are there. Barristers and judges listen to them regarding their questioning style and how best to cross examine children.'

'If anyone would ask me about RIs I would say just use them! They are really useful, a helpful tool to get the best evidence. You can't underestimate how much better the witnesses' presentation is in court without a doubt when they have a RI.'

'RI impact is fantastic. Even though child interviewers are trained, RIs really understand things like learning needs and autism, they plug the gap between the police and the child. We're [the police] not perfect sometimes.'

'The first time I ever used a RI was on recommendation from the CPS. I interviewed a child and I felt out of my depth. The CPS said – "didn't you consider using a RI". I didn't know much about them so I just muddled through. Now I know that you get so much more from the witness when you use a RI, so using them is a no-brainer. RIs are invaluable now that I am used to using them.'

Source: Police officer interviews

- 1.5. Police officers provided some insightful case study examples of instances in which RIs have had a positive impact upon the ability of vulnerable victims and witnesses to give evidence.

Case study: 'There was a little boy, 5 years old, who had global development delay. He was a lovely little boy but he always came across as fibbing. It actually transpired when working with the RI that he didn't deliberately lie but he couldn't not give an answer – he didn't get the concept of 'I don't know'. I interviewed him first without an intermediary and he came across as fibbing, the case came back around because of more evidence and I interviewed him a second time with an intermediary and he came across completely different - because of the questions used the answers were different.'

Police officer interview participant

Case study: 'In one example an RI was working with a 6-year-old. She had a troubled 15-year-old brother who did not have a RI. He had a bad breakdown at court caused by anxiety. The CPS went to the NCA at the last minute and secured the same RI's services to support both witnesses. He was really wavering. The RI provided great support and understanding in how to cope with the anxiety and stress of attending court. In the end, he was able to attend and he went to court without even the use of screens. She was there for him, and he wouldn't have gone to court without her support. The offender was convicted of 29 offences and received a 15-year sentence.'

Police officer interview participant

Case study: One police officer described how she carried out an interview with a male victim of assault with severe learning disability. She said 'every time he spoke he just giggled and could not communicate with her. He responded really well to the male RI who was able to simplify the questions sufficiently for him to understand and answer them. It made a big difference. The RI struggled a bit but eventually got a full account of what happened. It meant that the man could have access to justice!'

Police officer interview participant

- 1.6. Some police officers also reported that working with RIs has influenced their own interviewing practice and they have been able to adopt some of the practices they have learnt in order to communicate better with vulnerable victims and witnesses. One police officer described how she learnt to use different types of language when talking to a child about sexual abuse. She learnt to number body parts so that a child can describe what happened to them using the numbers rather than them having the embarrassment of having to say sexualised words. Another police officer said that they had learnt to use body maps to support their interviewing of children and vulnerable adults in cases of sexual crimes.

- 1.7. Another police officer described how working with a RI has influenced her interviewing style, but she would be reluctant to use any props or tools that RIs use as she thought it would be *'dangerous to do so on my own'*.
- 1.8. A representative from the Witness Service explained that Witness Service volunteers at court say that RIs have a positive impact. She provided a case study in which the work of a RI in supporting a six-year-old witness had been instrumental in helping the child to communicate and have the confidence to give evidence at court. The RI had also provided advice and support to Witness Service outreach workers.

'The Outreach Service and RI were working in partnership to prepare a 6-year-old witness to give evidence at trial. [...] The RI facilitated communication and put her at ease. The witness was very young / vulnerable; without the support of the RI, the work before trial in particular, the witness would have been very upset, scared and distressed, therefore unable to answer the questions which may have resulted in not being able to give evidence. The RI supported the Outreach team leader in the run up to the trial, kindly taking a look at the outreach toolkit, advising which tools would be better to use with the witness. Additionally, providing the team leader with some material to use that had been prepared for the witness's age and learning difficulties; this was extremely beneficial.'

Witness Service representative written response to the review

- 1.9. The majority of CPS service users interviewed were positive about the value of RIs in achieving best evidence and presenting that evidence at court. One Senior Crown Prosecutor explained that RIs are *'particularly [useful] in ... reminding everybody in terms of how to ask the questions, keeping it succinct, and the language simple'*.
- 1.10. A CPS advocate who took part in the review described how RIs positively improve the experiences of vulnerable victims and witnesses in the CJS.

'In all the cases I've had them in, they've been tremendous in terms of their work. Particularly with children. They've normally built a very strong relationship with the victim beforehand which puts the victim at ease. They have the ability to control the questioning, suggesting forms of questioning and accommodating children needing breaks, giving them things to fiddle with, letting them move around the room – it has really improved the experience for the victims.'

Crown Advocate interview participant

- 1.11. Another Senior Crown Prosecutor described how the RI helped a vulnerable victim to give evidence at the ABE and at court and the effect that this had on the strength of her evidence.

'It was an adult victim who had a cognitive development difficulty, they had the learning age of someone who was aged 6. She was a vulnerable adult anyway so when they took a witness statement from her they identified that a RI was probably needed so the RI was involved right from the beginning. At the trial, the intermediary was present for the SWAC [speaking to witnesses at court], the case was a lot easier because there was an ABE so the victims' evidence was just played. But it also meant that the CPS was able to get in advance the defence questions for cross examination and have these checked by the RI. The RI was involved on the day of the trial, but they also assisted with developing a rapport with the victim which was important because if the victim is more likely to believe what you're saying, they are more likely to engage with you.'

Crown Advocate interview participant

- 1.12. One Senior Crown Prosecutor described working on a case in which a RI supported the communication of a two-year-old victim of sexual abuse. This is believed to have been the youngest child that has given evidence at interview assisted by a RI and which resulted in a guilty plea. As a result of giving evidence the offender pleaded guilty and was sentenced to more than 10 years in prison. The NSPCC commented that the ability to collect the best evidence from such a young victim through the use of a RI *'demonstrated that sexual predators who targeted very young children were wrong to believe no one would give evidence against them.'* (Guardian 2017).
- 1.13. However, some CPS interview participants thought that RIs were less useful when present during cross examination. Some RIs felt that the lack of understanding of their role and expertise leads to CPS colleagues not fully appreciating the work that they do behind the scenes to support victims' communication needs. One Senior CPS advocate appeared to substantiate RIs views when he said *'a lot of the time they're well received. But when the RI says something simplistic then you know you're all thinking to yourselves 'that's common sense, what's the added value?' But it is what it is, there's nothing you can do.'* Another Crown Prosecutor described how a RI's discussion of a child's inability to understand concepts of time were *'stating the obvious.'* RIs described such comments as representative of common misunderstandings of their expertise in communication and overestimation of the ability of vulnerable victims and witnesses to communicate.

Registered Intermediaries' views on their contribution to enabling vulnerable victims and witnesses to give evidence.

- 1.14. Despite expressing many difficulties with the running of the WIS in terms of managerial support, mentoring and supervision, late payment and disruptive

court listings, RIs were very positive about their contribution to enabling vulnerable victims and witness to communicate their best evidence. When asked if there was any further feedback they would like portrayed in the review, 73 percent of RIs spontaneously spoke positively about their role in enabling vulnerable victims and witnesses to give evidence. They find the work extremely satisfying and really feel that they make a difference to the lives of the victims and witnesses that they work with.

RIs' views on working with vulnerable victims and witnesses

'I have found this work to be most satisfying because of the positive responses from police, victims and the courts.'

'I feel that the RI scheme can have a massive impact upon witnesses and the quality of the evidence. I think that many witnesses would not be able to provide their initial account, or then be questioned on that account at court, without the input of an RI. I do, however, feel that this is a role that is still evolving, and that is vital that the best practice that is seen within our role is disseminated throughout the service to make sure that all RIs are operating to the same high standards.'

'I can't express the value of the impact of the scheme. It is the most rewarding and effective work I have ever done. I can't imagine I would want to do anything else now and want to see the scheme move from strength to strength so that all vulnerable witnesses have access to justice.'

'Every alleged victim I have worked with has had a better experience of giving evidence in court thanks to the special measures regime, one of which is the provision of a communications specialist to assist them. Barristers and judges cannot be expected to be experts in vulnerabilities, in particular hidden disabilities. We should be proud of a legal system which supports equal access to justice for the vulnerable victim. In one case, I helped a 16 year old girl with learning disability. She had sought to avoid coming to court as she felt challenged and shamed by her disability in the court environment. After giving evidence, she was exhilarated. She said she felt she now had the confidence to apply for college. She felt able, equal and heard. I have also had victims who barristers have sought to belittle, challenge, or dispute the very existence of the vulnerability, despite numerous experts in the field attesting to it. In order to better support victims in court, we need to better educate these people.'

'The scheme is very challenging and not for the faint hearted. However, the rewards, when it works well, and the satisfaction of assisting a victim to effectively participate in the justice system makes it all worthwhile, whatever the outcome.'

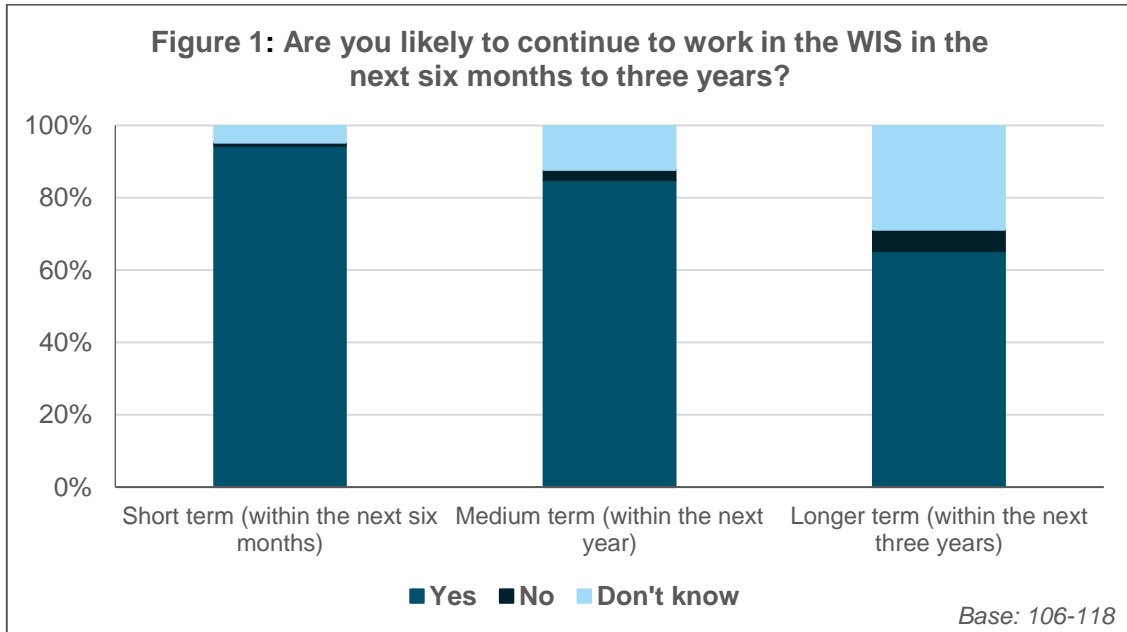
'I feel so privileged to be able to do this role and really feel we make a difference to vulnerable witnesses. - I did my 1st Crown Court case recently; seeing the impact of the witness being able to voice they wanted the public gallery closed for cross examination and the defendant not to see them on the live link and then getting these measures agreed plus other specific communication strategies for them was amazing. Without an RI this would not have happened. It allowed them to give their evidence in detail; CPS reported they were the best witness they had seen!'

'I feel we enable victims to have a voice and be heard, I think that, even if a case does not go to court, victims have more peace of mind for having been able to fully express their experience to the police with our help.'

'It has been the most challenging, frustrating and rewarding role of my professional life. I am about to retire reluctantly. I am so proud to have been part of the role's growth and development- fuelled largely by the huge dedication and creativity of fellow RIs. I feel we are now largely accepted and valued by the courts and I see daily the difference it makes to the vulnerable -in often enabling them to have their voice heard and justice achieved.'

Source: Survey of RIs October 2017

- 1.15. More than 9 out of 10 RIs (94 percent) said they planned to continue to work within the WIS for the following six months, and 85 percent said they planned to work in the WIS for up to a year. However, almost a third (29 percent) were not sure whether they would continue to work in the WIS in the longer term. Therefore, despite being very happy with the support that they are able to offer victims, many RIs are not sure whether they will continue to work in the scheme in the longer term. An improvement in the areas of the scheme identified as lacking may improve RI retention in the longer term.



2. Are all vulnerable victims and witnesses offered a Registered Intermediary?

- 2.1. RIs who took part in the focus groups reported that police officers, lawyers and judges often overestimate the communication skills of children (especially those who are 'normally developing') and vulnerable adults, and so do not apply for a RI when one would be beneficial in assisting a victim or witness to give their best evidence.
- 2.2. Most police officers make their own judgement as to whether the child can communicate effectively and whether they would benefit from the services of a RI. Five police forces currently use a screening tool called ABELS (Achieving Best Evidence Language Screening) which was developed by a RI to determine whether vulnerable victims and witnesses under the age of 11 have sufficient communication skills to give evidence without a RI.
- 2.3. RIs also reported that while police officers tend to be quite likely to appoint a RI for very young children, they are less likely to appoint a RI for an older child who has communication or mental health difficulties. It was felt that police officers were also less likely to appoint a RI for adults with mental health difficulties that

inhibit their ability to communicate. RIs said that the decision-making process is not consistent and *'it can depend on personality, experience, rules within teams...'*

- 2.4. A combination of differences in the way in which vulnerability is assessed, lack of availability of RIs, lengthy waiting times to match cases with RIs and lack of understanding and awareness of the RI role leads to many vulnerable victims and witnesses not being allocated a RI.
- 2.5. RIs also reported that where a RI has been appointed to work with a witness at the ABE stage, or to help develop appropriate questions at a ground rules hearing, a few judges then consider that they are not needed in court despite the good rapport that they have built up to facilitate the witness's evidence. RIs report a range of circumstances 'behind the scenes', of which those in court may be unaware, where the presence of the RI is what enables a vulnerable witness to complete his or her evidence. They are concerned that the RI should not be dispensed with without consulting the witness.

Case Study: In a case with a 5-year-old witness, A RI reported that the judge said, "we've done the questions, we don't need the RI to be with the child when she's interviewed." The RI was concerned about how the judge made the decision. 'How did he know the child was able to go ahead and give evidence on her own?' The RI described the case as one of 'horrible child abuse and the judge made her give evidence on her own.' The RI was not allowed to sit in with the witness despite the rapport that she had built up.

RI focus group participant

Case Study: 'The judge said – "the RI has prepared a very helpful report so we'll be fine without them attending at trial". Then on the Monday the witness attended trial and had a complete meltdown. They phoned the RI in the South West and asked them to come to London to support the witness immediately. This wasn't viable for the RI. The witness was left completely traumatised.'

RI focus group participant

3. Awareness of the role of Registered Intermediaries

- 3.1. Many RIs who took part in the survey identified a lack of awareness and understanding of the RI role amongst criminal justice professionals. This affects whether vulnerable victims and witnesses are offered a RI to support them in giving evidence, and can also have a detrimental effect upon the way in which criminal justice professionals work with RIs, victims and witnesses.
- 3.2. RIs reported that police, prosecutors and judges often do not understand the intensive work that RIs carry out with witnesses in the background of a case.

They said that police do not always appreciate the work that goes into building a rapport with a vulnerable victim or witness, or the judge does not appreciate the amount of work that goes into preparing questions with lawyers on both sides. In some cases, where RIs do not need to actively intervene in cross-examination, RIs felt that judges may perceive them not to have contributed very much to the witnesses' ability to give evidence in court, when in fact it is all the work that has gone on in the background that has enabled the witness to give evidence at all. Some RIs perceive that their role may be seen as overlapping with the work of the Witness Service; however, the aims are distinctly different as the RI is not a supporter. The RI must also engender a sense of trust in the witness in order to facilitate communication. For example, one RI described how she played with a child to keep them happy in the witness waiting room. She had built up a good rapport with the child and the playful input that she had with the child in the waiting room enabled him to feel sufficiently comfortable when she accompanied him while giving evidence to the court.

- 3.3. One RI who took part in a focus group described how some judges made her feel as though she was '*surplus to requirements*.' She reported that one judge told her she would not be needed in court because he knew how to talk to children and the questions had already been agreed. The RI however had not seen the questions and had not been involved in ensuring they were developmentally appropriate, despite it being her role to do so.
- 3.4. Some RIs call for further training of criminal justice professionals on the role of RIs and some form of awareness-raising of them as a profession so that more vulnerable victims and witnesses who need assistance in communicating their evidence receive it, and more vulnerable victims and witnesses and their families know about their entitlement to request assessment by a RI.
- 3.5. The Witness Service⁴ is currently working with Intermediaries for Justice⁵ on a national engagement strategy, part of which is to examine mutual awareness of the Witness Service role and that of RIs. Training for Witness Service staff and volunteers about RIs is currently under review and they are seeking ways to strengthen the links between the Witness Service and the WIS.
- 3.6. Some RIs felt that the introduction of RI toolkits on the Advocate's Gateway (www.theadvocatesgateway.org) provide comprehensive guidelines on securing the services of a RI and how to work with them. Some RIs also felt that these guidelines had brought improvements in their interactions with CPS colleagues. Crown Prosecutors interviewed in this review also commented on the RI toolkits as a useful source of information about working with RIs in the WIS.
- 3.7. Some RIs identified cases when they have worked with victims at the ABE stage and then on preparing questions for the trial, but they are told they are not needed to attend court with the victim. They felt that this demonstrated a lack of

⁴ The Witness Service provides free and independent support for witnesses for the prosecution and for the defence in criminal courts in England and Wales.

⁵ Intermediaries for Justice work to increase awareness and understanding of the role of RIs and promote their use with vulnerable victims and witnesses. <http://www.intermediaries-for-justice.org/>

understanding of their role. In the national rollout of Section 28 (pre-trial cross examination), it has been found that children and vulnerable victims do benefit from the presence of the RI at court.

'I did have a slight worry recently that CPS, because they know there's a national shortage of us, I've heard a couple of times they've said "do we really need the RI when we've got the report because there's so few of them, would they be better targeted somewhere else and the court can manage communication" but that's really difficult if you've already done the assessment, the ABE and there's a hope with the witness that you will be in court with them as well. If somebody makes a decision at a strange time then suddenly they haven't got that communication support when it's actually most needed.'

RI focus group participant

RIs highlight a lack of awareness of their role.

'Victims are often unfamiliar with the whole process and the impact this will have on their communication. RIs have a valuable role, but it is often not understood, or considered insignificant, I have frequently been told my advice & recommendations are merely common sense, not based on skill and experience.'

'Better marketing & promotion of role, outside of CAIT [Child Abuse Investigation Team] most police officers don't know we exist - Encouraging police to use an RI for cases, even if they think the child/adult can 'talk ok', often frustrating to be brought in before trial and watch an ABE that could have been better.'

'I have had very positive experiences of a judge making very good use of my skills in court and as a result the alleged victim was much less traumatised than she might otherwise have been. I have also had situations where an officer has left me on my own to assess a potential victim, even though I have explained that I did not want this to happen. On one occasion, I assessed a young child, who was a possible witness for a murder enquiry and the next day was asked to provide a witness statement (clear misunderstanding of my role).'

'I think sometimes we can be misperceived as unnecessary when we are not seen to have an active role in an interaction, it is often the case that we have done a large amount of work behind the scenes before the interaction takes place, which is unseen but completely necessary for the victim.'

'More training for judges as I feel sometimes we have to justify our role.'

'I feel there needs to be more training about RIs for witness service volunteers. Some services such as Central Criminal Courts are excellent, however many intermediaries have had misunderstandings at many other courts.'

'Courts often don't understand the 'behind the scenes' work we do such as helping prepare a witness and manage their anxiety which impacts on communication. This has led to comments from an advocate following a case where I didn't need to intervene saying "I'm not sure why you were there, he coped fine with my questions"'

'It is the most worthwhile and crucial role I have had (30 years experience as Speech & Language Therapist), but also the least understood by fellow professionals!'

'I think so often we have really helped the witness and when everyone in the process is positive about RIs it feels like together we do a really great job for them. We are able to highlight language issues that others are not trained to do. But we are still a very small profession and plenty of people in the CJS have never heard about us or if they have they do not know what we do and how we can be of benefit.'

Source: Survey of RIs October 2017

Training on the role of RIs

- 3.8. The College of Policing publishes the curriculum for policing which includes learning standards. These should be used by forces to underpin the training for police officers. Special Measures are covered across the curriculum for general and specialist police training. RIs are specifically covered in the associated course material. The College of Policing also publish guidance for policing in the form of Authorised Professional Practice (APP), available publicly; RIs are covered in the APP. Officers can access this learning and any associated training products at any time for their own professional development and refreshment via the Managed Learning Environment (electronic training platform).
- 3.9. A representative of the College of Policing said that the training for police about RIs was sufficient and it is for police officers to take responsibility to understand the role and address any knowledge gaps they may have.
- 3.10. Many of the police officers that took part in this review (all of whom were specialists) said that they had no training on the role of RIs or how to work with them. These police officers said that they learnt about RIs by asking colleagues. Some police officers have received training on RIs as part of their training on ABE interviewing or special measures, and one police officer had received training about RIs as part of a course on joint interviewing with social work colleagues.
- 3.11. One police officer described how she had recently been on a week-long course about child abuse and there was no discussion about RIs, similarly she found that there was no mention of RIs in her investigative training.
- 3.12. Many police officers (including those who had received some training), said that they would have liked more comprehensive training about the role of RIs and how to work with them.

'I think probably it should be more comprehensive, such as training on interviewing with adults. I freely admit the first child I interviewed was 3 years old and I should have had an RI but I didn't know then what one could do. I potentially messed up on that case which is a real shame – but we're definitely using them a lot more now. The three years I've been in this role we're definitely using them a lot more.'

Police officer interview participant

- 3.13. One police officer thought that further training should be extended to response officers as well as specialist officers so that they know how to request RIs from an early stage.
- 3.14. One police officer said that she was satisfied with the level of training that she received about RIs, but felt that RIs would benefit from further training about how to work with police.

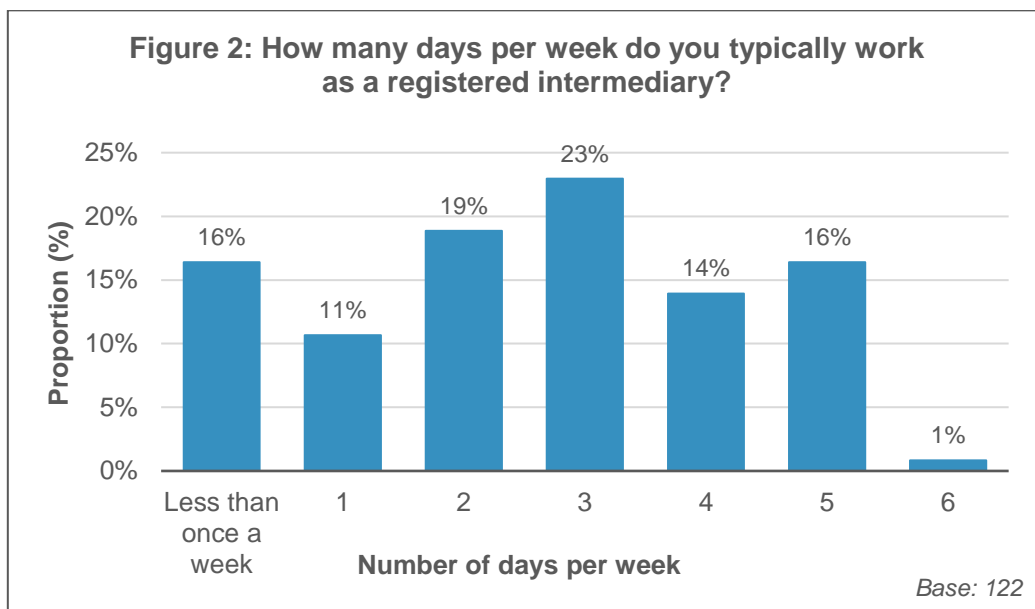
'Would be useful to give more training to RIs. RIs vary in their approach. One RI started trying to ask the questions that I should be asking. There's a thin line in aiding communication and not taking over the interviewer's role. There should be clearer guidelines on how RIs should work. Some RIs will try and ask children questions directly, there needs to be clarity on that, on exactly how it works in the interview situation. Luckily this hasn't caused any problem at trial though.'

Police officer interview participant

- 3.15. One police officer felt that the training was sufficient but what was really needed was further practical experience of working with a RI. She explained that the first time she worked with a RI, she was *'terrified'*, and thought the RI was *'interfering with the interview'*, but over the years she has become used to working with RIs. She explained how working with RIs in practice is *'very different from the training environment'*.
- 3.16. The RI policy lead from the CPS explained that training on RIs is available to CPS employees in an online e-learning package related to special measures. The training includes information on the role of RIs as a special measure and guidance on their engagement. This training is not mandatory. She also explained that there is clear legal guidance which was revised in 2015 regarding the engagement of RIs. This guidance provides step by step instructions about when to engage a RI and how to work with them at court.
- 3.17. The majority of CPS service users that took part in this review said that they did not receive any training regarding RIs, but learnt about their role, how to engage a RI and how to work with them through their own experience of working with RIs.
- 3.18. Some CPS service users said they had learnt about RIs through researching the legal guidance themselves which they sourced from the Advocate's Gateway. One CPS advocate had received training about RIs at a conference on the use of the Achieving Best Evidence Language Screening (ABELS) tool, which was presented by the author of the tool.
- 3.19. One Senior Crown Prosecutor said she thought that further training should be available for police officers on the investigative side rather than for court users of RIs. She thought it was more important that police officers involved in carrying out ABE interviews had full knowledge about when to engage a RI and how to work with them. Another Senior Crown Prosecutor said that training on how to engage a RI would be most important as she found it very difficult in the first instance to find out how to go about doing this.

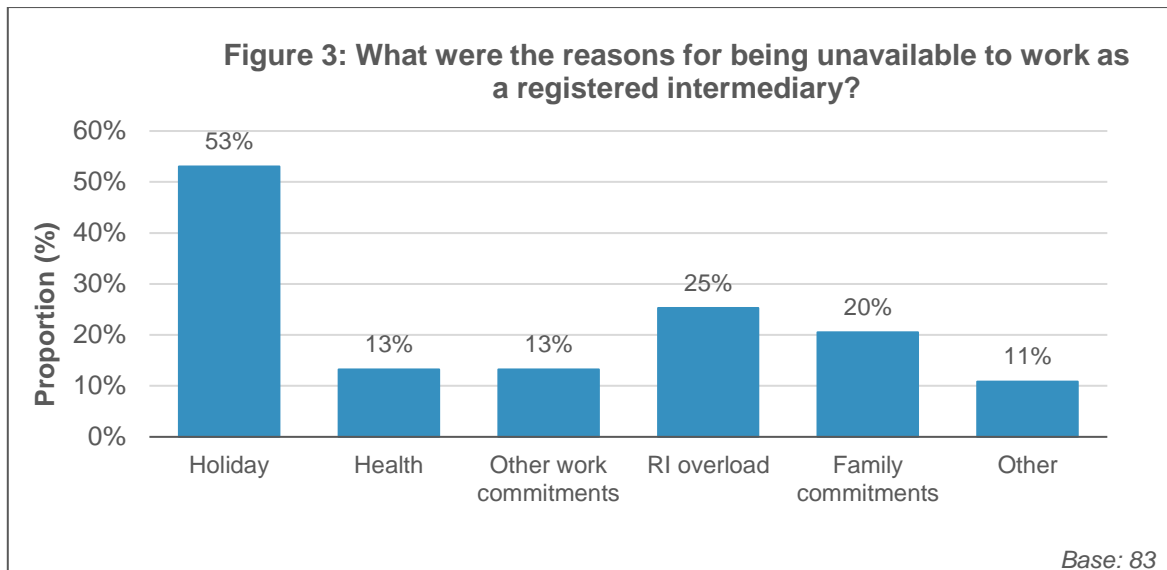
4. Availability of Registered Intermediaries

- 4.1. The NCA report that there are on average currently 135 RIs available to take on cases across England and Wales at any one time out of those registered on the WIS.⁶ RIs can log their unavailability to take cases with the Witness Intermediary Team, though once trained, they are expected to commit to a minimum of 24 days a year to the role, 12 days of which must be spent in face to face contact with witnesses.
- 4.2. The majority of RIs are experienced in the role. 41 percent of RIs who took part in the RI survey had been in role for more than five years, 20 percent had been a RI for between 2 and 5 years, 38 percent for 1 to 2 years and 2 percent for less than 12 months.
- 4.3. The number of days that RIs work in the WIS per week varies, though 16 percent of RIs work with vulnerable victims and witnesses less than once a week.

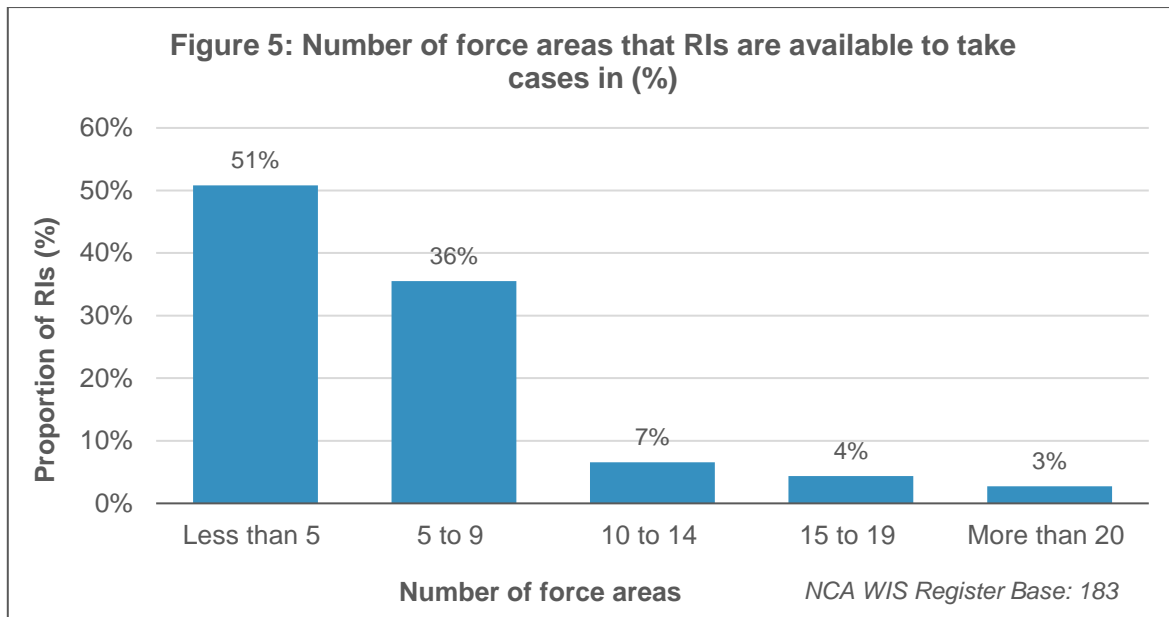


- 4.4. Sixty-three percent of RIs that took part in the survey had registered as unavailable in the previous six months. The majority (53 percent) had done so in order to take annual leave, 13 percent had registered as unavailable due to health reasons or other work commitments and 20 percent due to family commitments. A quarter of RIs (25 percent) had registered as unavailable to take on any further cases due to already being overloaded with work from the WIS.

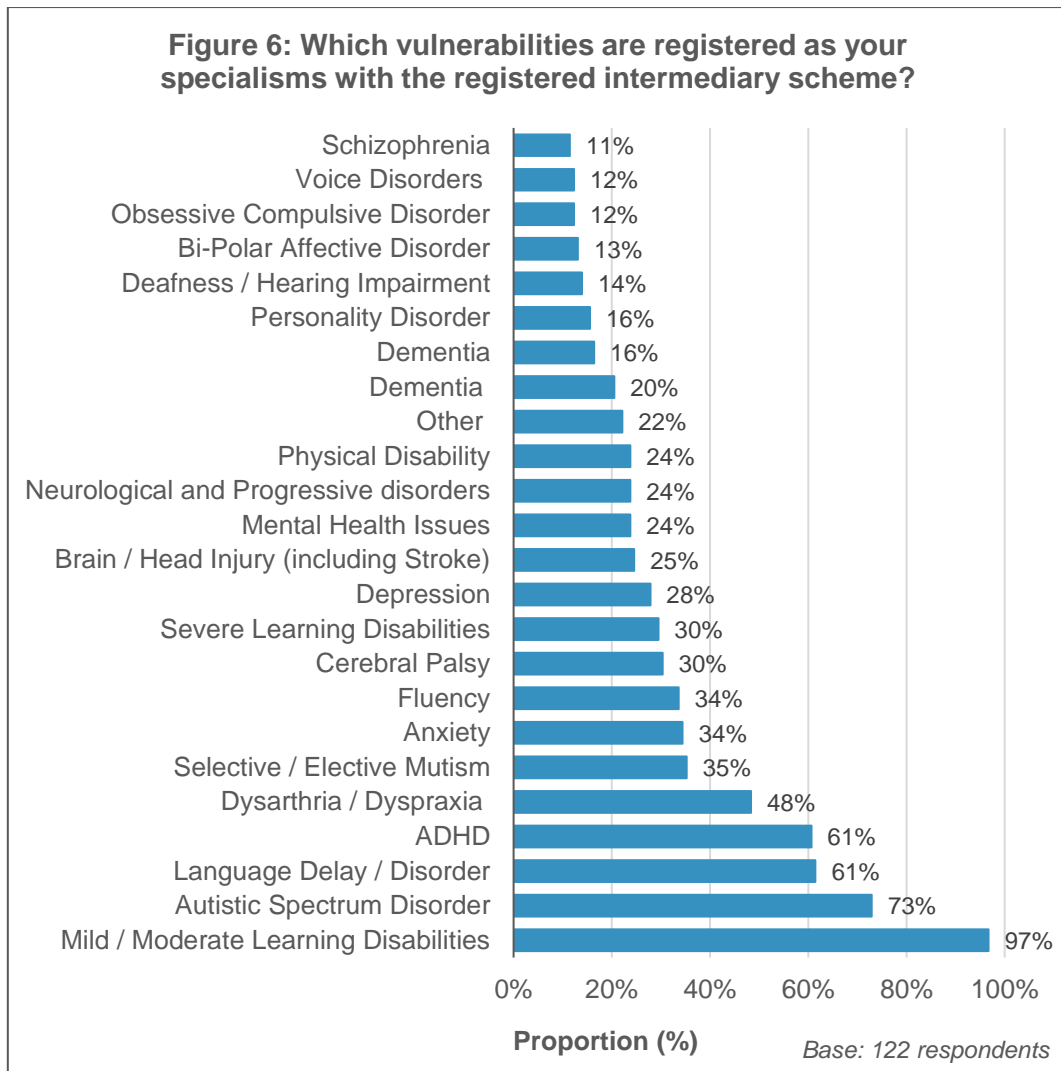
⁶ As of November 2017, 183 RIs were registered on the WIS.



- 4.5. RIs report using this method of registering as unavailable as a way to manage their case load. RIs described having *‘too much work already’*, a *‘backlog of cases to deal with’*, *‘already having enough cases so unable to accept any further’*, or registering as unavailable *‘when my diary was already full’*. However, some RIs said they stopped taking cases due to *‘needing a lengthy break as feeling burnt out’*. Others talked about *‘work overload’* or *‘overload due to complex cases and no room for more.’*
- 4.6. In the focus groups, one participant said that she may be busy with RI work and register as unavailable, but the trial may fall through and in fact she is available for work. Another RI described how she frequently registered as unavailable for work and relied almost solely on picking up cases herself from those advertised on Registered Intermediaries Online (which is used to offer unmatched cases to the wider RI community). The RI used this strategy as a way of getting around the system and managing her own caseload.
- 4.7. There is variation in the availability of RIs across the regions of England and Wales (see figure 4, appendix 2). In a letter to the Victims’ Minister (11 Oct 2017), the Police and Crime Commissioner for North Wales and Chair of the North Wales Criminal Justice Board expressed concerns raised by many criminal justice partners in North Wales regarding a lack of RIs in the area available to support criminal proceedings and, in particular, a lack of Welsh speaking RIs available to work with vulnerable victims and witnesses in their native language.
- 4.8. RIs are registered with the NCA in their ‘home region’, but can also register as being available for work in other regions (see figure 5).



- 4.9. Most RIs are registered to work in less than 5 force areas, but some RIs are registered to work in more than 20. Some RIs report travelling great distances to work with witnesses. There is potential for the WIS to incur large travel costs because of a lack of availability of RIs in some areas.
- 4.10. RIs are skilled to facilitate the communication of vulnerable victims and witnesses across a range of specialisms (see figure 6). Most RIs (97 percent) are qualified to work with witnesses with mild to moderate learning difficulties, and a large proportion are qualified to work with clients on the Autistic continuum (73 percent) or who have Attention Deficit Hyperactivity Disorder (ADHD) (61 percent).



- 4.11. There are, however, some specialisms which are not as widely supported. 11 percent of RIs are qualified to work with victims and witnesses who are diagnosed with Schizophrenia, 12 percent are qualified to work with victims who have Obsessive Compulsive Disorder and 13 percent with Bi-Polar Affective Disorder. Almost a quarter (24 percent) of RIs report being qualified to work with victims and witnesses with mental health issues more generally.
- 4.12. This relative shortage of RIs equipped to work with victims and witnesses with mental health needs that impair their ability to communicate was also reflected in the RI focus groups, as well as interviews with police and CPS service users.
- 4.13. RIs reported that a large proportion of cases that the NCA have not been able to match and advertise on RIO have mental health issues as their primary need in communication.
- 4.14. The CPS policy lead for the WIS identified a problem in that there are low numbers of RIs qualified to work with victims and witnesses with mental health needs.

- 4.15. One CPS advocate recalled a case in which a RI who was not a specialist in mental health needs was assigned to a victim with this vulnerability as her main barrier to communication. The Crown Advocate felt that the relationship between the RI and victim was not working well and requested a RI who specialised in working with victims with mental health needs. Unfortunately, the NCA was not able to supply a RI with that specialism. The case went ahead with the original RI and a conviction was secured, though the Crown Advocate thought that the victim's needs would have been better served by a professional with a specialism in that vulnerability.
- 4.16. Police officers who took part in the review described a lack of RIs available to work with adults, and particularly adults with mental health needs and learning disabilities.
- 4.17. One in five RIs (22 percent) who responded to the survey said they have specialisms in areas not listed by the NCA. Many of these skills relate to working with children. RIs particularly reported skills in assisting the communication of very young children including those with typical development and age-related communication difficulties.
- 4.18. RIs who took part in the focus groups called for a more focused recruitment exercise to address the geographical and skill gaps in the WIS as it now stands.

5. Demand for Registered Intermediaries

- 5.1. There has been a steady increase in the demand for RIs. The NCA reported that in 2009 there were around 100 to 115 requests per month. By 2012 this had risen to around 140 to 200 cases per month and there is now an average demand of over 550 cases per month.
- 5.2. From January 1st 2017 to October 31st 2017, the NCA received 5,573 requests for RIs from the police and CPS.
- 5.3. The number of requests for RIs put into the Witness Intermediary Team at the NCA varies across England and Wales, with the highest number of requests being in large urban areas such as London (584 requests), the West Midlands (364) and West Mercia (235). Police force areas with lower numbers of requests for RIs include Dorset (22), Hertfordshire (44) and Wiltshire (47) (see figure 7, appendix 2).
- 5.4. However, the level of demand across police force areas is not proportionate to the crime rates in those areas. An analysis of the number of RIs requested per 1,000 recorded crimes (see figure 8, appendix 2), indicates that some of the largest police force areas such as London and Greater Manchester request less RIs than the national average per 1,000 crimes.
- 5.5. This indicates that vulnerable victims and witnesses in some areas such as London are less likely to benefit from the services of a RI than those in other areas.

- 5.6. There are more RIs registered as available to work in London compared with other areas. However, despite being registered as available to work in London, some RIs who took part in this review said that they were either reluctant to take cases with the Metropolitan Police, or refused to take them at all due to problems they have encountered with late payments by the Metropolitan Police.

'I find forces outside London Met are usually very prompt with payments and usually pay within the 30 days. London Met is dreadful in terms of payments and I have had to wait over a year in some cases, with repeated reminders, for payment.'

RI survey respondent

'I am no longer taking Met cases as chasing every payment is too time consuming. The billing process can be quite time consuming and we cannot charge for it.'

RI survey respondent

'[I am] reluctant to work for Met due to consistent late payment'

RI survey respondent

- 5.7. In a HMIC inspection into child protection at the Metropolitan Police (2016), it was reported that Senior Managers in the Metropolitan Police *'recognised the limited availability of Registered Intermediaries and the negative effect this has on the quality of the service provided to children and young people, and have raised this with relevant partner organisations, such as the Ministry of Justice'* (HMIC 2016 p82).
- 5.8. The NCA reported that the levels of demand represented in the actual requests for RIs to the NCA may not be an accurate reflection of the potential demand for RIs. The NCA, police and CPS service users expressed concerns that some service users may be put off requesting a RI because of the perceived length of time it takes to make a suitable match. If there were more RIs to take cases and RIs could be matched with cases more quickly, demand may be greater for the service.

5.9. RIs also noted the need for geographically targeted recruitment:

'I realise UK wide there is a shortage of RIs, however in the North West there is a large number. Therefore, I feel new recruitment should be geographically focused.'

RI survey respondent

'I have worked extremely hard over the past few years in my local area improving RI relations with the police and have gained a good reputation. - I also cover 2 other counties. Another RI has recently moved into the area and only covers my home county, this means all the local cases seem to be offered to her and I am left with out of county cases, which increases my travelling time considerably. I'm concerned with the next round of recruitment that if more RI's come to the area there may not be enough work for everybody to sustain a decent living.'

RI survey respondent

Implications of Section 28 on demand for Registered Intermediaries

- 5.10. National rollout of Section 28 of the Youth Justice and Criminal Evidence Act 1999 will allow vulnerable and intimidated witnesses to pre-record their cross-examination before the trial. It is the final special measure in the 1999 Act intended to help vulnerable or intimidated witnesses give their best evidence and reduce some of the stress and anxiety of going to court. Section 28 was piloted in Leeds, Liverpool and Kingston-upon-Thames Crown Courts from December 2013. An evaluation was published in 2016.⁷ Plans to roll out Section 28 across England and Wales have been deferred until the spring of 2018 in order to ensure the appropriate technology is in place. Once this is in place, Section 28 will be rolled out nationally for all vulnerable witnesses. At the same time, a test for intimidated witnesses will commence at Kingston upon Thames, Leeds and Liverpool Crown Courts.
- 5.11. Representatives from the Section 28 roll out team in the MoJ and the NCA agree that the roll out of Section 28 should not, in theory, impact upon demand for RIs. Witnesses who were entitled to a RI before Section 28 would still be entitled to one and Section 28 does not itself create the demand for an RI. It should however improve difficulties and uncertainties that RIs experience around court listings. The time and date of the section 28 recording must be fixed. Listing policy requires RI trials to be fixed where possible but in practice they are often

⁷ Ministry of Justice (2016) Process evaluation of pre-recorded cross-examination pilot (Section 28) <https://www.gov.uk/government/publications/process-evaluation-of-pre-recorded-cross-examination-pilot-section-28>

placed in warned lists, causing uncertainty and wasting RI time. RIs are often expected to book out a whole week not knowing when the witness will be called to give evidence, only to be told that they are required for just a few hours.

- 5.12. RIs that participated in the focus groups expressed concern that they are not represented in the Section 28 Local Implementation Teams (LIT). The central Section 28 roll out team in the MoJ provided local courts with a recommended list of LIT members: this did not include a RI. The rollout team stated that although there is no compulsory requirement for RIs to be involved / represented in the regional roll out teams, neither are they prohibited from working with the regional teams. Some judges have recruited RIs to sit on the LIT and others have not. The MoJ has given LITs the autonomy to decide on whether or not RIs should be included in the team, however, if they are included it is not a paid role.
- 5.13. Representatives from the MoJ Section 28 rollout team thought that although Section 28 does not technically create demand for RIs, the focus on Section 28 may encourage the police and CPS to be more mindful of the needs of vulnerable and intimidated witnesses, and the special measures that they are entitled to. A temporary rise in demand could be achieved through this raised awareness of the needs of vulnerable victims, and the role of RIs in working with them to achieve best evidence.

6. The matching process

Assessing vulnerability

- 6.1. The process of matching a vulnerable witness with a RI begins with an assessment of vulnerability by the police or the CPS.
- 6.2. All children under 18 are eligible to be considered for a RI assessment. 'Achieving Best Evidence' (Ministry of Justice 2011) advises that *'an intermediary may be able to help improve the quality of evidence of any child who is unable to detect and cope with misunderstanding, particularly in the court context, i.e. if a child seems unlikely to be able to recognise a problematic question or tell the questioner that they have not understood, assessment by an intermediary should be considered'* (Box 2.1, p 22). CPS guidance states that *'There is a presumption of intermediary assessment for any child in sex abuse cases (paras 37, 85, 86, CPS Guidelines on Prosecuting Cases of Child Sex Abuse 2013).'* A presumption in the Lord Chief Justice's Criminal Practice Directions, that a RI assessment should be obtained for all children under 11, was removed in 2016. This has resulted in confusion among practitioners. Interviews with police and CPS found that they did not specifically presume the requirement for a RI in cases involving sex abuse.
- 6.3. Interviews with police officers found that the way in which vulnerability is assessed and the perceived victims' need for a RI varies significantly across England and Wales.

- 6.4. One police officer stated that a RI should be requested for any child under 10 years of age. If the child is 10 or over a RI will be requested only if there is a clear diagnosis that will impair their ability to communicate. Another police officer said that if the child was over 11 years old, he would use his own judgement to assess whether or not the child had any barriers to communication.
- 6.5. A few police forces such as Norwich Constabulary use the 'Achieving Best Evidence Language Screening (ABELS)' to screen the communication needs of victims. This tool was developed by a RI. Durham constabulary are planning to carry out an evaluation of the tool in conjunction with Durham University before deciding whether to implement it across the police force area.
- 6.6. Another police officer explained that they received information from schools or social workers for children under 10 years of age and used that to assess whether a child under 10 should be appointed a RI. They also make their own judgement, and if a child under 10 appears to be able to communicate well and is happy to talk to the police then they will go ahead without a RI regardless of crime type.
- 6.7. One police officer described wishing to provide children under 10 with '*the gold standard*', but consideration is also given as to whether vulnerable victims over the age of 18 years can benefit from working with a RI.
- 6.8. The age limit under which a RI should automatically be requested is disputed across police force areas. One police officer stated that they would request a RI for a child under 5 years of age regardless of whether they have predefined learning needs or not. Over the age of 5 that police officer said she would discuss the child with the parent or guardian and school teachers, asking how well the child is performing at school and if there is a clear diagnosis of autism.
- 6.9. Other police officers felt that there should be no hard and fast age limit for the decision to appoint a RI. One described a case with a victim who was 11 or 12 years old who would have benefited from working with a RI:

'The defence questions were awful. They obviously hadn't read the toolkit. I think an 11 or 12 year old would benefit. Sometimes lovely polite children find it hard to challenge adults, so it's not just useful for special needs. The RI also worked really well with polite, well behaved children who would find it hard to answer questions if they are not put in the right way. There should be no set rules or limits.'

Police interview participant: Safeguarding Investigation Unit

- 6.10. One police officer based the decision about whether to request a RI completely on his own discretion and was not aware of any age guidance. He said that he based the decision for all victims on an in-depth conversation with the victim in which he would take into account the age of the victim, their gender, the crime type and his judgement about their ability to communicate. The police officer felt

that at times this resulted in requesting RIs for victims who would not normally fit within the definition of vulnerability, but that he felt would benefit from working with an RI to give the best evidence that they can.

- 6.11. If a victim is allocated a RI by the police to carry out the ABE interview, the aim is for the same RI to work with that victim at the trial stage, though this is not always the case. In some cases the ABE interview is carried out without a RI, but when the case goes to trial a member of the CPS identifies the need for a RI. One Senior Crown Prosecutor stated that if a victim was under 12 years of age, she would consider asking the police to request an assessment by a RI.
- 6.12. Many of the Crown Prosecutors interviewed in this review reported viewing ABE interview recordings and identifying that better evidence could have been achieved with the use of a RI. They report simply using their own judgement about how the witness presents themselves, communicates and interacts with the interviewer, and if the witness is struggling to understand or answer questions.

'For example, there was one child who I watched [the ABE interview for] who was reporting on serious sexual matters. It was obvious from the video...they were sat cuddling a teddy bear looking into the corner and not really answering the officer's questions. It was obvious that more could've been done to attain an account from that child [...] I believe in that case they did go back and recruit an RI'.

Senior Crown Prosecutor interview participant

- 6.13. Crown Prosecution Advocates will sometimes request a RI when one was not previously thought to be needed.

Case Study: In one case with an adult victim, the potential need for a RI was flagged by police pre-charge. When the case was handed to CPS the advocate spoke to the victim's carers who didn't think that the RI would be needed. The trial went ahead without a RI, but resulted in a hung jury and retrial. With the retrial, the counsel involved recommended that the individual would benefit from a RI because they didn't think that the victim/witness was able to make themselves understood as well as they could. The CPS advocate instructed a RI for this second trial.

Case study provided in interview with CPS advocate

- 6.14. Responsibility for requesting a RI before the police interview lies with the police, but after the interview stage it is the responsibility of the CPS. Each is responsible separately for paying for the RI's work (an added complication for RI book-keeping and billing). Post-interview, there is sometimes confusion amongst police officers and the CPS as to where this responsibility lies, and at times there is disagreement about whether a RI is required.

Case study: One CPS advocate described her involvement in a case in which the victim was a 15-year-old girl who was assaulted on her way home. The girl had severe brain damage as a child. A statement was taken and the police officer felt that the victim was able to do the ABE on her own. The ABE interview went ahead without a RI, but when the CPS advocate viewed it, she felt that the girl had communication difficulties and would benefit from re-recording the interview with a RI. The police and the CPS could not agree and the funding for a RI was refused in this case.

Case study provided in interview with CPS advocate

Work of the Witness Intermediary Team

- 6.15. The Witness Intermediary Team at the NCA is responsible for matching requests from the police and CPS with their national database of RIs available for work across England and Wales. The team comprises of 6 staff who work on around 50 live cases each at any given time. It takes on average 4 weeks to match a vulnerable victim or witness with a suitably qualified RI, though sometimes cases are matched very quickly. The length of time depends on the witness's requirements and the varying availability of suitably skilled RIs (discussed further below).
- 6.16. Victims are matched with RIs who are qualified and registered to support the specific vulnerability that causes them to need assistance with communication. The matches are made on a basis of fair rotation. The appropriately qualified RI who has not had a case for the longest time is offered the work first. If that RI is not able to take the case, the case is then offered to RIs in the local area and then in turn it is offered to RIs who are willing to travel and able to take the case. This system of matching cases with RIs was developed in consultation with RIs. This review found that the majority of RIs feel that this way of allocating cases is effective and fair, though some RIs were not aware of the full details of how cases are allocated. Over 9 in 10 RIs (96 percent) who took part in the RI survey said that they were satisfied / very satisfied with clients being matched to their own particular specialist skills.
- 6.17. Some RIs identified instances when the allocation of cases may have been fair to the RIs but were not necessarily in the best interest of the victim or the police.

'I like the fair rotation system but I would be happy to handover to another RI who has a more relevant skill set, or one who is based nearer to the witness or working on a similar case.'

RI focus group participant

'I was working with a witness in London. There was another witness in the case, that witness got matched with a RI that came down from Lancaster. The police asked if I could take that witness as well but the NCA said no. That is where the fair rotation system falls down.'

RI focus group participant

- 6.18. Some RIs thought that the matching process could be improved if police officers could request individual RIs to work with if they are happy with their work and have built up an effective working relationship with them.

'If you develop a good relationship with particular police officers they should be able to request you directly but they can't because of the fair rotation system. I understand the reason for fair rotation but some more flexibility would be good.'

RI focus group participant

'Allow police officers to occasionally request a specific RI, when they have a reason for doing so and when it is feasible for this RI to be allocated a case.'

RI survey respondent

- 6.19. Police officers who took part in the review also said they would like to be able to request particular RIs that they have worked with previously. One police officer described how she works around the matching system by contacting her preferred RI herself before putting in the request.

'I'll phone up the RI myself to see if I can match availability before putting out a matching request with them out.'

Police interview participant

- 6.20. Another police officer described how she goes through the matching system, but if no RI is available, she will then contact her preferred RI herself.

'We always go through the matching service so that it is a fair process, but if no one is available we put it out further afield to that specific RI that we know, we suggest them and the NCA, they put it out to her and she will often accept.'

Police interview respondent

- 6.21. If a match is not found, the case is listed on the Registered Intermediaries Online (RIO) website where any RI can offer to take the case. One RI reported that she

frequently registered unavailable for work and only took cases from RIO in order to manage her own case load.

- 6.22. In this review, RIs were overwhelmingly positive about the work of the Witness Intermediary Team. 7 in 10 RIs (70 percent) who took part in the survey said that the NCA Witness Intermediary Team is a useful source of information and support. RIs that took part in focus groups reported that staff are very supportive, flexible and knowledgeable. There was consensus that the Witness Intermediary Team do an excellent job and work well with RIs despite being under pressure with increasing demand for RIs.

'[The Witness Intermediary Team are] very positive, flexible, friendly, approachable. They are snowed under.'

RI focus group participant

'The matching team are fabulous, so helpful. They're very supportive and they're accessible - you can just ring them up.'

RI focus group participant

'The matching service is excellent, very supportive and approachable. I have no concerns about how cases are matched.'

RI survey participant

The referral form

- 6.23. Police officers report finding the referral form straight forward and easy to use.

'The process of requesting is very easy, it's a national form that we all keep on our desktops. It's quite user friendly. We send it to the DI and if the DI agrees they'll send it in for you. You get the emails back quickly.'

Police interview respondent

- 6.24. However, staff at the Witness Intermediary Team report that the police often fill in the referral form incorrectly which leads to further work for the team in clarifying their requirements. Police officers may mistakenly leave information regarding previous applications on the form.
- 6.25. RIs who took part in focus groups also reported incidents of police administrators leaving details from previous cases in new referral requests.

'The police don't always fill in the form themselves directly but hand it over to administrators to fill in. In one case an admin person filled in the form. They had used another form which had previously been completed and forgot to delete the details about the last witness. They didn't check the form with the police.'

RI focus group participant

'I filled the forms in and one of the colleagues gave me the forms and it was really straight forward. I didn't think that the process was hard at all. Because some of the systems and forms you have to fill in in this job you're thinking what does that mean? But they were fairly straight forward and quite simple, quite easy to fill in and easy just to email off and I thought that process was quite good.'

Police interview participant

- 6.26. Other referral forms are received in which police officers have ticked every vulnerability listed as they think it will help their case to get matched with a RI more quickly, and some forms are received with conflicting information. Clarifying the actual needs of the witness can take time and lead to further delays in matching the witness with a suitable RI.

Matching witnesses with RIs who do not have the required skills

- 6.27. Twenty-eight percent of RIs who took part in the survey said that they had previously been matched with a witness whose communication needs they were not qualified to support. Of those RIs who had been mismatched with a witness, the majority (75 percent) said this had happened once in the previous 6 months. 19 percent said it happened twice, 3 percent said it happened 3 times and 3 percent said it happened 4 times in the previous 6 months. Most RIs (80 percent) said that they realised they did not have the appropriate skills to meet the needs of the witness when they met with the police and / or family to discuss the needs of the witness. 35 percent of RIs realised that they did not have the required skills to meet the witnesses needs when they met the witness to assess their communication needs.

- 6.28. RIs who took part in the focus groups explained that being matched with clients whose needs they cannot support is usually a result of the referral form being completed incorrectly or as a result of the difficulties that police have in identifying the witness's specific vulnerability.

'Occasionally It might be that the correct information is not on the referral form, something is not disclosed by the client or the police have not identified the right need.'

RI focus group participant

'Sometimes the form is filled in wrong, there are multiple needs ticked, a combination that can't actually be true. I wonder if there is an error in the system? Perhaps they check one box and it automatically checks them all.'

RI focus group respondent

- 6.29. RIs thought that although police officers find it difficult to identify the witness's primary need that affects their ability to communicate, many RIs have a sufficient knowledge base and clinical experience to be able to understand the needs involved and may be able to take on the case. They report that police often cannot distinguish between mental health needs and learning disabilities. The Registered Intermediary Reference Team has discussed whether a RI could be available to perform a triage function for the referral forms or to give advice over the telephone to the matching service.

Delays in matching

- 6.30. The NCA report that it takes, on average, 4 weeks to match a request with an appropriate intermediary, and that this time delay is due to the low number of RIs on their register.
- 6.31. This review found great variation in the length of time that it takes to achieve a match. One police officer reported being surprised to be allocated a RI in 2-3 days having heard that it would probably take 3-4 weeks. Another police officer said that witnesses had on occasion been allocated a RI within 1-3 days, though on other occasions it has taken up to 3-6 months. Other police officers said it usually takes 3-4 weeks.
- 6.32. Police officers reported that the delay in matching a vulnerable victim or witness with a RI can have an impact upon the quality of evidence they can achieve.

'All barristers are asking the question of why is it taking so long from the police getting the case and the victims ID. The logs are part of the court questioning, they can see a 9-week gap and the barrister is asking why. It is very much impacting on the evidence used in the case. You do go in with the younger kids with a bit of a fear that you may have lost the evidence because it could be some months down the line from the incident and you're asking 'do you remember me? Do you remember this?'

Police officer interview participant

- 6.33. One police officer reported that the expected delay in achieving a match between client and RI puts them off requesting one. If police are not requesting RIs because they are put off by the potential delay in allocation, it is difficult to know what the true level of demand for RIs could be if the process was quicker.

'The main problem is the delay. It has absolutely put me off! You have to consider how long it will take. But if you really need a RI, you just have to have one. For one witness, I knew there was no way we could do the interview without a RI, but for others you know you can get a reasonable account. The difficulty is that doing the ABE without a RI can lead to the evidence being discredited at court.'

Police officer interview participant

- 6.34. Other police officers reported that the delay would not put them off as they wanted to ensure that correct procedures had been adhered to.

'... in law, to cover ourselves we will put in the request regardless and then see what dates come back to us [in terms of RIs being available]. That is when we will approach Supervision and ask do you think this is good enough or should I go without it? I've always been told to put in the forms and then wait for the email to come back. The emails are fairly quick coming back, they will come back within days with who is available but those availability dates could be 6 weeks down the line. Then you would need to phone up the RI and agree on which dates to do the assessment 7 weeks down the line.'

Police officer interview participant

'... from a selfish policeman's point of view it's about making sure you do the job right and if I didn't ask [for a RI] and didn't do the necessary, if I got asked that question maybe in a court room or by a supervisor, following policy and procedures I could say I've asked, they couldn't provide me with one for whatever reason, or they could but it was far too late so I've made a policy decision, I've done this because of these reasons.'

Police officer interview participant

- 6.35. In some cases, police officers had requested a RI but felt that the wait to achieve a match became too long and so decided to go ahead and carry out the Achieving Best Evidence Interview without one (though they do not always notify the RI or matching service that they have done so). Some forces have specially trained police officers that they use in place of RIs if they have to wait too long.

'I have had to go ahead without one [RI] on one occasion earlier this year. A child was assaulted by the stepfather, he was borderline whether he needed an intermediary or not and if I could have I would have used one but I needed one urgently the next day. If I hadn't gone back when I did he [the victim] would have clammed up and not disclosed but because I did we were able to proceed.'

Police officer interview participant

'If you've got a child talking you don't want to say we don't want to talk to you now we will have to wait two weeks. We have a special officer who is trained in talking to children and so we will use them to carry out urgent interviews. It would be nice if we could contact someone at short notice.'

Police officer interview participant

- 6.36. One police officer described how he carried out an interview without a RI because he felt he had a good rapport with the child. When asked whether he felt that this impacted the evidence achieved, he reported that the child did not open up to him when it came to the actual interview.

'I just thought I'm not waiting, I can't. And that case involved a 3-year-old child. Because the child was 3, I knew the memory retention wouldn't be great and the parents of the child had warned me that memory won't be great for my child and you need to get this done sooner rather than later because of that. [The NCA] said you can't get one for another 4-5 weeks. So, I said it's too late and in a case like that I have to make a decision, do I sit and wait that long and risk losing the information or do I try and obtain it another way? And luckily because we work in a situation where I've got good social workers who are used to working and talking with children who can assist, I knew the case quite well, I had quite a good rapport with the victim anyway so I had to make a decision and I just had to cancel it... all I can say to you is as good a rapport I had with that child, on that day that child would not open up. Now that can be down to numerous things and I don't think it would've made any difference as to whether an intermediary was there or not. We'd talk about everything else but the thing that we wanted to talk about. So I don't think that it had a bearing, however, I wasn't allowed that opportunity to use it in the agreed time.'

Police officer interview participant

6.37. None of the police officers and CPS users of the WIS who took part in this review said that they would be put off requesting a RI due to financial constraints.

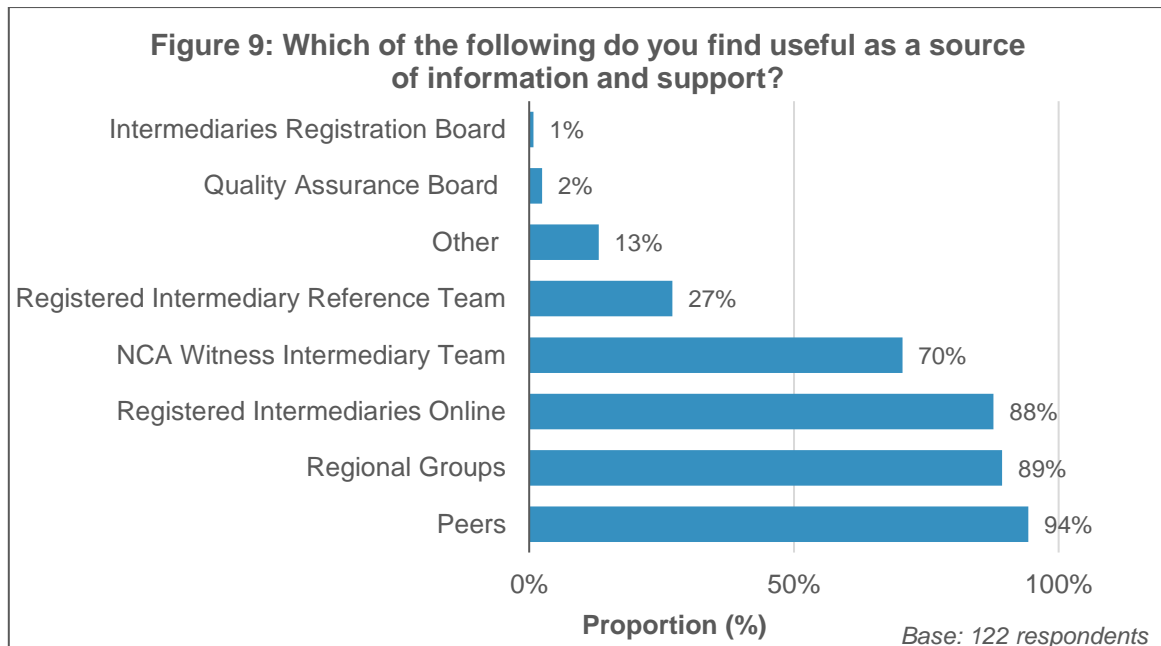
Is the supply of Registered Intermediaries meeting demand?

- 6.38. It was widely reported by participants in this review that the number of RIs currently on the WIS register and available to work is not enough to meet the current level of demand.
- 6.39. The NCA currently receives on average over 550 requests per month. It takes on average 4 weeks to match a case with a suitable RI. The NCA state that this delay is due to the lack of RIs available on the register.
- 6.40. Currently around 20 cases a month are not matched. This is thought to be because it has taken too long to match the witness with a suitable RI and so the application is withdrawn. The NCA would ideally like to reduce the waiting time to 1-2 weeks and say this will only be achievable if more RIs join the scheme through a targeted recruitment exercise to ensure the right mix of skill sets and geographical availability.
- 6.41. The CPS policy lead on RIs also identified the lack of RIs as having an impact upon the ability of the scheme to meet the monthly demand for RIs, and agreed that large and targeted national recruitment was required in order to match the skill gaps and regional variations.

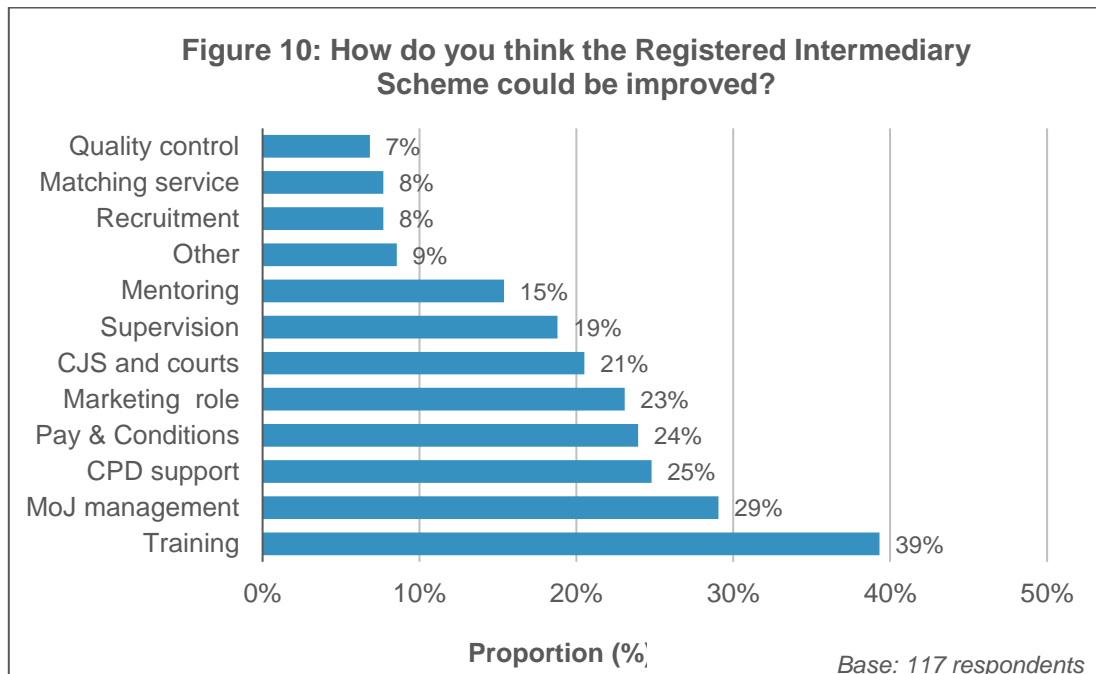
7. Governance of the Witness Intermediary Scheme

- 7.1. The review found considerable negative feedback from RIs regarding the governance of the WIS.
- 7.2. In the survey of RIs, when asked which individuals or groups they found to be useful as sources of information and support, only one RI indicated that the IRB was a useful source of information, and three said this about the QAB. Less than a third (27 percent) found the Registered Intermediary Reference Team (RIRT) to be a useful source of information and support. The majority of RIs looked to their peers (94 percent), regional groups (89 percent) and Registered Intermediaries Online (RIO) (88 percent). A large proportion of RIs (70 percent) also found the Witness and Intermediary Team at the NCA to be a useful source of information and support.⁸

⁸ This was a multi-code question where respondents were given the option to choose as many answers as apply.



7.3. When asked in the survey how the WIS could be improved, the largest proportion of those who answered this question (39 percent) suggested improvements in training for RIs. Almost 3 in 10 of RIs (29 percent) who answered the question spontaneously raised suggestions regarding MOJ’s governance, management and support of the scheme.⁹



7.4. RIs who took part in focus groups expressed a *‘lack of responsiveness from MoJ’*. Respondents said it is difficult to find out who to contact in the MoJ. One RI

⁹ Based on 118 open qualitative responses from RIs which were then coded into subject areas.

said: *'The RI scheme doesn't feel like a key function of someone's professional role, as if no one really wants to take it on, it's not a key pillar.'*

- 7.5. The RIRT previously met in face to face meetings; these meeting are now held as conference calls. The review found mixed feedback as to whether the RIRT conference calls were effective. Participants in two focus groups described the move from face to face meetings to conference calls as downgrading and both said that it was often difficult to get appropriate representatives from the MoJ to attend. (Though representatives from the MoJ refute this).
- 7.6. RIs talked highly of two legally trained academics who were previously involved in delivering RI training who had answered questions and provided guidance for RIs on the RIO website. They were described as *'invaluable'*, *'consistent'*, *'connected'* and *'well-respected.'* The provision of these legal experts was formally removed from the RIO website, although one continues this role informally. RIs expressed how this support online had provided them with definitive answers so that they knew their legal remit and could defend it in the court process. RIs were disappointed that this formal support is no longer available and they had not been informed as to why it was withdrawn. One RI commented that they would benefit from a MoJ presence on RIO: *'sometimes questions on RIO really need someone from MoJ to give a definitive answer.'*
- 7.7. Further suggestions for improvement of the WIS offered by RIs through the survey include improved governance, more formalised line management, further contact between RIs and the MoJ, and having their work valued more by the MoJ.

RI suggestions for improved working with the Ministry of Justice

Improved governance:

'Proper robust governance structures - with true accountability and quality assurance of practice - stronger leadership and ownership from MoJ'

'More national structure and accountability.'

More formalised line management:

'If we could have a formal career structure where we receive mandatory supervision, could progress and grow in our role and could feel like we were part of an actual team/department this would be a fantastic career.'

'I think that having an allocated mentor and line manager where regular discussion and sharing of thoughts, experiences and practice would be really useful, practical and professional.'

'I would prefer a more formal system of support, guidance and learning.'

'I feel we badly need to firm up our professional identity and boundaries at this point and set some markers.'

'Better support for RI's working with traumatised witnesses, or where there are safeguarding issues e.g. self-harming behaviour / suicidal risk.'

Further contact between MoJ and RIs:

'An MoJ representative should be more actively involved in giving guidance and advice where needed and have a presence on RIO (as in the past) to answer questions.'

'It would be good to hear more from MoJ, it is a very isolated role and would be good to have a supportive body who looks over and after us!'

'Greater responsiveness and efficiency from the MoJ. I still have not managed to get an ID badge.'

'Greater contact from Ministry of Justice- there is a general feeling that our profession has been cast adrift.'

Valuing RIs

'There needs to be wider opportunities for CPD - The MoJ need to take more responsibility for our development as a profession. They need to value us.'

'The MoJ does not treat RIs with any respect. Constant requests for us to provide our professional knowledge and skills without payment.'

'The MoJ should consult with RIs and develop strategic planning to address geographical and skills shortages. - Efforts should be made by MoJ to raise the profile of RI service and ensure equality of access to services for all vulnerable witnesses. - Investment by MoJ and PCCs should address sustainability, training, recruitment, mentoring and professional standards. RI qualification should be accredited. Rates of remuneration should be re-evaluated to reflect level of professionalism required.'

Source: Survey of RIs October 2017.

Question: How do you think the Registered Intermediary scheme could be improved?

- 7.8. RIs described a lack of support in basic administration and safeguarding such as being supplied with identification badges to prove that they work for the WIS. One focus group participant described how it had taken three years of persistent requests to MoJ for her to be supplied with identification, another took two years and others said they still had not had this issue resolved and that it was a standing agenda item on their regional group meetings. RIs identified this as a safeguarding issue, one RI was advised by the MoJ to use her passport for identification and said she felt that *'there seems to be little interest in safe professional conduct to work with vulnerable people.'* In one focus group RIs said that many of their RI identification cards were out of date, and there was *'a lack of support or contact with MoJ to sort this out.'* (A MoJ representative refuted these claims made by RIs and reported that all RIs were asked to provide their details if they required a new badge over 2015-16 via their RIRT representatives and all of those RIs were provided with an ID badge.)
- 7.9. RIs are expected to hold regular meetings in their regional groups. Other than the London and SE group, which meets in the MoJ when a room can be found for them, RIs reported that they are given no support by MoJ to access rooms for regional meetings. Regional groups meet in church halls, RIs' homes, police stations and several other venues that they access through their own informal contacts. One RI commented *'if we sat somewhere official at least we would have somewhere to go, but we're just on our own.'*
- 7.10. When asked about the support they receive from the MoJ one RI commented that it was *'disappointing that we seem to be low down on the MoJ list'*. Another reported: *'I don't think we're even on the list. We have no collective voice to protect the service.'* A RI in one focus group said: *'there is not a feeling of pride from [the] MoJ.'*
- 7.11. One RI described the situation of the WIS as *'a huge crisis of confidence.'* Many focus group participants expressed concern about the future of the WIS and felt that the lack of support from the MoJ did not bode well. One said: *'there is non-one speaking up for us. No-one responsible for us, willing to fight our corner. MoJ indicates that they are trying to ditch responsibility for the scheme.'*
- 7.12. Another RI suggested that there could be *'a champion for Registered Intermediaries who has that as a big remit in their portfolio at the Ministry of Justice... I think it's about them owning that role rather than it just being an add on.'*
- 7.13. When asked in the survey if there was any further feedback that RIs would like the Victims' Commissioner to consider in her review, several RIs took the opportunity to further highlight issues regarding the governance of the scheme.

Further RI feedback on support from the Ministry of Justice

'...to feel more confident and less isolated I would prefer more formalised supervision/guidance from non-judgmental RI colleagues. - Also I would benefit from QAB and MoJ contacts being more easily accessible e.g. I have never been issued with 'Helpful Contacts' list (name and numbers) so that structure is transparent and easily contactable. - RIO is a good forum but it would be better to not rely on virtual support and actually make contact with other RIs in the flesh!'

'I am totally committed to the value intermediaries add in empowering vulnerable people tell their stories. However, it currently feels insecure as a role and although all professionals we meet appear to value us highly, no one appears to want to take full responsibility for us as a profession.'

'The MoJ appear to have no value for the scheme, there is no longer any representation from them at our conferences or events. However, other professionals we work with appreciate the service and see the positive impact we have.'

'The QAB and overall managerial aspects of the RI scheme, are, and always have been inadequate and poorly implemented. The communication from above is usually awful. [The National Vulnerable Witness Advisor] is an exception, the staff at the matching service are also excellent.'

'I fear for the future now the MoJ is trying to outsource the management of the service to outside agencies and the funding is progressively reduced. They should be hugely proud and supportive of the service and the people in it -and that is NOT my experience, especially in more recent years.'

'I think there needs to be a clear structure for support and supervision as well as access to high quality CPD provided by the MoJ in order to ensure that high standards of work are maintained.'

'Little investment to build on the initial project has occurred and the planned outsourcing of training now removes the cornerstone of quality that remains. The RI service is not in safe hands under the auspices of the MoJ.'

'I feel there is a serious lack of support from the MoJ whose staff do not seem to appreciate our role or care about it. As a former member of RIRT I felt ignored, sidelined, and treated as if we were whining, middle-aged women who complained needlessly... I feel very alone and unsupported but continue because I know this is a vital role and don't want to let vulnerable people down.'

Source: Survey of RIs October 2017.

Question: Is there anything else that you would like to tell the Victims' Commissioner about your experience of the Registered Intermediary scheme and its impact as a service to victims?

Base: 85

Recruitment of Registered Intermediaries

- 7.14. The MoJ is directly responsible for the recruitment of RIs to the scheme. The last recruitment drive was in 2015. This saw the number of RIs in the scheme rise from 100 to 200, though the number of RIs available for work varies from around 130-140 at any given time due to attrition rates and RIs registering as unavailable for work.
- 7.15. At the time of publication of this review the MoJ are currently aiming to recruit 30 RIs in a targeted recruitment exercise to address shortages of RIs in Derby, Leicester, Lincoln, Northampton and Nottingham.
- 7.16. The recruitment process consists of a written application, written test, and interview. These elements are designed to assess whether the applicants have the necessary communication expertise to fulfil the role. RIs are involved in screening applications and also on interview panels; these panels consist of one RI and one member of the IRB or QAB who has experience of the scheme.
- 7.17. RIs are required to meet a minimum requirement of at least 12 days of face to face contact and casework with witnesses per annum, with an expectation that they will complete at least 24 days of RI work throughout the year.
- 7.18. The Chair of the QAB acknowledged in this review that to date there has been a long lead time between recognition that there are insufficient numbers of RIs and MoJ authorisation of recruitment. There have been periods when police have given feedback that the waiting time to be matched to a suitable RI is unacceptable and that more RIs are needed, but recruitment authorisation from the MoJ has taken up to 18 months to reach agreement.
- 7.19. In this review, a representative of the NCA suggested that the process for recruiting RIs could be improved by developing a more tailored approach. This would include more flexibility in recruiting smaller numbers of RIs more frequently, and tailoring recruitment to address the geographical and skills gaps in provision.
- 7.20. Some RIs who took part in the focus groups also called for more targeted recruitment. The MoJ holds a list of individuals who have registered their interest in joining the scheme as RIs. These individuals have tended to have a similar background to the current RIs as their interest was registered through the same channels as the current RIs were recruited. RIs felt that there is a gap in the provision of RIs who work with vulnerable witnesses with mental health needs and future recruitment should be targeted to address this gap.
- 7.21. In the focus groups some RIs expressed concerns about attrition rates, saying that a lot of RIs drop out of the scheme following training once they start the job in earnest. (Although a MoJ representative reported that the WIS had an attrition rate of approximately 8% from December 2016 – December 2017.)

‘... from a recruitment point of view we have such a high attrition rate, how do we keep people? Is it because they’re recruited thinking it’s one thing and it’s a nightmare? For [the] newly qualified I’m sure to have this role thrust upon them when there’s no supervision, no structure, it is lonely.’

RI focus group participant

Training of Registered Intermediaries

- 7.22. New recruits to the RI scheme have previously received five days of (non-consecutive) training prepared and delivered by The City University Law School in London, with one cohort receiving training in Manchester. A total of 385 RIs have been trained between 2003 and 2015.¹⁰ RIs are all professionals in communication skills, so their training is not in facilitating communication for vulnerable witnesses, the training relates to understanding the role of RIs in the CJS and relevant procedures, such as use of the live link at trial.
- 7.23. This training, delivered by barristers, was useful in establishing credibility for the new WIS. There is an opportunity now to take advantage of the expertise accumulated by more senior intermediaries to provide training for newly recruited RIs. Giving RIs training responsibility would recognise their status and also provide some career structure.
- 7.24. Training is compulsory for RIs to be registered on the scheme. As self-employed practitioners, RIs are responsible for paying for their own training. RIs have had to travel long distances for the training as it has generally only been available in London, with one course held in Manchester.
- 7.25. The MoJ is currently developing proposals for how the training provision could be made more flexible, potentially running training across different venues in England and Wales to reduce the travel burden. In this review, a representative of the NCA suggested that training could be effectively delivered online in the future.
- 7.26. In a survey of RIs, this review found that 48 percent of RIs are dissatisfied / very dissatisfied with the training provision and 25 percent are satisfied / very satisfied.
- 7.27. When asked how they thought the WIS could be improved, 39 percent of respondents to the RI survey identified a need for improvement in training (see figure 10).
- 7.28. Improvements suggested by RI respondents include: further opportunities for on-going training, improvements to training for new RIs, more targeted training on specific aspects of the CJS and changes to the modes of delivery, including concerns about online delivery of training for RIs.

¹⁰ Records provided by the Head of Client Engagement, Continuing Professional Development, The City Law School, London.

Continuing Professional Development (CPD)

- 7.29. Linked with training and RIs' suggestions regarding the need for on-going training is continuing professional development.
- 7.30. The QAB sets a requirement for a minimum of 8 hours of CPD per year. CPD logs are submitted annually to the QAB. A sample of these are examined in detail. If a RI's CPD log is marked as excellent, that RI's CPD log will not be looked at again for another 5 years. If a RI is new, or the QAB has received a negative feedback or a complaint against a RI, the respective logs are examined.
- 7.31. A quarter (25 percent) of RIs suggested that the WIS could be improved through further MoJ support for CPD.

'There needs to be wider opportunities for CPD. - The MoJ need to take more responsibility for our development as a profession. They need to value us. Newly qualified RIs need to be monitored and supported more closely, not just for free due to the good will of existing RIs.'

RI survey respondent

RI suggestions for improved training

On-going training

'Better training and ongoing training (I was trained some while ago so have learned a lot over the years) but newly qualified RIs do not have the benefit of this knowledge and are then understandably much more likely to make mistakes.'

'More available post-qualification training.'

'Ongoing and refresher training / mentoring.'

'Training! It's a busy job, and I would find it really helpful to have somewhere to check if there is any training locally/nationally I could attend.'

'Regular training opportunities.'

'We also need training to extend our skills.'

'Improved support, particularly training from the MoJ, - Follow-up training after qualifying.'

More training on police stage

'More training in terms of the police investigation stage. - Opportunities to observe other RIs carry out their role in the police investigation stage.'

'The training programme needs updating and revising, to include less emphasis on court and more on the initial investigation (i.e. ABE interviewing). I sought training from my local police force to fill this gap as I felt totally unprepared for assisting during ABE. Most of RI work involves working at the ABE stage (in comparison to court) so an understanding of this is vital.'

'The initial training should include much more detail on working with police officers for video interviews. This forms a large part of what we do, yet there is very little emphasis on this in the training given.'

Training delivery

'More accessible online training such as podcasts.'

'The training is a real weakness I think - it does not prepare you adequately for the role at all and in hindsight I'm surprised that it's run by barristers (who have never worked as intermediaries from what I understand).'

'I am very concerned about the proposed online training as I feel that it will allow for poorer standards of work to be accepted, as the training will not be as robust. As a new intermediary, it was the in-depth training that allowed me to feel confident in my role. I am worried that this new wave of intermediaries will be less prepared and may damage the reputation that has taken so long to build up and have accepted by the judicial profession.'

Improve training for new RIs

'Improve training for new RIs to reduce strain as a mentor having to 'teach' RIs how to assess.'

'Better recruitment and initial training with much more input from experienced RIs.'

'More paid training especially for newly qualified RIs. Long term RIs forget we have not had the same level of input as they were fortunate to have in the early days of the profession.'

RI shadowing

'There is limited opportunity to work alongside/observe other RIs working owing to the nature of the job and because of the independence of the roles regarding pay, but such opportunities would be invaluable.'

'Better training with more intermediaries as trainers, shadowing, mentoring, support from MOJ.'

Source: Survey of RIs October 2017. Q: How do you think the Registered Intermediary scheme could be improved? Base: 117

- 7.32. Despite there being a requirement to carry out CPD and submit the logs, there is no support for RIs to access training for CPD. Previously an annual event for RIs, and a separate event on special measures which RIs could attend, provided networking and learning opportunities for RIs to help them maintain and develop good practice. These events no longer take place and RIs noted a significant detrimental impact on them feeling part of a wider RI community and developing as professionals.

'I know when I first qualified I found those days massively helpful because I learnt so much by going. At the Special Measures [conference], there would be workshops that we would go to. It wasn't just sitting listening, it was actually interacting, taking part in workshops and getting to know other people. At first you feel quite isolated in the role because we are, we work on our own so getting to actually meet other intermediaries at events was brilliant.'

RI focus group participant

- 7.33. RIs noted other forms of CPD which were effective in developing their practice, this includes providing training on their role for colleagues in the CJS, organising regional training opportunities, seeking and offering advice on RIO, participating in peer support, reading academic articles and research (though this was thought to be an area without a substantial academic evidence base) and reflective practice.

- 7.34. RIs expressed dissatisfaction with the way in which CPD logs were required and judged:

'The CPD log - whilst I understand it is necessary to develop professionally - is time consuming and the overall grading system is disheartening. - I invested countless hours, paid for travel and courses and incurred lost income in my first year of practising as an RI to be told my log was 'sufficient'. In my former career I was responsible for staff CPD - I would never have been able to respond in such a way to their efforts'

RI focus group participant

'.. and the fact that it's judged as well, it's slightly galling isn't it, you know the CPD's in our hands, we are responsible, we have to pay for it, and someone sits there and I don't know how much that person knows about our job but they make a judgement on it. It doesn't feel helpful I don't think.'

RI focus group participant

Mentoring

- 7.35. As an innovation introduced for the last recruitment round in 2015, new RIs received three funded sessions of mentorship with an experienced RI. This mentorship would focus on a new RI's first case. This was because there was evidence that if a new RI did not take up a case shortly after training, or if their first experience of taking a case was negative, then a new RI might be less inclined to take further cases. The QAB also negotiated with the MoJ for three further funded mentoring sessions for RIs who had returned to case work after an extended leave of absence such as maternity leave, or if a busy period in their other paid work had prevented them from taking on WIS cases for some time.
- 7.36. Although this mentoring scheme was highly valued by RIs and thought to be effective in terms of maintaining a quality service and RI retention, there is no commitment to fund mentorship beyond the initial 2015 recruitment round and any mentorship in the future will be paid for by RIs themselves.

'Then the mentoring scheme was set up where a newly qualified RI could have a mentor and that mentor would be official and they would be paid for 3 hours, of course it goes on, very much more than 3 hours, it goes on as long as it's needed. Now that funding has been withdrawn. So there's an ongoing thing at the moment, discussions are being had about what intermediaries are thinking about the proposals, and is it now that a newly qualified intermediary has to pay for their own mentor? So there's a lot of discontent about the lack of mentoring really. And when you first start you need somebody, you really do because you're working in isolation.'

RI focus group participant

- 7.37. Just under 1 in 6 of RIs (15 percent) who responded to the RI survey spontaneously identified mentoring as a way in which the WIS could be improved, for example: *'I think that having an allocated mentor and line manager where [there is] regular discussion and sharing of thoughts, experiences and practice would be really useful, practical and professional.'*
- 7.38. Thirty-seven percent of RIs who took part in the RI survey said that they were satisfied / very satisfied with the mentoring and support they receive and thirty-nine percent said they were dissatisfied / very dissatisfied.
- 7.39. Some RIs identified the lack of mentoring as a potential reason for lack of retention of trained RIs, for example: *'It is sad that so many RIs leave which is not cost effective. Better mentoring and supervision would help.'*
- 7.40. Although there is no formal, structured or paid mentoring role, some RIs described how their peers provide this function through informal relationships in their regional groups. In one area with a relatively small membership, RIs described how they submit reflective reports to the group which their peers provide feedback on. RIs in this area felt that they could call each other if they experienced difficulties or a particularly traumatic or complex case, but thought

that this may be due to the small size of the regional group which helps to facilitate this intimacy and peer support.

- 7.41. RIs reported that under the former scheme of providing 3 hours paid mentorship, mentors provided many more hours on an unpaid basis. One RI described how she had mentored 15 RIs in the time that she has work on the WIS. Each mentee received a minimum of 15 hours' support, but she only charged for the first 3 hours.
- 7.42. The majority (94 percent) of RIs feel that their peers are a useful source of information and support. This is in contrast to only 2 percent of RIs who would agree with this in relation to the Quality Assurance Board, and less than 1 percent who think that the Intermediaries Registration Board is a useful source of information and support.

'I personally feel supported by people who are my peers who give their time freely to provide any support that I might ask for.'

RI focus group participant

'You do feel very much you're out there on your own apart from the colleagues you seek out and get advice and support from. It would be nice to see more overall sort of structure of support'

RI focus group participant

- 7.43. Many RIs felt that while they could telephone peers in their regional groups informally for support, they would welcome more formalised emotional and managerial support.

'A lot of the service is just running on good will. I rely on colleagues as mentors, but things need to be on more of a professional footing. We need someone with authority, a structure just like any other profession.'

RI focus group participant

Supervision

- 7.44. Many RIs who took part in this review identified the role as stressful. They described a key contributor to this stress as being regularly exposed to the detailed accounts of traumatic crimes about which the RIs assist vulnerable victims and witnesses to communicate. With no form of line management or formalised processes for clinical supervision, psychological support or counselling, many RIs feel that they are not given the support or tools to cope with the distress and trauma that they encounter.

'The job is extremely stressful at times. It would be useful to have a way of accessing counselling/ professional debriefing support through a list of suppliers and to have some recognition of the importance of this.'

RI focus group participant

- 7.45. RIs describe how other professionals such as the police can have access to this form of support, but the nature of the self-employed, lone working RI role does not provide such opportunities.

'I always find that moment of walking out of court very odd. Registered Intermediaries just go back to their families, they're lone workers so it's different to police officers.'

RI focus group participant

- 7.46. Other RIs however, said they dealt with the trauma of what they hear by thinking about it purely in terms of communication and don't allow the content of that communication to *'sink in.'*
- 7.47. Almost 1 in 5 of RIs (19 percent) identified clinical supervision as a way in which the WIS could be improved. Many RIs think clinical supervision should be mandatory and many say that the cost should be met by the WIS. Some RIs pay for regular counselling services themselves and feel that this is essential for their role, though others feel that this is too costly.

'From each other you can purchase counselling. But there isn't anything structured or formal like the police get, or no onwards referrals for something if you've had an absolutely horrendous murder trial that doesn't even bear thinking about what the poor vulnerable witness has gone through, all this communication that they've got to share. And you feel absolutely drained for them.'

RI focus group participant

'There needs to be some access to supervision/counselling that is not prohibitively expensive.'

RI survey respondent

‘There was an interesting thread on RIO about this posted by a newly qualified [Registered] Intermediary, she explained very eloquently everything she’d been exposed to and said that she was going to pay privately for counselling to support her mental health because she didn’t want to end up further down the line suffering the consequences. But again, nothing formal, you would have to do it yourself at your own expense.’

RI focus group participant

- 7.48. In one focus group RIs explained that some of their colleagues had left the WIS because they found the content of the communication with victims and witnesses too traumatic. They said that the impact of hearing details about distressing cases was not discussed in the interview for the role and this was not addressed in training. As a result, some RIs did not feel prepared for coping with this aspect of their role.
- 7.49. It is estimated that the WIS previously had an attrition rate of approximately 10 to 15 percent per annum between 2012 -15 (Jones 2015) and the MoJ report an approximate attrition rate of 8% from December 2016 – December 2017. The Ministry of Justice has not carried out exit interviews with RIs who resign from the scheme and so there is no data to officially identify the reasons why RIs leave the scheme, though the MoJ report that the QAB has recently agreed and started an exit interview process.

Quality assurance and complaints

- 7.50. The Quality Assurance Board (QAB) is responsible for quality assuring the work of RIs, though their capacity to do so is extremely limited. They use a proportional approach, concentrating on what they describe as high risk RIs in a risk based minimum approach to quality assurance. The QAB view this as being inadequate; yet they also recognise that this is all that is achievable within their funding constraints. The Chair of the QAB acknowledged that current aspects of quality assurance would benefit from further enhancement, and the QAB have identified a number of areas where the quality assurance of RI work could be developed. However, these recommendations have not been authorised by the MoJ due to a lack of funding.
- 7.51. The QAB also examines the skill sets of RIs, the number of cases taken on board and their competencies, though this is done on an ad hoc basis.
- 7.52. Reports based on RI assessments and setting out recommendations for effective communication with the witness are regarded as one of the most useful elements of their contribution. The QAB does not have the resource capacity to systematically assess the reports written by RIs. A system has been developed in the scheme for reports to be peer reviewed, though RIs are not paid for this part

of their role. Many RIs have suggested that the amount of unpaid work they carry out in the scheme is unacceptable. The QAB have received feedback from some RIs who say that the peer review process is being pushed to the limit and that the requirement is becoming unreasonable, given that time taken to complete the work is unpaid.

- 7.53. There are processes in place to deal with complaints and negative feedback regarding RIs. The QAB report that complaints are rare and generally around a quarter of complaints are upheld.
- 7.54. When a case ends, the service users (police and / or CPS) are invited to provide feedback on the services of the RI. Around a third tend to give such feedback which is described as '*overwhelmingly positive.*' (QAB 2017). The QAB aim to pass on the feedback to the individual RI but there is not always the capacity in the NCA to do so.
- 7.55. If negative feedback about a RI is reported to the QAB, they can investigate by following up with the RI. If negative feedback is more serious, for example, if a RI visits a witness alone (RIs must always be accompanied when working with witnesses), then the QAB can trigger further complaint procedures based on the decision to do so being jointly made by several board members. The QAB state that this has only occurred two to three times in the last ten years. The QAB reported that they are limited by these procedures. They would like to be able to trigger enhanced monitoring or support for RIs if they receive repeated negative feedback, but the structure is not in place to enable this.
- 7.56. Surprisingly, no proactive attempt is made to obtain systematic feedback about RIs from the judiciary and advocates. RIs are expected to include an information sheet at the back of their reports entitled 'Giving Feedback about the WIS'. This form, which is easily overlooked, does not result in feedback being provided to QAB. The language and layout are inappropriate e.g. the third paragraph, which should come first, is addressed to 'HMCTS, the judiciary, counsel etc'; however, HMCTS court staff do not routinely read RI reports).
- 7.57. Victims, witnesses and their families are not invited to give feedback on the services of RIs, although RIs could give them a leaflet at the end of the RI's involvement, inviting feedback to QAB.
- 7.58. RIs described the lack of critical feedback in the role as having a potentially detrimental effect on their work. They identified that there is no critical evaluation of their work. Critical reflection on their professional practice could help RIs identify positive practice and areas for improvement in their work. One RI said it would be helpful to look back over cases and discuss how they could do things differently in the future in order to continue to improve their professional practice. One RI described this lack of feedback on the quality of her work as '*lonely and isolating*' and as a consequence she had considered resigning from the role.
- 7.59. One RI described how, through her work as a mentor she identified three RIs whom she thought were not suitable to be practicing in the role, however she felt that there was no-one to report her concerns to and '*no one would take responsibility.*'

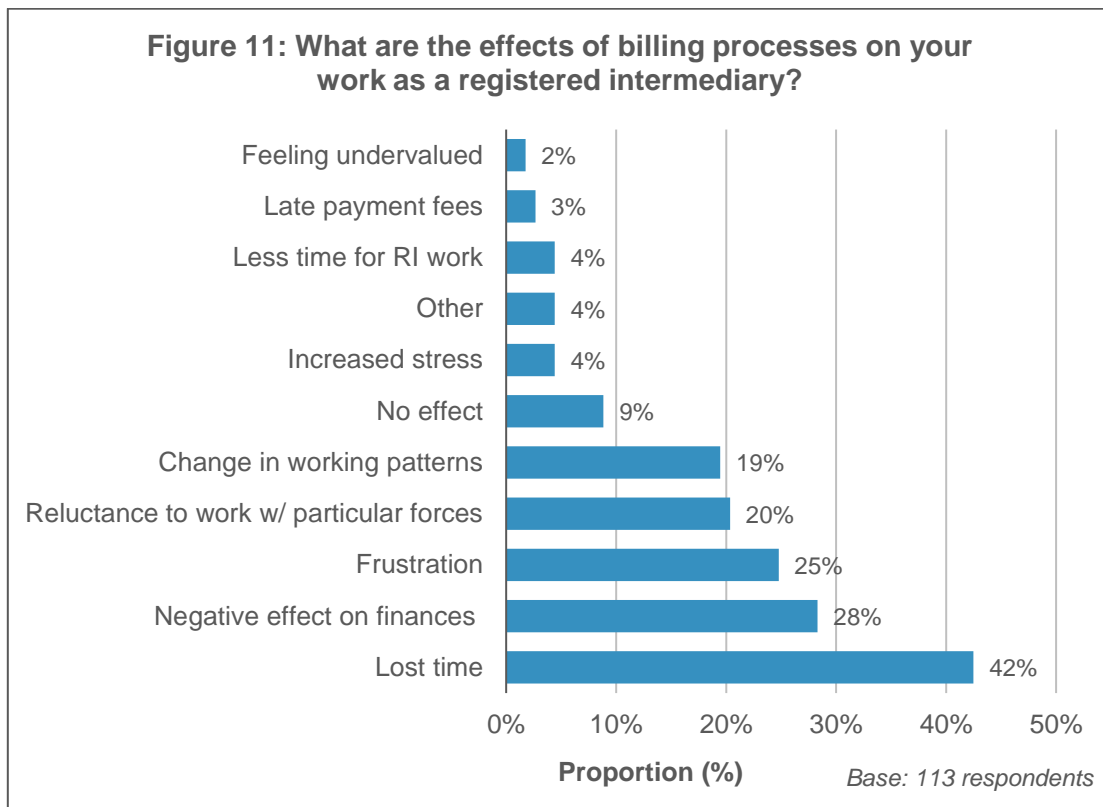
- 7.60. The lack of quality assurance procedures leads some RIs to express concern with regards to providing a consistent standard of quality of service across the scheme.

'With no on-going monitoring or checking of the role, we could end up with a mixed bag. We hope we are doing a good job, we try to, but it would be helpful to have assistance, to disseminate good practice. We want to be pushed to get better.'

RI focus group participant

8. Pay and conditions

- 8.1. RIs who took part in the survey and the focus groups expressed extreme frustrations with the long delays they experience in receiving payment for their services. 43 percent said they were dissatisfied / very dissatisfied with payment process and 22 percent said they were satisfied / very satisfied.
- 8.2. Almost half (48 percent) of RIs who responded to the survey typically wait more than 30 days to receive payment. 50 percent wait between 15 and 30 days. Only 2 percent of RIs typically wait 15 days or less.
- 8.3. Nine in ten RIs (92 percent) chase up invoices to ensure payment is received. 2 in 5 RIs (40 percent) generally chase up invoices at least twice.
- 8.4. RIs described several implications of this persistent late payment for their services. 42 percent of RIs found this to be very time consuming / a waste of time, 28 percent described a negative effect on their personal finances and 19 percent described a significant impact on their work pattern choices. Many RIs are not able to commit to working in the role full time because they could not rely on payment to be received promptly. 25 percent of RIs described the persistent late payment as disheartening or frustrating in some way, 20 percent tended to experience late payment from specific police forces and now actively avoid working on cases in those areas.
- 8.5. Almost a quarter (24 percent of RIs) who took part in the survey felt the WIS could be improved through changes to their pay and conditions of employment.
- 8.6. RIs who took part in the more detailed qualitative focus groups also raised the issue of late payment, reporting significant regular delays of 3 to 4 months before receiving payment. Despite a desire to take on RI work as a full-time role, focus group participants reported that the financial instability of late payments meant that they could not rely on RI work as their only source of income. This impacts on the availability of RIs to take on cases, and in turn the length of time that vulnerable victims and witnesses have to wait before they can be allocated a RI.



8.7. Participants in focus groups across a number of different regional areas identified the Metropolitan Police as being particularly slow in paying invoices.

'You try not to work for the Met if you can afford it. I've worked for the Met and it's taken them 5 months to pay me.'

RI focus group participant

8.8. One RI took the Metropolitan Police to the small claims court for not paying for their work. The RI received the payment and interest but noted how it put them off working for the Metropolitan Police Force. Other RIs also reported charging late fees for invoices that are not paid on time. There is consensus amongst RIs that this is a waste of public money, but they feel forced to charge late fees both as an incentive for police forces to pay on time and to make up for lost earnings.

8.9. One RI reported that she now invoices for upcoming work rather than waiting for the work to be completed to reduce delays.

8.10. Despite the problems with payment of invoices, 61 percent of RIs who took part in the survey would still prefer to work as a contractor on the existing WIS terms compared with 20 percent who would prefer to be a permanent employee.

Effects of billing processes on RIs

'As it's my sole income I sometimes have to pay for childcare and petrol on credit cards to enable me to work, if invoices are paid late.'

'Consistent very late payment from one force I work for gives me cashflow problems. I have waited 6 months for an invoice to be settled. I have now resolved to reduce my work with this force. Fortunately, other forces in my area usually pay promptly.'

'I dread it. - Thankfully my husband has a regular income so we have never been in a situation where we have been unable to meet our financial commitments but it's demeaning to have to go 'cap in hand' chasing up money that I have rightfully earned.'

'It means that I cannot rely on this as my sole income and need to work another job just to have a guaranteed payment every month.'

'I generally manage well, but last summer had a horrible situation where several thousand pounds of work went unpaid by the Met, as invoices were ignored (it felt) or bounced back. I eventually got the help of the officer in the case, who pursued it vigorously. I now have a named contact I use if fees are late to be paid. In this case, I was working away from home and having to pay for hotels or peak hours fares to London- it got to the point where I had no cash left, and had to stay with a friend.'

'Time-consuming, tedious and sometimes frustrating. Puts brake on number of cases I will accept.'

'It can make me feel undervalued / unappreciated and I left the NHS in order to get away from that feeling!'

'If I didn't have savings, I would not be able to work as a RI as receiving payment can take so long.'

'I have to turn down referrals from forces such as Gwent as they take 3-4+ months to pay and this is not financially workable, but it means victims and witnesses in these forces cannot access RIs as easily as other forces who pay within 30 days.'

'Debilitating, demotivating, depressing. Today I am going to court trying to get the billing details from the police to charge their part of my work and without billing information or contract for service from CPS despite having asked about 6 times. And that is before I have even submitted a single invoice! I regularly spend a lot of time chasing unpaid bills then chasing late payment charges I invoice for. It all leads me to question whether it is financially worthwhile continuing in this role, although I love the job itself.'

'You have to plan around payments and it puts me off doing it full time as I have a mortgage on my own and worry about not meeting payments etc. if I were to do it full time.'

'Inconsistency month to month - reluctance to work for certain forces who are poor to pay.'

'It is disheartening to work hard and long on a difficult case with sometimes more than one witness to wait for months to be paid. It will be one of the reasons I will stop.'

'Time wasting, anger and frustration. I have made several claims for late payment, as I have had to wait in excess of 4 months on more than 1 occasion. However, I don't like doing that as the money is coming out of the public purse!'

Source: Survey of RIs October 2017. Qu: What are the effects of billing processes on your work as a Registered Intermediary? Base 113

9. The impact of court listings

9.1. Criminal Practice Direction 3F.28 states that:

'Where the court directs an intermediary will attend the trial, their dates of availability should be provided to the court. It is preferable that such trials are fixed rather than placed in warned lists.'

9.2. This is not addressed in the court Plea and Trial Preparation (PTPH) Form. In practice, trials involving an intermediary often have only 'warned' status or are even listed as 'floaters' (i.e. they are listed to a fixed day but their status is uncertain as they are only on a 'waiting list' to be taken after other matters finish, and are not assigned to a specific courtroom or judge). This significantly reduces the number of days on which RIs can take other cases.

9.3. There are further problems in respect of RI availability and notifying them of court dates. While RIs provide their availability dates to the police and/ or CPS if requested to do so, court use of this information appears erratic (RIs are unclear if the information is not reliably passed on, or if it is not taken into account in listing decisions). Police officers, CPS, Witness Care Units, advocates and listing officers may all play a part in letting RIs know when they are required to attend court but specific responsibility for notifying RIs of listing decisions is unclear.

9.4. This review found that the organisation of court listings has a significant impact on the work of RIs, their pay and conditions and on vulnerable victims, witnesses and their families.

9.5. The unknown nature of how a trial will progress leads courts to list the dates and times of many trials very loosely, identifying the week or even 4 weeks within which the trial will take place rather than exact dates. They also do not tend to inform the witness or RI of exactly when they will be required to give evidence. Court listings were found to be unreliable with RIs reporting that courts tend to list trials more accurately for children than for vulnerable adults. RIs described the variability of court listing as '*a swinging pendulum*' and as '*walking on shifting sands*.'

'It's not just variable, it's extremely variable. When it goes well it is really well coordinated, well managed. The next day it can be terrible. You never know what you are walking into. This directly impacts the witness. You are trying to shield them from the chaos, trying to come up with a way to reassure them when you don't even know what's going on.'

RI focus group participant

9.6. When court listings are accurate and go to plan, RIs reported that this can have a very positive effect on the vulnerable witness.

'With one child she was called first thing at 10am, the ground rules hearing all went through the day before, the barrister stuck to the questions as agreed and the child was out at 10.30. She skipped out and back to school.'

RI focus group participant

- 9.7. Other RIs described the detrimental effect on victims and witnesses when court listings are not certain or adhered to.

'My clients were asked to give evidence 1st thing, but it was past 2 before they were called. They were very young children and they were climbing the walls by 2!'

RI focus group participant

'The ground rules hearing was listed for the 1st day of the case. The witness was called in for the second day. The CPS told the judge that the RI was present and ready for the ground rules hearing, but the judge said – I don't think we'll do that now. Let's get the jury sworn in and do the ground rules hearing tomorrow. It seemed to be decided on a whim. Eventually the ground rules hearing was completed 5 hours before the witness was called. The judge said – I hope it didn't cause too much inconvenience, but actually it was incredibly inconvenient and the CPS had to pay an extra 12 hours pay unnecessarily. It is a significant cost to pay for messing things up on a whim.'

RI focus group participant

- 9.8. RIs are routinely asked to block out between 1 and 4 weeks of their time to attend court with a witness. Within that period of 1 to 4 weeks, the RI will only actually be required for 2 to 3 days. Within those days RIs can charge a minimum attendance rate of 3 hours, following which an hourly rate is charged. This means that RIs potentially face a loss of earnings due to not being able to work for the full day.
- 9.9. Many RIs reported a loss of earnings because of the lack of organisation around court listing. They are not available to take on other work because they do not know when they might get called to attend court. Some said that they could not afford to give up other paid work and concentrate on their work as a RI full-time because of the uncertainty of court listings and the impact this has on their earnings. RIs report that the accuracy of listings varies from court to court. Issues with some courts have led some RIs to choose not to accept work in those areas.

- 9.10. Establishing the ‘running order’ of witnesses is a key part of trial management; advocates are required to advise the court in advance of the estimated length of their testimony. RIs reported that evidence from young and vulnerable victims and witnesses is generally heard first, so that they will be required to attend court with their client on the first days of the trial. However, rather than allocating the witness a set time to attend, CPS often requires RIs to block out the whole time of the trial.

‘Every court differs – [one court] asks you well in advance, but they expect you to be there for the whole week.’

RI focus group participant

‘In one case, there were three vulnerable witnesses with three RIs. They were told that the ground rules hearing would be at 9am. The hearing got moved to the afternoon and one of the RIs had to leave because she had another case in the afternoon. The CPS were really angry that she left. The case was listed for 5 days. You have to be available for 5 days but you only get paid for 3 hours.[per day with a limit of 3 days if things are cancelled]. They are very authoritative about having to be there, but they don’t understand our role and that we will only get paid for 3 hours. I am not taking any more cases at [that court].’

RI focus group participant

- 9.11. Some RIs reported charging cancellation fees for days they were asked to block out but in the end they were not required to work on. This was done if they had been given relatively short notice of 24 hours. There was confusion around how much would be charged for this. One RI said that if she is asked to block out one week to attend a trial and is subsequently not required, the maximum cancellation fee she can charge is 3 hours for 3 days. Another RI reported that she would charge for the whole week if she had booked it out but was not needed.
- 9.12. RIs said they found working in the courts to be more problematic than working with the police on evidential interviews due to the court listing and also a lack of communication with CPS colleagues. Last-minute changes to trial timetables, for example, when trials ‘runover’, often have an adverse effect on RIs’ police work, requiring them to cancel appointments in other cases at the investigative interview stage.

‘It is difficult to get through to anyone at CPS, it’s like they are avoiding us. CPS are officially the end users but we have to do everything through the police, we can’t get hold of CPS directly, it’s not an efficient way of doing things.’

RI focus group participant

9.13. Issues around court listings mean that RIs often register with the NCA as being unavailable for work when in fact they could be available to take on more cases on the days that they find they are not needed at court.

9.14. A more systematic approach to court listings would result in considerable cost savings, help ensure a more reliable service to vulnerable witnesses/ defendants and free up intermediaries to take more cases. Plotnikoff and Woolfson (2017) suggested the following steps would assist:

- *'trials involving an intermediary should be systematically flagged as requiring a fixture and, where possible, the witness's evidence should be timetabled to specific day(s);*
- *the availability of an intermediary who has already assessed the witness should be taken into account in listing the ground rules hearing (the intermediary's presence is required by Criminal Practice Directions 3E.2, 18E.33), trial and the vulnerable witness's evidence. Replacement by another intermediary requires a further assessment;*
- *there should be clear lines of responsibility for obtaining information about intermediary availability and for notifying and updating intermediaries about listing decisions.'*

Effects of court listing for RIs and witnesses

'I was booked for 4 weeks in July. I turned up on the first day and was told that the witness was not required. All I could bill for was 3 hours, now I've lost 4 weeks work.'

'I have had 7 child clients lately, in the majority of cases they were not called to give evidence or the defendant pleaded guilty on the day so I was not required. For all of that potential work I have only been able to claim 3 hours for each of 2 days'

'The courts are chaotic. I was asked to keep a whole month clear for 1 or 2 days' work at most. A lot of RIs would reject that case. I took the case 6 weeks ago and I still haven't got the actual date. This is really problematic and hard for RIs to commit to that case and stay with it. There must be a way around this. CPS need to be more crisp. CPS need further training, they need to know that they can't expect to get a RI three days before a trial.'

'It seems to go well for children but not as well for adults with communication difficulties – they are not recognised in the same way. It depends on the judge. Sometimes the ground rules hearing is 2 – 3 weeks before. The barrister has given me the questions and I have been able to change them in plenty of time. Sometimes it is timetabled well.'

'The CPS should fill out a request for service form. You can be requested to book out 1 week. If it falls apart, the maximum you can claim for is 3 hours over 3 days. RIs should be given 24 hours' notice of cancellation. I think we should charge whole days for cancellation.'

'I have worked as a Registered Intermediary for 9 years and I am becoming disillusioned. If I am asked to hold a whole week and it is cancelled, I will charge for a whole week.'

'I was going to trial with somebody who had epilepsy, schizophrenia and PTSD symptoms. Waited 12 months, we'd done the pre-trial visit, the legal argument was on day 1, we'd been warned to go on day 1, suddenly on Friday 'don't need to go on day 1 we're having the legal argument', so we didn't go on day 1. God only knows how that man slept during that weekend. 'It's okay lunch time day 2', lunch time day 2 okay. Next thing, Monday, 'we've vacated the trial until next year'. And that poor man, and I got three days booked out and I got no work on those three days because legal argument one day and not arrived till dinner time on the second day and 'it's okay we've cancelled it', and the day after I was meant to be available just incase. Just think of how that victim feels, I'm absolutely gutted for him.'

'There's a lot of messing around – changing at the last minute. There is a big impact on the family and the victim's support system. It causes a lot of anxiety having to sit there all day. Then sometimes they get called back the next day.'

Source: RI focus groups

Other paid work

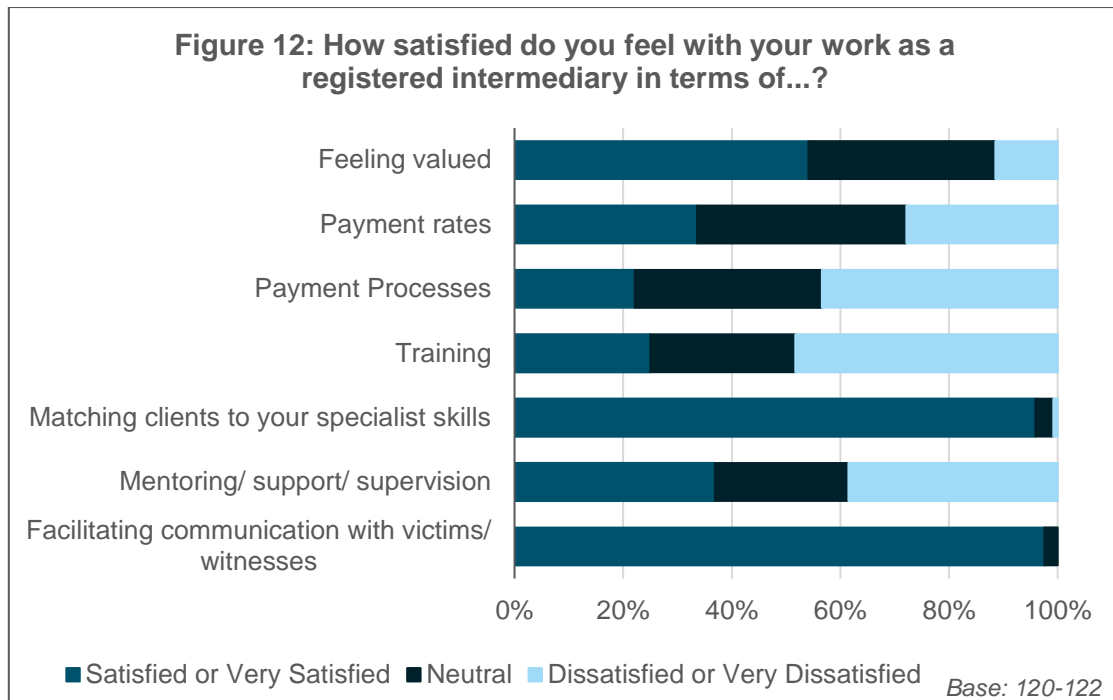
- 9.15. RIs are recruited on a self-employed basis. As such they are free to choose to work as a RI in the scheme on a full or part time basis.
- 9.16. More than half (58 percent) of RIs that responded to our survey said that they carry out other paid work whilst working in the WIS and 42 percent said they do not have other paid work. This can be an issue for matching requests for RIs as having another paid job not only limits RIs availability but also their flexibility. The majority (60 percent) of RIs who identified other paid roles, work as speech and language therapists alongside their RI work. Other jobs include working in some form of education setting such as teaching, education advisory consultants and university lecturers (17 percent), working in other therapeutic professions such as arts psychological therapy, occupational therapy and play therapy (8 percent), and other professions relevant to their skills in working with vulnerable people to support communication issues such as health services and social care (13 percent).¹¹ Only 4 percent of those respondents that identified other paid work are working in jobs that are not directly relevant to their work as RIs.
- 9.17. Almost 1 in 5 (19 percent) of RIs who replied to the survey said that in addition to their role as a RI, they also work with defendants as non-registered intermediaries¹².

10. How satisfied are Registered Intermediaries with the Witness Intermediary Scheme?

- 10.1. Almost all RIs (98 percent) who participated in the survey expressed that they were either satisfied or very satisfied with their work in terms of facilitating communication with victims and witnesses. RIs were also highly satisfied with the matching of clients to their specialist skills, with over 9 in 10 (96 percent) stating that they were satisfied or very satisfied with this element. This reiterates focus group feedback highlighted in earlier sections of the report which underlined how RIs view the NCA very positively, and can even regard them as a key source of support in the WIS.

¹¹ RI Survey question: Do you have another paid job? Base 122. What is your other paid job Base: 72.

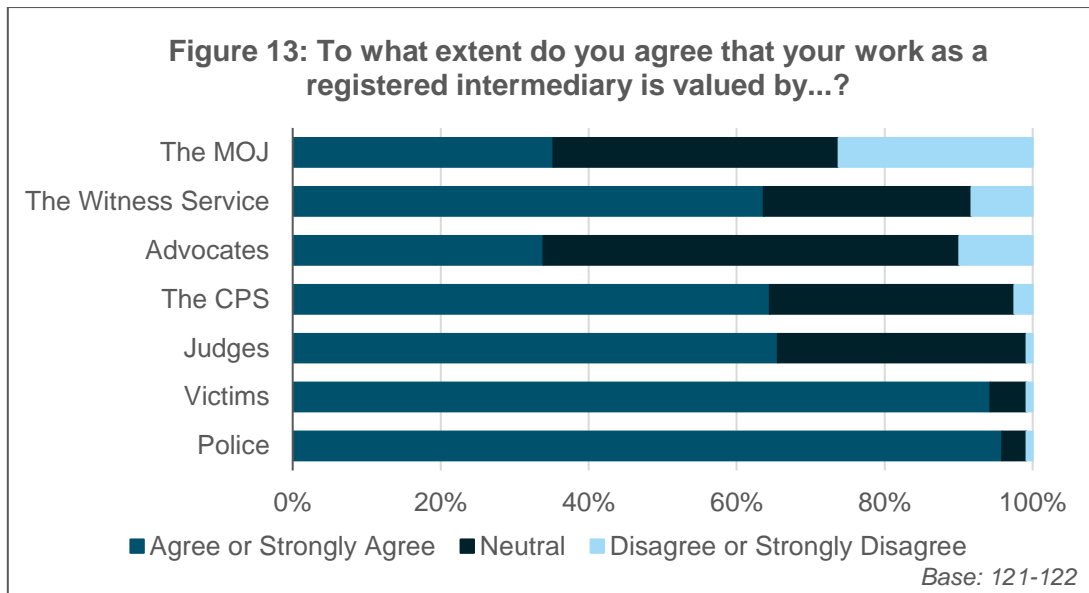
¹² RI Survey question: Do you also work as a non-registered intermediary for defendants. Non-registered intermediaries work to support defendants with communication difficulties. They act independently, are not regulated, vetted or supplied by a government body.



10.2. RIs were least satisfied with their work in terms of training. Almost half of respondents (48 percent) stated that they were dissatisfied / very dissatisfied with this component of their work. RIs also expressed discontent with pay, with 43 percent and 28 percent of respondents dissatisfied / very dissatisfied with payment processes. More RIs, however, were satisfied with payment rates than dissatisfied (34 percent satisfied / very satisfied, compared to 28 percent dissatisfied / very dissatisfied respectively). Finally, respondents were divided in opinion in terms of mentoring, support and supervision. Approximately an equal proportion of respondents expressed dissatisfaction with mentoring, support and/or supervision as those who were satisfied/ very satisfied (37% and 39% respectively).

How valued do RIs feel as part of the Witness Intermediary Scheme?

10.3. In terms of feeling valued, figure 12 illustrates that just over half (54 percent) of respondents stated that they were satisfied with their work in terms of feeling valued. Only 1 in 10 (11 percent) respondents were dissatisfied with this aspect of the WIS. The survey also indicated, however, that RIs perceive their work to be valued inconsistently by actors across the CJS.



10.4. Figure 13 demonstrates that most RIs would agree that their work is valued by the police and by victims that they work with (96 and 94 percent respectively). These figures, again, reflect findings from the RI focus groups outlined earlier in the report whereby RIs feel valued the most by those they work alongside on the ground such as the police.

'I think we're saying that by the MOJ we're not valued. I think by the system, particularly with the police, we are valued for what we do. So, in practice, on the shop floor we're valued but it's at the higher level...'

RI focus group participant

10.5. Approximately 2 in 3 respondents thought that their work was valued by judges, the CPS and the Witness Service (66 percent, 64 percent and 64 percent respectively). Only 1 in 3 respondents thought that their work was valued by the MoJ and advocates (35 percent and 34 percent respectively). A quarter of RIs (26 percent) disagreed that their work was valued by the MoJ, the overall owners of this scheme.

10.6. It is important to note, however, some focus group participants felt that their work as RIs was increasingly valued amongst other key actors in the CJS such as judges and barristers.

11. How do the stakeholders think the Witness Intermediary Scheme could be improved?

- 11.1. All the stakeholders interviewed for this review were offered the opportunity to express their thoughts as to how the WIS could be improved. The most common theme raised across both the police and CPS interviews was the need for greater RI availability. Interviewees from both professions expressed this as extremely important due to the potential impact that a lack of availability has on obtaining best evidence. This in turn has consequences for the strength of the police/CPS case, and therefore ultimately, access to justice for vulnerable victims and witnesses.

‘Obviously the massive time delay is an issue. I think it is only a matter of time before we lose a case based on this and it becomes public news or whatever. It’s not easy. Especially if there are no [other] witnesses and it is a child’s disclosure.’

Police Officer interview participant

‘Crime is so personal. Crime is a very personal thing, especially during trials. To let them [victims and witnesses] down to something that’s so basic, it’s almost a miscarriage of justice.’

Senior Crown Prosecutor interview participant

- 11.2. It was thought that increasing RI availability could be achieved in a range of ways. Many stakeholders noted that there should simply be a greater number of RIs recruited on to the scheme which it was believed would reduce waiting times for RI availability. The CPS policy lead on the WIS stated that recruitment needed to be carried out as quickly as possible due to the increase in demand and because the last recruitment drive was in 2015. Service user interviewees reflected that requesting RIs through the NCA created unnecessary delays which could be reduced by streamlining this part of the process. Having access to more information as to which RIs are available to work on cases was raised as a particularly important part in making the process more efficient. Some police officers suggested that access to this information could be obtained through a single point of contact who is able to share the current demands on RIs; or alternatively, a list of RIs who are available, their names and contact details, could be shared regularly with service users.
- 11.3. Interviews conducted with CPS employees also indicated that there should be more training available for CPS and the police on the role of RIs and how to interact with them. It was raised that CPS members have training on basic advocacy skills and a section on how to interact with intermediaries could be included here. Some CPS interviewees did, however, also suggest that there are tensions within the WIS that are difficult to resolve. One interviewee, for example, noted that it is occasionally difficult to identify vulnerabilities for witnesses,

particularly when a case involves quite a few witnesses and it isn't clear which individuals will be particularly crucial to the court process. Time constraints mean that the backgrounds of all witnesses cannot always be examined in order to be fully confident that all individuals involved have no communication vulnerabilities. The interviewee acknowledged that such tension points will be difficult to resolve.

CONCLUSIONS

1. The evidence from previous research, along with evidence collated in this review, finds that Registered Intermediaries (RIs) are invaluable in giving vulnerable victims and witnesses a voice in the criminal justice system (CJS) and in turn, providing them with equality of access to justice. Police and CPS users of the Witness Intermediary Scheme (WIS) are positive about the impact of RIs, and have supplied several case studies which demonstrate their impact in enabling the communication of vulnerable victims and witnesses. RIs themselves are passionate about the work that they do; they are able to demonstrate how they provide access to justice for vulnerable victims and witnesses who would not be able to give their best evidence without them.
2. However, this review has identified systemic failure in the WIS which does not effectively manage the provision of RIs for vulnerable victims and witnesses.
3. The Ministry of Justice and the separate bodies that govern the WIS do not provide sufficient overall management and governance of the scheme to provide a fully effective professional service. The support and management of RIs has gradually been eroded. Previous funding for Continuing Professional Development (CPD) has been retracted and funded mentoring was only available for the 2015 recruitment round. RIs now have to pay for their own CPD and mentoring along with their initial training costs when they join the scheme. The MoJ has limited oversight of RIs' CPD. RIs are required to maintain a CPD log. The QAB review a proportion of the submitted CPD logs. If the CPD log is judged as excellent the QAB will not look at the log again for five years.
4. The Quality Assurance Board attempts to perform a quality assurance function for the WIS, but by its own admission, does not have sufficient resources to do so in an effective and consistent manner.
5. RIs are required to be affiliated with regional RI groups. These groups are self-regulatory and are not provided with any financial or administrative support to operate. One regional group reported having members on its books who had never attended a meeting or contributed to the work of the group.
6. Members of each regional team are represented at the Registered Intermediary Reference Team (RIRT) meetings, though this meeting has been downgraded from a face-to-face meeting to a conference call, which RIs report as being less effective in supporting their work. They also report a lack of Ministry of Justice (MoJ) presence at some RIRT meetings, although this is refuted by representatives of the MoJ.
7. RIs carry out a significant amount of unpaid work in the WIS such as attending regional meetings, peer case reviews, peer social support, mentoring and

attending RIRT preparation meetings¹³. The scheme relies on RIs' goodwill and unpaid work to deliver the service.

8. The professionalism of the RI role is undermined by a lack of administrative support, for example, RIs report delays in providing identification badges to ensure safeguarding of vulnerable victims and witnesses. (Though MoJ refute this claim). It is further undermined by the lack of provision of clinical supervision or counselling for RIs. Professionals in other parts of the CJS who deal with trauma and suffering daily can expect to be able to receive support from counselling whereas RIs must seek out and pay for counselling services themselves, and many find the cost of this prohibitive.
9. The lack of management, governance, mentoring and support has left many RIs feeling that despite being valued by victims and the police, they are not valued by the MoJ. Many RIs have called for improvements to these aspects of the scheme through the survey and focus groups in this review.
10. The organisation of court listings has a detrimental impact on the work of RIs. RIs are regularly required to block out weeks of their time because of imprecise court listings, when they are only required to work for a few days or even hours, and can only claim payment for the hours worked. Poor organisation within court listings also means that RIs appear to be unavailable, when in fact, they are waiting for notification of when their client will be called to give evidence. Court listings that book RI time more precisely, and with greater certainty, would result in more RIs being available for work. This would improve waiting times for victims and witnesses to be matched to appropriate RIs and have access to justice.
11. RIs, police and CPS users of the WIS are positive about the work of the Witness Intermediary Team at the National Crime Agency (NCA) who match requests from service users with appropriately skilled and qualified RIs. However, the delays caused by having a limited number of RIs on the register can contribute to long delays in victims and witnesses being able to give their evidence.
12. Real and perceived delays in matching victims and witnesses with RIs puts some police officers off requesting one, so they go ahead and carry out ABE interviews without the services of a RI. This prevents vulnerable victims and witnesses from giving their best evidence. It can cause further harm and distress to victims and ultimately impede a just outcome if the quality of a vulnerable witness's evidence is less than it could be.
13. It currently takes on average 4 weeks to match a request with a RI. The NCA would like to reduce this to 1-2 weeks; they state that this would require a significant increase in RIs to deliver the service that witnesses need.
14. There are particular shortages of RIs to work with older children and adults whose mental health vulnerabilities inhibit their communication. There are also shortages of RIs to work in some geographical areas, such as North Wales. The

¹³ While RIRT members do get paid for 2 hours to attend RIRT meetings, there is no payment for the background liaison work, preparing agendas, producing minutes and chairing the meetings.

shortage of RIs in some areas leads to RIs covering multiple regions and travelling great distances for work which is not cost effective. RIs, CPS and the police have called for targeted recruitment of RIs by police force areas and specialisms, and the QAB has noted the long delays between acknowledged shortfalls and MoJ recruitment.

15. The MoJ is currently recruiting more RIs to meet perceived pressing local needs. However, the evidence suggests that the numbers involved will do little to meet the overall demand.
16. Requests for RIs across police force areas are disproportionate to crime rates. Some police forces are less likely to call on the services of a RI to support the communication needs of vulnerable victims and witnesses, despite having relatively high crime volumes.
17. RIs report extreme frustrations with the process of billing for their work. Nearly half of the RIs who took part in the survey typically wait more than 30 days to receive payment, while 92 percent regularly chase up invoices to ensure payment is received. RIs who work for the Metropolitan Police Force report particularly long delays in payment, with at least one RI having to take this police force to the small claims court to receive their pay. Problems with payment with the Metropolitan Police have led some RIs to be reluctant to work with them, and some RIs refuse to work with them at all. This, combined with the below average number of requests for RIs in the London area, means that vulnerable victims and witnesses in the London area, are particularly disadvantaged in achieving access to justice through communication support.
18. Police and CPS use their own judgement as to which vulnerable victims and witnesses are allocated a RI. They are not all following the guidance as set out in Criminal Practice Directions. This means many victims and witnesses that would benefit from help in communicating their evidence are not provided with it.
19. There is a lack of awareness by the police and CPS of the existence of RIs, their role and how to work effectively with them to achieve best evidence.
20. In summary, while the services of RIs are invaluable in providing access to justice for some of the most vulnerable victims and witnesses in England and Wales, the WIS is under resourced and lacks the managerial and governance structure required to provide a professional and consistent service for all those who need it.

RECOMMENDATIONS

1. The reviews' conclusions regarding the lack of cohesive governance and management of the WIS leads the Victims' Commissioner to make the following recommendations for improvement to the WIS:
2. The entire provision of RIs to vulnerable victims and witnesses in England and Wales should be undertaken by a centralised national service, situated in one agency. This national service should be responsible for:
 - a. targeted recruitment by specialism and police force area to ensure equal access to justice for all;
 - b. ensuring that recruitment is in-line with regular demand forecasts to ensure there are sufficient numbers of RIs to meet demand;
 - c. professional managerial support of RIs;
 - d. training of newly qualified RIs by experienced RIs;
 - e. mentoring of new and returning RIs until they are deemed to be sufficiently experienced to practice without mentoring;
 - f. consistent quality assurance of all RIs' work;
 - g. administrative support for regional and national meetings;
 - h. provision and monitoring of continuous professional development;
 - i. provision of clinical supervision;
 - j. matching requests from service users with appropriately skilled local RIs;
 - k. payment for RIs services and invoicing agencies who use the service;
 - l. collating and monitoring service user feedback, including seeking the views of police, judiciary and advocates as well as vulnerable victims, witnesses and their families' satisfaction with the services of RIs. Also using that information to improve RI services to victims.
3. A fast track RI service for very young children should be implemented to ensure that they are able to make their ABE statement and give evidence without delay.
4. A National Lead Registered Intermediary should be appointed to feed into policy and practice in the provision of RIs, to represent RIs' interests across the CJS and ensure the unique insight and experience of RIs is used to inform policy and practice to good effect.
5. The National Lead Registered Intermediary and the national Registered Intermediary Service should present an annual report to parliament monitoring the provision of RIs.

6. Her Majesty's Inspectorate of Constabulary & Fire and Rescue Services should include provision of RIs in its inspections of police forces.
7. Her Majesty's Crown Prosecution Service Inspectorate should include CPS advocates work with RIs in its inspections of the CPS.
8. Her Majesty's Courts and Tribunals Service (HMCTS) should review its listings practices with a view to ensuring that trials involving a RI are fixed where possible, and that vulnerable victims and witnesses are informed more precisely of the date and time when they will give their evidence. HMCTS should apply policies requiring priority to be given to cases with a vulnerable witness.
9. The role of RIs should be promoted and explained to judges, magistrates, CPS and police, and training on their role and how to work with them should be a mandatory part of training on special measures. The College of Policing should ensure that training on the role of RIs and how to work with them is sufficient to provide police officers with the required knowledge and understanding of the role.

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APPENDICES

Appendix 1: Youth Justice and Criminal Evidence Act 1999

Section 16: Witnesses eligible for assistance on grounds of age or incapacity.

(1) For the purposes of this Chapter a witness in criminal proceedings (other than the accused) is eligible for assistance by virtue of this section—

- (a) if under the age of 17 at the time of the hearing; or
- (b) if the court considers that the quality of evidence given by the witness is likely to be diminished by reason of any circumstances falling within subsection (2).

(2) The circumstances falling within this subsection are—

- (a) that the witness—
 - (i) suffers from mental disorder within the meaning of the Mental Health Act 1983, or
 - (ii) otherwise has a significant impairment of intelligence and social functioning;
- (b) that the witness has a physical disability or is suffering from a physical disorder.

(3) In subsection (1)(a) “the time of the hearing”, in relation to a witness, means the time when it falls to the court to make a determination for the purposes of section 19(2) in relation to the witness.

(4) In determining whether a witness falls within subsection (1)(b) the court must consider any views expressed by the witness.

(5) In this Chapter references to the quality of a witness’s evidence are to its quality in terms of completeness, coherence and accuracy; and for this purpose “coherence” refers to a witness’s ability in giving evidence to give answers which address the questions put to the witness and can be understood both individually and collectively.

Section 29: Examination of witness through intermediary.

(1) A special measures direction may provide for any examination (however and wherever conducted) to be conducted through an interpreter or other person approved by the court for the purposes of this section (“an intermediary”).

(2) The function of an intermediary is to communicate—

(a) to the witness, questions put to the witness, and

(b) 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.

(3) Any examination of the witness in pursuance of subsection (1) must take place in the presence of such persons as rules of court or the direction may provide, but in circumstances in which—

(a) the judge or justices (or both) and legal representatives acting in the proceedings are able to see and hear the examination of the witness and to communicate with the intermediary, and

(b) (except in the case of a video recorded examination) the jury (if there is one) are able to see and hear the examination of the witness.

(4) Where two or more legal representatives are acting for a party to the proceedings, subsection (3)(a) is to be regarded as satisfied in relation to those representatives if at all material times it is satisfied in relation to at least one of them.

(5) A person may not act as an intermediary in a particular case except after making a declaration, in such form as may be prescribed by rules of court, that he will faithfully perform his function as intermediary.

(6) Subsection (1) does not apply to an interview of the witness which is recorded by means of a video recording with a view to its admission as evidence in chief of the witness; but a special measures direction may provide for such a recording to be admitted under section 27 if the interview was conducted through an intermediary and—

(a) that person complied with subsection (5) before the interview began, and

(b) the court’s approval for the purposes of this section is given before the direction is given.

(7) Section 1 of the Perjury Act 1911 (perjury) shall apply in relation to a person acting as an intermediary as it applies in relation to a person lawfully sworn as an interpreter in a judicial proceeding; and for this purpose, where a person acts as an intermediary in any proceeding which is not a judicial proceeding for the purposes of that section, that proceeding shall be taken to be part of the judicial proceeding in which the witness's evidence is given.

Appendix 2: Additional graphs

Figure 4: Areas in which RIs are available to work, by number of RIs (according to the NCA Witness Intermediary Scheme database)

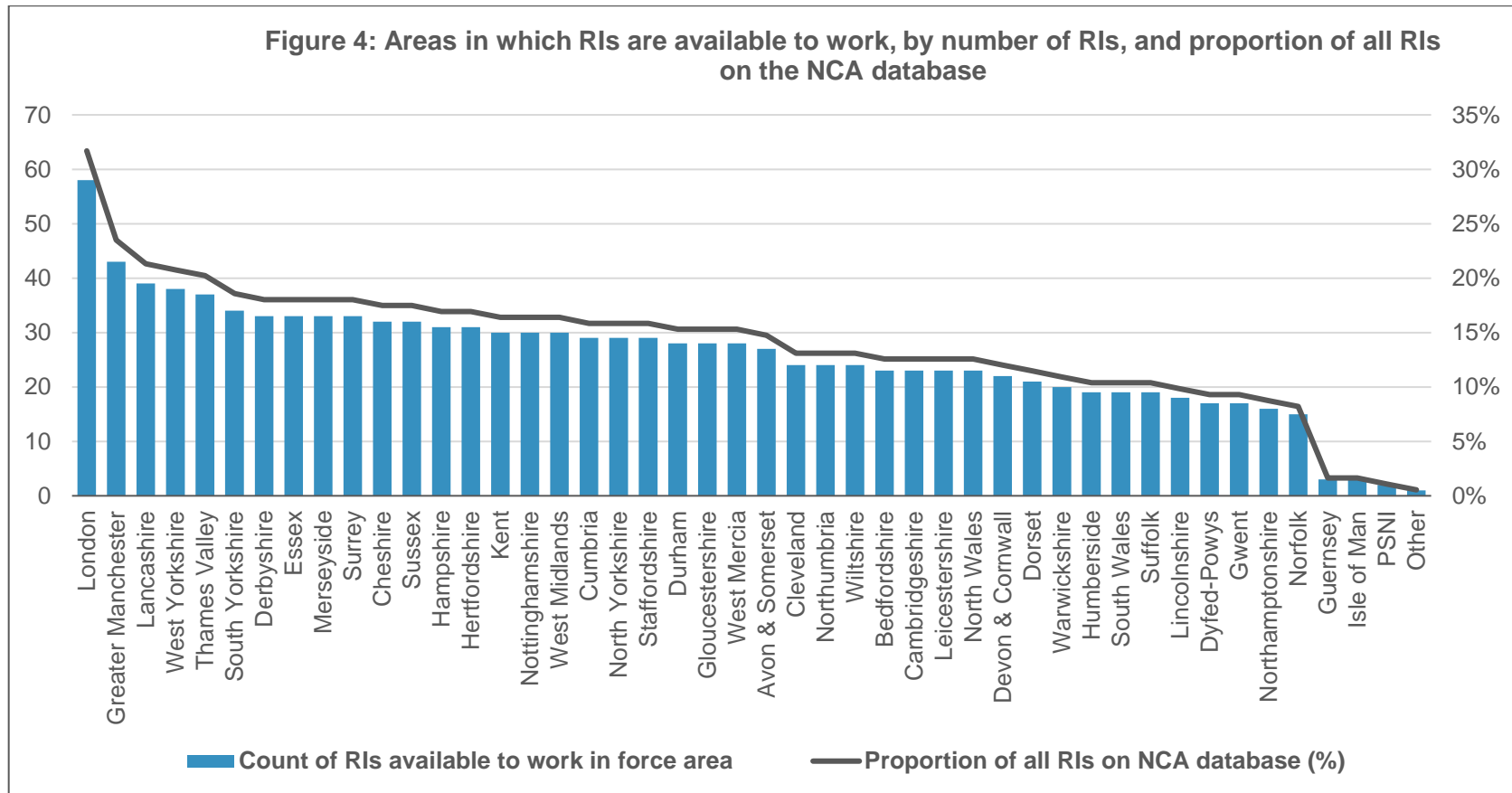


Figure 7: Requests for Registered Intermediaries by force area.

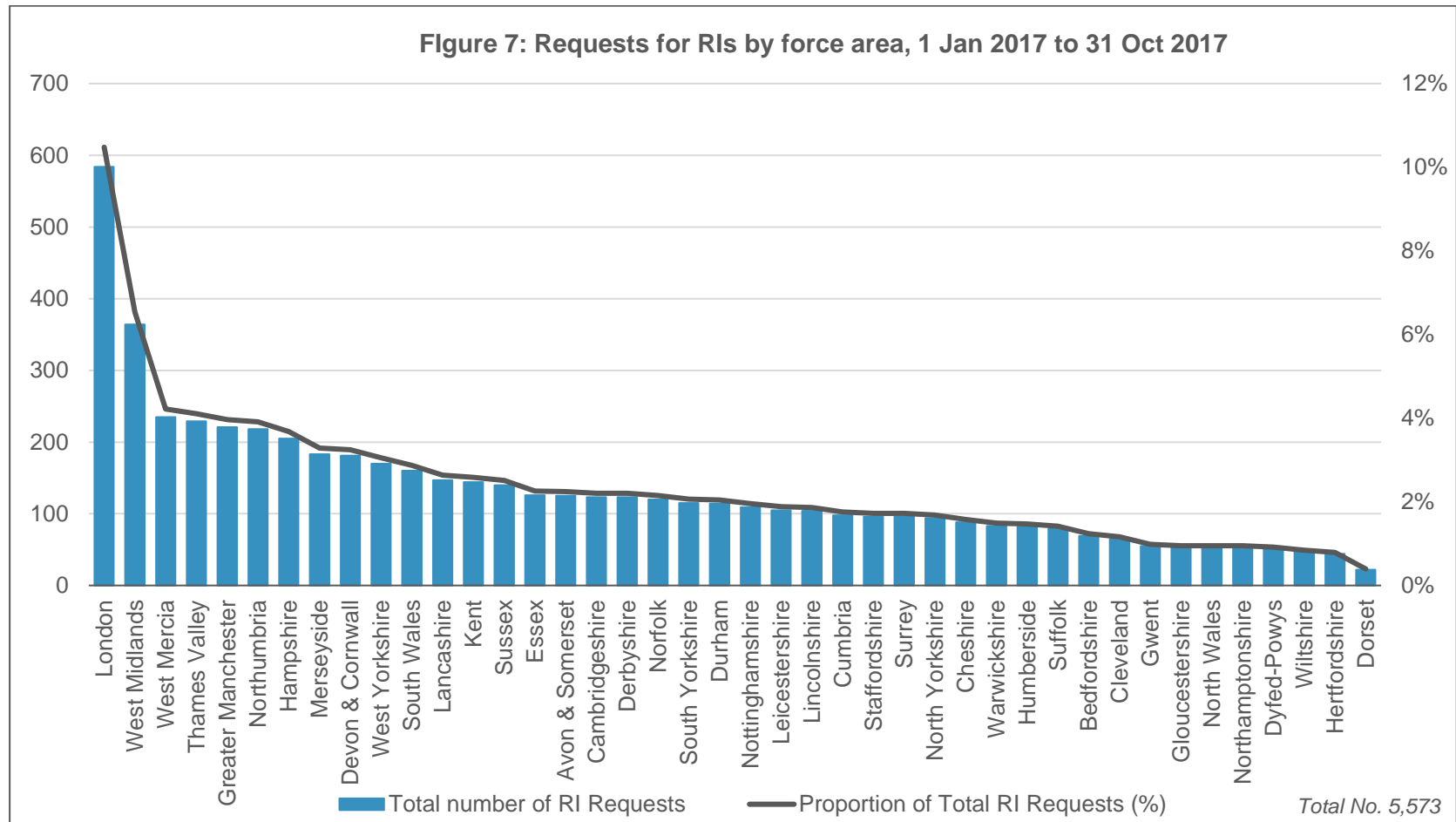
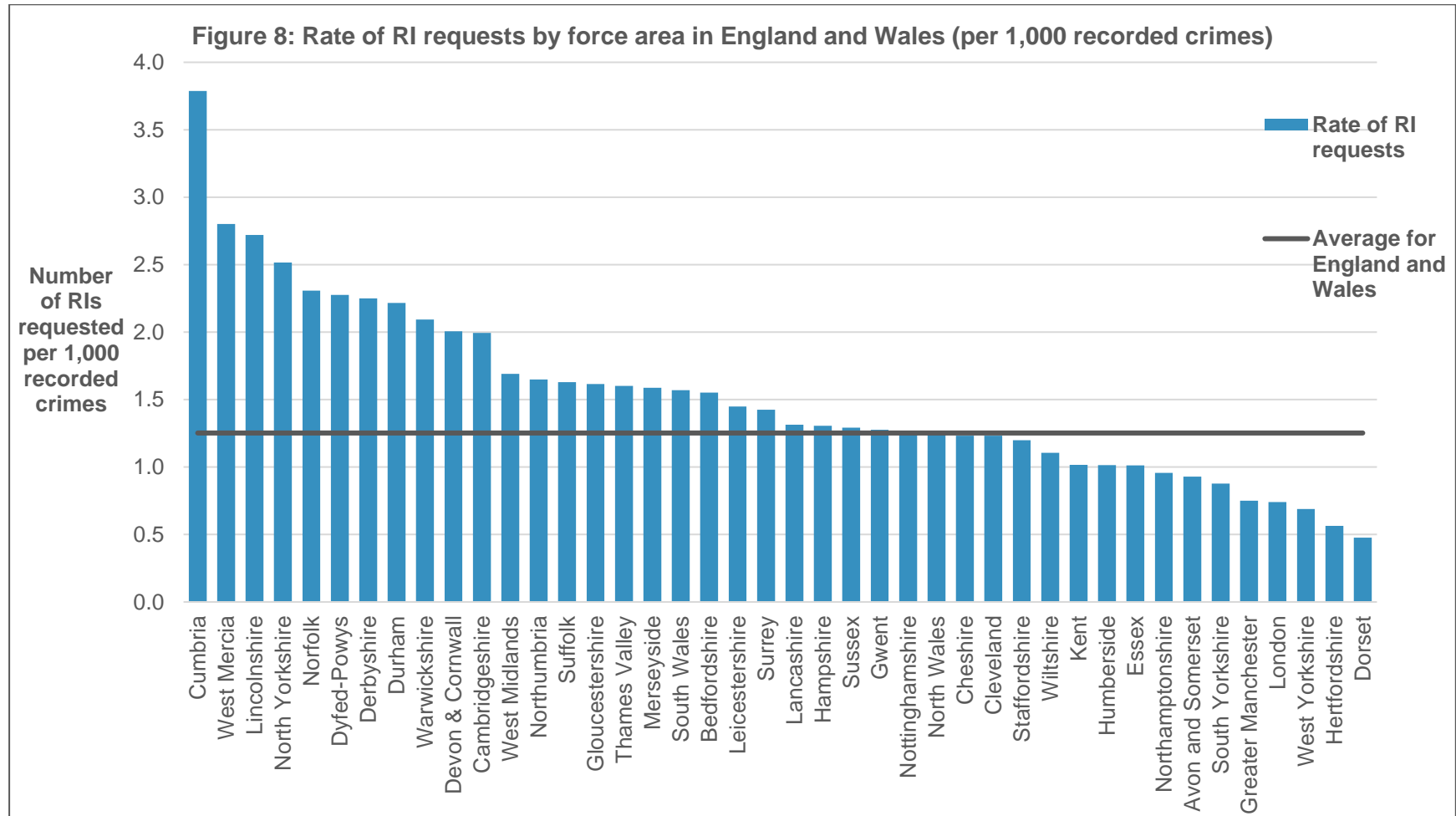


Figure 8: Rate of requests for Registered Intermediaries by force area in England and Wales¹⁴



¹⁴ RI requests data is from 1 January 2017 to 31 October 2017. Recorded crime data at police force area level is from the year to 30 June 2017. Recorded crime data for the City of London and the Metropolitan Police were merged to create a figure for London similar to the NCA held data. The average for England and Wales was calculated using the total recorded crime figure across all police force areas, and the total number of RI requests across the same police force areas. The recorded crime data excludes offences recorded by the British Transport Police, Action Fraud, CIFAS, and Financial Fraud Action UK.