Registered Intermediaries’ assessment of children’s communication: an exploration of aims and processes

Abstract

*Keywords:* Registered Intermediaries, children, assessment, communication.

Following the implementation of the Youth Justice and Criminal Evidence Act for England and Wales Registered Intermediaries have been available to assist child witness communication in legal proceedings since 2004. Registered Intermediaries are given training to fulfil this role, however, their assessments and practices are conducted independently. This study examined Registered Intermediaries’ perceptions and experiences of this independent practice, and the impact this had on the quality of the legal process in terms of evidential quality, child witness experiences and engagement. Seventeen experienced and currently active Registered Intermediaries with a range of communication specialisms took part in semi-structured interviews, which were analysed thematically. Six main themes emerged from the data: assessment constraints and requirements, essential elements of the assessment process, why the assessment process is effective, ensuring recommendations are followed through, pressures and barriers, and practice development. The Registered Intermediaries stressed the need for further training for themselves as well as for legal professionals, and emphasised the benefits of working as a team throughout the assessment and legal process.

Many vulnerable witnesses will be involved in legal proceedings. Whilst Bull (2010) states that there is no generally agreed definition of the term ‘vulnerable’, there is a focus on vulnerable groups such as children and those with learning disabilities. On an individual level Gudjonsson (2006) defines vulnerabilities as ‘psychological characteristics or mental state which render a witness prone, in certain circumstances, to providing information that is inaccurate, unreliable or misleading’ (p.68). Gudjonsson (2010) states that vulnerabilities do not necessarily equate with unreliability in witnesses but may present as a ‘risk factor’ for which assessment is required, and, if necessary, the witness must be provided with specialised assistance in order to meet competency requirements. In relation to the competency requirements for children, the Youth Justice and Criminal Evidence Act for England and Wales (The Stationery Office, 1999) states that a child is not competent to give evidence if it appears to the court that s/he is not able to ‘understand questions put to him as a witness’, and ‘give answers to them, which can be understood’ (Section 53[3]). This places the emphasis for competency on the child’s ability to communicate at a sufficient level of understanding, for which assistance may be required (Marchant, 2013). The Youth Justice and Criminal Evidence Act for England and Wales includes provision for appropriate assistance in the form of ‘special measures’. The special measures available to vulnerable (or intimidated) witnesses include: the use of screens in court, the use of video recorded interviews as evidence-in-chief, use of live TV link for cross-examination, removal of wigs and gowns of legal professionals, and also confers eligibility for assistance in communication, through use of an intermediary and/or other communication aids.

Section 104 of the Coroners and Justice Act for England and Wales (The Stationery Office, 2009), states that intermediaries may assist vulnerable defendants’ communication needs (Cooper & Wurtzel, 2013; Criminal practice Directions 3D.2w 2019; see O’Mahony, 2009). At present this section has not yet been implemented though a judge may use his or her inherent jurisdiction to appoint an intermediary to a vulnerable defendant. Those intermediaries who work with defendants do so as non-registered intermediaries. Intermediaries who work with vulnerable witnesses are trained and accredited via the Ministry of Justice and are known as Registered Intermediaries (RI). The role of the RI is impartial and is to facilitate communication between the witness and other legal professionals, through assessment and provision of recommendations in accordance with the needs of the individual witness (Ministry of Justice, 2019; O’Mahony, Smith, & Milne, 2011). Specifically, it is stated that ‘the role of Registered Intermediaries in the scheme is to assist two-way communication between the police or court and complainants or witnesses with communication needs’ (Ministry of Justice, 2019, p. 5). This involves helping the child or vulnerable person understand the questions that are asked, and helping legal professionals understand the answers given. The ultimate aim is to ensure that the evidence elicited is as complete, coherent and accurate as possible.

The identification of a vulnerable witness may be based on age (under 18 years), or for any other witness whose quality of evidence is likely to be diminished due to a mental disorder, a learning disability, or a physical disability (Youth Justice and Criminal Evidence Act for England and Wales, The Stationery Office, 1999, sections 16[1] and 16[2]). This suggests that all children, by virtue of their age alone, can be considered vulnerable though it is possible that some children may also have additional vulnerabilities. Access to intermediary assistance is not, however, automatic. If it is deemed appropriate that the witness requires such assistance the investigative officer, or the Crown Prosecution Service in England and Wales, needs to proactively submit a request for an RI through the Witness Intermediary Scheme (WIS) . The WIS for vulnerable witnesses has been available across England and Wales since 2004, with similar schemes initiated in other countries (Cooper & Mattison, 2017; and see Spencer & Lamb, 2012 for discussion of RI schemes in Austria, New Zealand, Australia, Norway, Israel and South Africa). RIs in England and Wales have a range of different professional backgrounds such as speech and language therapists, psychologists, social workers, schoolteachers, etc. All RIs are specialists in communication and are recruited, trained and accredited by the Ministry of Justice.

**RI training and practice**

Procedural guidance for the RI role is given in a manual (Ministry of Justice, 2019) that provides ethical and procedural codes by which all RIs must abide and presents developments in procedures as well as best practice. In addition, the manual advises how to conduct a case, report-writing, how to support a witness in court, the role of the RI at later stages in a case, safeguarding for professionals, and provides further information and resources. There is also a section on the governance of the WIS and the two boards that govern the scheme. The Intermediaries Registration Board ‘brings together key stakeholders from across the criminal justice system’ [to focus on] ‘the strategic direction, policy management and operation of the Witness Intermediary Scheme’ (p. 8). The Quality Assurance Board ‘brings together individuals with substantial professional experience in the field of regulation and quality assurance’ (p. 8). This board ensures that RIs follow the code of practice and ethics, has oversight of complaints against RIs, agrees the standards for recruitment, training, accreditation and continuing professional development, and ensures consistency and quality with regards to RI practice.

RI training takes place face-to-faceduring seven days over two weeks. The training includes classroom presentations and discussion using real life case studies, a visit to an interview suite with an RI and a police officer, and a visit to a court with input from a judge. Other criminal justice system personnel are invited to join the sessions at appropriate times. This has included the National Crime Agency, police, Crown Prosecution Service, advocates, and the judiciary. Pre course reading is required to make face to face teaching more effective. The trainees are asked to read documents including the RI Procedural Guidance Manual (Ministry of Justice, 2019) and other relevant material prior to each different module. In addition, prior to the course, the trainees have to choose a case relevant to their expertise from a number of cases based on real cases offered to them by the Training Group. On the final day the trainees learn about some of the practical issues relating to RI work, for example safeguarding, consent, data protection, etc.

The trainees have to successfully complete five assessments before being accredited by the Ministry of Justice,which include a multi choice questionnaire, preparation of recommendations for an Achieving Best Evidence (ABE) interview (Ministry of Justice, 2011), writing a report and amending cross examination questions all appropriate to a selected case. The trainees are also asked to deliver a 20-minute presentation to a panel about what they have learned on the course relevant to the case, how this relates to assessment and ABE recommendations, the ground rules hearing and practice at trial. If the trainee passes the course then he or she has access to a paid mentor. Trainees are also given monthly peer group sessions led by different RIs (the description of the course is taken from personal communication with three members of the Registered Intermediary Training Group, 5th May 2020).

Referrals requiring an RI are generally (and advisedly) made prior to the investigative interview, but may also take place at a later time, if the witness’s needs were not identified earlier (Cooper, 2014). The RI will conduct an initial assessment of the communication needs of the witness and may liaise with relevant parties such as psychologists, psychiatrists, teachers, parents/legal guardians, etc., so that a comprehensive report based on the findings of the assessment can be provided to the court. The report findings are used to inform the interview and/or cross-examination questioning strategy. If an RI has made an assessment prior to the investigative interview then the RI will, if required, attend that interview to assist the facilitation of communication. Prior to the trial at court the RI and all legal professionals involved in a case attend a ground rules hearing to establish directions for the appropriate management and questioning of the witness as informed by the findings from the RI’s assessment (Cooper, Backen & Marchant, 2015).

The ground rules hearing is extremely important as it can help in addressing any issues that counsel may have with the RI’s recommendations (Cooper et al., 2015). It also provides an excellent opportunity for the RI to assist counsel in phrasing questions in light of the recommendations made. Some advocates have argued that the recommendations have affected their ability to ‘put their case’ to the child. However, in the case of *R v YGM* [2018] EWCA Crim 2458 the judge identified the importance of an early ground rules hearing prior to trial to rectify any issues counsel may have in putting their case, and also argued that there are ways in which a defence case can be put in front of a jury that does not confront or cause unnecessary distress to the vulnerable witness. In addition, in the case of *R v Cokesix Lubemba*, *R v JP* [2014] EWCA Crim 2064 the judge highlighted that counsel must adapt to the witness, and not the other way around, further emphasising the importance of counsel’s role in facilitating best evidence from vulnerable witnesses.

Use of the RI scheme in England and Wales has grown such that in 2016 approximately 530 requests per month were made for RIs (Cooper & Mattison, 2017). Most recent data have shown that there has been a reduction in requests of approximately 6.4%, though successful pairing of request and an appropriate RI has increased (Ministry of Justice, 2019). Research examining the implementation of the RI scheme has shown that judges and advocates ‘were overwhelmingly supportive’ of the RI scheme (Henderson, 2015, p. 157; Ministry of Justice, 2019), particularly as it enables access to legal proceedings for a range of vulnerable people who may previously have been excluded. Henderson found that amongst other legal professionals (such as solicitors and ushers) there was varied acceptance of RI involvement, and implementation of RI recommendations, though the final conclusion was that RIs make ‘a significant contribution to a better and more reliable evidential process’ (p. 169). This contribution is particularly evident in the ground rules hearing, which is also considered good practice in all young-witness cases even if no RI is involved (Cooper et al., 2015).

**RI influence in legal proceedings**

Research relating to RI practice has examined whether the presence of the RI influences mock jury decision-making. Collins, Harker and Antonopolous (2016) found that the presence and interventions of an RI through cross-examination improved mock juror perceptions of children’s behaviour and the quality of the cross-examination. Krahenbuhl (2018) found RI presence had a neutral impact on mock juror decision-making in respect to the quality of the information elicited. However, Krahenbuhl (2018) raised concerns that in respect to mock juror decisions, on case progression only, contrasting views were given on whether or not the cross-examination would lead to a guilty verdict, depending on which professional gave, or omitted, RI-type interventions. Specifically, the mock juror ratings of the likelihood of a guilty verdict were higher when an RI was present but omitted to include an intervention, or when the RI was absent, but the judge provided an intervention of a form that would generally be made by the RI.

In their evaluation of the introduction of RIs, Plotnikoff and Woolfson (2007), found that facilitation of communication by RIs was broader than being limited to linguistic factors of communication assistance in ABE (Ministry of Justice, 2011) interviews and at trial. They noted that the RI assessment refers also to the facilitation of all forms of communication channels (as required) across different parts of the criminal justice process. For example, communication assistance could be in the form of the RI accompanying a witness on a pre-trial court visit. Communication assistance is deemed necessary and useful due to the challenges associated with interviewing and cross-examining children in court. These challenges may take the form of development and comprehension (Lamb, Malloy, Hershkowitz & LaRooy, 2015), conversational style and experience (Lamb & Brown, 2006), cultural diversity, perceptions and expectations (Alaggia, 2010), and disclosure patterns (Malloy, Brubacher, & Lamb, 2011; McElvaney, 2015). This is not to suggest that appropriate communication cannot be achieved or supported without the use of an RI. If there are no communication concerns raised in respect to a witness’s vulnerability then questioners can proceed without an RI. To support and assist legal professionals in ensuring appropriate communication (regardless of RI involvement) there are also sources and resources available for example, Powell and Earhart (2018) in respect to child witnesses, and an online resource “[The Advocate's Gateway](https://www.theadvocatesgateway.org/)” (2019) that provides information on questioning and management of witnesses with various vulnerabilities.

**Communication aids for assessment and investigative interviews**

RIs, as communication specialists, have a range of communication aids available designed to assist in the assessment of communication needs (for examples please refer to The Advocate’s Gateway Toolkit 14, 2015). RIs may also provide ‘tools’ or equipment used to assist communication needs in the form of advice, props and aids, including technical devices as necessary. Examples of these may include the use of dolls, body maps, drawings, rule cards, calming objects, etc. The advantages, disadvantages, and associated risks of some forms of communication assistance are summarised in the ABE interviewing protocol (Ministry of Justice, 2011) for consideration by all practitioners and questioners in England and Wales who are involved in the investigative process. There is a considerable body of research examining specific tools in communication in relation to eliciting witness testimony during an investigative interview. For example, Brown (2011) describes a variety of communication aids that may facilitate communication through promoting rapport, reducing the social demands of the interview, providing retrieval cues to assist additional recall, as well as overcoming verbal deficits or providing a non-verbal response option. However, Brown also cautions that the effectiveness of such aids is affected by the timing and manner in which they are introduced, and that accuracy or reliability of information thus elicited tends to be lower than for information spontaneously reported, especially by younger children – who are more likely to receive assistance from a RI.

Three forms of communication aids that are frequently used to clarify evidence within an investigative interview are anatomically correct dolls, body diagrams and drawings. In relation to anatomically correct dolls the majority of research has indicated that these dolls have a detrimental effect on the accuracy of children’s accounts. Children engage in sexualised behaviours with dolls (Bruck, Ceci, & Francoeur, 2000), and dolls hinder communication in that interviews with children using dolls tend to produce shorter and less detailed responses (Santtila, Korkman, & Sandnabba, 2004). From a cognitive perspective there is also concern that young children may lack sufficient representational insight to be able to understand that the doll represents their own self and body (Poole & Bruck, 2012). Most children achieve this representational insight by three years of age. There is, however, evidence to indicate that some older children may continue to have issues with this cognitive skill (Poole, Bruck, & Pipe, 2011).

This issue with regards to representational insight is believed to be rectified by the use of more simple communication aids such as body diagrams (Poole & Bruck, 2012). These are 2D line drawn pictures of males and females. Some diagrams are gender neutral, have body parts and may present with or without clothes. Researchers have found that young children still struggle to understand these body diagrams as representations of self (for example, Lytle, London, & Bruck, 2015). Furthermore, interviews with children involving body diagrams produce increased reports of touching (for example, Bruck, Kelly & Poole, 2016; Dickinson & Poole, 2017) and may, with younger children, come at the expense of accuracy (Bruck et al., 2016).

The findings regarding the use of drawings during the questioning of children are far more positive. Children produce twice as much information when drawings are used (for example, Macleod, Gross, & Hayne, 2013; Woolford, Patterson, Macleod, Hobbs, & Hayne, 2015). Less is known about the underlying mechanisms that produce the benefits. Some argue that drawing acts as an automatically generated memory retrieval cue to help children remember (Katz & Hershkowitz, 2010). Others argue that drawing encourages better quality interviewer utterances where they often use ‘uh huh’ ‘mmm hmm’ ‘what next’, etc., all of which are found to encourage detailed and accurate recall from children (Woolford et al., 2015).

The majority of research examining the effectiveness of communication aids in investigative interviews has predominately focused on typically developing children who do not possess any vulnerability other than that of age. One area of vulnerability that has received considerable research attention has been the support of communication with children who have Autism Spectrum Disorder (ASD). ABE (Ministry of Justice, 2011) provides no specific guidance or tools for supporting communication between witnesses with ASD and questioners, or for supporting freely recalled episodic information for all witnesses. Freely recalled episodic information is information that is spontaneously generated from the witness and is information related to the witness’s experience. Therefore, this information tends to be more accurate, and relevant, in the context of forensic investigations. Following research that examined the potential benefits of drawing allowing increased access to memory (Barlow, Jolley & Hallam, 2011), the technique of sketch-reinstatement, akin to context reinstatement but reliant on visual rather than verbal styles of information processing, has been examined for use with children with ASD (Mattison, Dando, & Ormerod, 2015; 2018). Context reinstatement is a procedure used in the cognitive interview with witnesses in which the witness is encouraged to think about the context of the experience in more detail, for example, smell, sound, etc., in order to pair the context with the recall process. Sketch reinstatement follows a similar process but encourages participants to draw whilst recalling. This research has found support for the use of sketching for both typically developing children and children with autism, but particularly in enhancing memory retrieval accuracy and reducing the number of incorrect items reported by the children with autism.

Ninety-five per cent of RIs use drawings and body diagrams in their practice (Owen, 2016). However, there is next to no research to date that has examined the effectiveness of these communication aids when questioning children when an RI is present and offering communication assistance. The only study to date is that by Henry, Crane, Nash, Hobson, Kirke-Smith and Wilcock (2017) who sought to compare the effects of RI assistance, sketch reinstatement and verbal labelling on children’s interview performance. The children were either typically developing (TD) or had ASD. Typically developing children were found to perform better at interview when assisted by an RI in comparison with a baseline best practice interview. The increase in information did not have a detrimental effect on accuracy. Unfortunately, none of the interventions (RI condition, verbal labelling or sketch reinstatement) improved the quality and quantity of information from children with ASD. This finding has been criticised by Dando et al. (2018) for various methodological reasons. The event the children had to remember involved the movement of a set of keys and it is argued that this ‘crime’ is not as salient or traumatic as would be the case in real world child sexual abuse investigations. Children experienced the ‘event to be remembered’ either live or over video and therefore each child did not have the same memory encoding experience. Furthermore, children were interviewed prior to the mock ABE (Ministry of Justice, 2011) interview. This practice does not occur in real life and therefore the findings do not reflect the effects of these interventions (sketch reinstatement, RI assistance) at the point of first recall during the ABE interview.

The lack of research on assessment practice, and inconsistent findings regarding communication aids used in investigative interviews, question the theoretical and empirical bases for techniques that may be used by RIs in their assessments and recommendations, and for their role during legal proceedings. Very little is known about the different strategies used during assessment and the decision-making processes involved in deciding what to assess and why. In relation to the RI assessment format the procedural guidance (Ministry of Justice, 2019) states that this will depend on the requirements of the communication abilities and needs of the individual witness, as well as the skills of the RI. Accordingly, it is the responsibility of the RI to use their knowledge and experience to ensure the quality of their assessment tools, and to consider how the assessment findings can be applied to practical arrangements and strategies. No research to date has looked at the considerations, processes and procedures involved during intermediary assessment and how this maps on to RI practice during other aspects of the RI role, for example, ABE (Ministry of Justice, 2011) interview recommendations, communication assistance at ABE interview and trial, translation of assessment recommendations during the ground rules hearing and rephrasing of cross-examination questions, etc. RI assessments are not video recorded and given the concerns regarding some of the tools used during assessment, and the lack of research on the topic of RI assessment in general, it would be of value to explore how the quality of the assessment process is monitored or appraised by current RIs. Thus, the current study addresses the following explorative research question: what are the aims and the processes involved when RIs assess children’s communication? This question is addressed by interviewing currently working RIs and analysing the interviews through thematic analysis whereby qualitative data are analysed for themes that are important to the phenomenon being investigated (Willig, 2013). This research is important because it examines assessment and processes from the RIs’ perspective, and the findings will potentially highlight areas of good practice and also raise concerns that need to be addressed through changes or developments in practices and further research.

# Method

**Participants**

Seventeen RIs from England and Wales participated from eight different counties. All seventeen RIs were female. Although there are a small number of male RIs, none accepted an invitation to participate. Once research ethics approval was received, the Witness Intermediary Service was contacted for permission to advertise the study on the online forum (Registered Intermediaries Online) generated specifically for discussions by RIs. An advert for participation was placed in this forum and RIs who wanted to participate were encouraged to email the contact details listed.

The participants were asked to answer demographics questions. All participants became RIs between 2004 and 2016. In terms of the number of years practising as an RI the range was from 19 months to 164 months, with a mean of 89.36 months. Using the categories of vulnerability outlined in the Youth, Justice and Criminal Evidence Act (1999), the RIs were asked which areas of vulnerability they practised within their RI role, with the expectation that they would fall into more than one category. As the focus of the study was children, all 17 RIs worked with children aged 18 and under. Seven worked with children with mental disorders, thirteen with children with a significant impairment of intelligence, eight with children with impairment in social functioning (defined as an individual’s ability to fulfil their role within social activities and/or relationships in different contexts), and four with children who have a physical disability or disorder. The RIs’ professional backgrounds were speech and language therapist (7), teacher (2), occupational therapist (2), psychologist (1), psychotherapist (1) and counsellor (1). The range in the number of assessments previously conducted across the RIs was 30-440 with a mean of 187.36. The range in the number of police interviews the RIs had previously participated in was 20-400 with a mean of 196.29. Finally, the range of court trials they had previously been involved was 4-150, with a mean of 56.93. As such, the sample recruited had enough breadth and depth to be considered representative of the RI community and enhanced the transferability of the findings (Holloway & Wheeler, 2002). The authors carried out two rounds of recruitment. In the first, ten interviews were conducted but the authors felt that there was more information to explore and therefore further recruitment was carried out. Another advertisement was sent out on RIO and a further seven RIs recruited and interviewed. Following examination of the data the authors felt that saturation had been reached and no further attempt was made to recruit more participants.

**Data collection**

Each interview took place via video telephony using the researchers’ and participants’ laptops. Both authors carried out a similar number of interviews. The mean interview length was 61.58 minutes (range 53-79 minutes). The interviews were semi-structured to enable the researchers to gather information specifically relating to the assessment of communication, and a child’s communication during the investigative interview and/or at court. This approach also provided enough flexibility to generate information based on the participants’ spontaneous responses. The opening question for all interviews was ‘Please describe what aspects of communication you assess and why’. Other questions included ‘Please provide an example that demonstrates the effectiveness of your assessment’, ‘Describe the link between your assessment and the planning of the interview’, ‘Describe the link between your assessment and the planning of cross-examination questions’, ‘In what ways are your conclusions/recommendations acted upon during interview?’ and ‘In what ways are your conclusions or recommendations acted upon during cross-examination?’ (for a copy of the full interview schedule please contact the corresponding author directly).

**Data analysis**

Each interview was audio-recorded on the researchers’ laptop and fully transcribed by three research assistants. The researchers checked the interview transcripts for accuracy. Each interview transcript was forwarded on to the participant to check that they were happy with the content and for the analysis to be conducted. The data were analysed using thematic analysis, whereby qualitative data are analysed for themes that are important to the phenomenon being investigated (Willig, 2013). The thematic analysis process entails the researcher identifying and organising patterns in the data into content and meaning, and generating an explanatory framework for the phenomenon. The researchers adopted a critical-realist epistemological position whereby processes and procedures carried out in the social world are representative of the participants’ knowledge and beliefs. An inductive approach to thematic analysis was carried out whereby new themes and information were generated from the data.

The coding and analysing occurred in line with Braun and Clarke’s (2006) approach to thematic analysis. One researcher was assigned the task of the analysis and read each interview through to familiarise herself once more with the content. Each line of the interview was read and assigned to a code that captured the meaning of the content, for example ‘use child’s own interests’ or ‘barrister uncooperative’. The total number of codes generated was 207. Once this was completed for all interviews then the codes were re-read to look for patterns across the codes that reflected the underlying meaning of what the participants had said. Codes that did not relate to the research question were discarded (for example, ‘delay accessing intermediary’), and codes that were similar were combined (for example, ‘child-centred assessment’ and ‘use of play during assessment’). This left a total of 172 codes with a second revision leaving 124 codes. The codes were then collected into themes and seven themes were generated. Once again, codes that did not entirely reflect the theme or were not frequently mentioned by the participants were discarded. Codes that were similar within the context of the theme were combined. The final themes selected were those that had been mentioned by the majority, if not all of the participants. There were many interesting codes generated initially but if the majority of RIs did not frequently mention the codes within each interview, then the code was discarded and not included in the next stage of analysis. This left 57 codes (theme 1: 14 codes, theme 2: 12 codes, theme 3: 7 codes, theme 4: 7 codes, theme 5: 5 codes, theme 6: 9 codes and theme 7: 3 codes). Each code in each theme was then described in a memo. For example, ‘background information’ was described, as ‘the intermediary needs background information from the interviewer and relevant people from the child’s life to help plan assessment approach’. The themes and subthemes were finally put into a thematic map to show connections between themes and subthemes that provided an overall explanatory framework for the research question (see Table 1 in the Findings section).

The discovery of relationships between the different codes and then the themes and subthemes added coherence to the explanatory framework, and allowed the researchers to build upon the complex nature of the links between RIs’ assessments and children’s communication. The coding, relationships, themes and subthemes were numerous and this demonstrates the explanatory power of the framework that was devised.

Triangulation was employed to verify the credibility and dependability of the findings (Hammersley, 1997). The second researcher analysed a random sample (*n* = 5) of the initial 17 transcripts. The codes and themes that emerged were similar to the first researcher. If disagreement occurred then both researchers discussed the differences and came to an agreement with the remaining 12 transcripts then reviewed in light of this discussion.

# Findings

Once the analysis was complete, six main themes had emerged that explained the aims and the processes involved when Registered Intermediaries assess children’s communication for the purposes of questioning during police interviews and at court. The RIs highlighted that there are six main considerations/themes that are central to their assessment practice when the aim is to facilitate children’s communication in forensic settings: (i) Assessment constraints and requirements, (ii) Essential elements of the assessment process, (iii) Why the assessment process is effective, (iv) Ensuring recommendations are followed through, (v) Pressures and barriers, and (vi) Practice development. These themes and their subthemes are described below and quotes from the interviews are used to support the explanations (Table 1). The quotes that best represent each theme were selected from the transcripts. The themes and quotes cover a mix of both interview and cross-examination as the participants referred to both in their answers. If the theme or quote refers more specifically to interview or cross-examination then this is indicated below. In quotations, participants’ actual names have been replaced with fictitious names to ensure anonymity.

All RIs emphasised the importance of the RI assessment process for facilitating children’s communication in these settings:

To give good evidence children need to communicate on every possible channel and that means looking at what works for them, and making sure what works for them works on camera at interview and at court. So, I see it as my job to work out what channels are going to work and then actively open every channel. (Ellie, line 328).

**Theme 1: Assessment constraints and requirements**

The RIs stated that their approach is dictated by certain legal and professional parameters. These parameters help guide what the RI examines during assessment. Some are based on guidance relating to appropriate practice in a forensic setting, and others are related to their own professional background in working with children.

**Subtheme 1.1: Points to prove.**

This sub theme was one of the most frequently referenced sub themes in the participant interviews. The RIs stated that the information the interviewer wanted to explore and the points they have to prove influenced what elements of communication the RI assessed. In addition, the context of the questioning (interview or cross-examination) also guided their assessment approach:

It depends on what I’m going to be doing. If I’m going to be supporting interviews, …a video ID parade, within that you will know a bit about the potential area of questioning…for example, practice recall is a good one…if I know I’m going to be talking to a child about a one-off event that is distant in the past I will locate a one-off event distant in the past for practice recall. (Ellie, line 32).

Ellie is stating that RIs do a variety of different things in their RI role and these have an impact upon what she will examine during assessment. The questioner will have told her what information they need to explore with the child, and she will use this information to plan her assessment. Ellie uses practice recall during her assessments whereby children practice recalling a neutral event during the assessment and this provides information on their narrative capabilities, as well as how they will respond to the types of question that will be asked at interview. How she structures the practice recall during the assessment is influenced by the nature of the event that has to be recalled during interview questioning, and she will try to ensure that the practice recall has a similar structure.

**Subtheme 1.2: The needs of the child.**

The RIs in this research have professional expertise in working with children and therefore tailor their assessment to the needs of each individual child:

Looking at a three-year-old…so in that case I won’t be testing idioms or time concepts because I know they are not developed…I will be looking at things to maintain attention and listening, to support a narrative for a police interview. But say I had…a 12-year-old with mild to moderate learning difficulties…the gaps in comprehension there are less obvious so I would probably be looking more carefully at what it is they understand (Katie, line 82).

Katie explained that she uses her professional judgement based on her understanding of children’s development to decide what can and cannot be assessed. Almost all of the RIs explained that they changed their assessment approach based on the age of the child, as this influenced what tools were appropriate and how best to carry out the assessment.

**Theme 2: Essential elements of the assessment process**

During the study’s interviews the RIs focused on what was essential during the assessment process to ensure that the assessment was useful for both the child and questioner. The following were elements that were crucial for the success of the assessment process.

**Subtheme 2.1: Background information.**

The RIs highlighted how important it was to gain background information about the witness from the questioner, and various people in the child’s life, prior to assessment. This subtheme was also one of the most frequently referred to in the participant interviews. RIs spoke to parents, siblings, grandparents, foster carers, psychologists, speech and language therapists, head teachers and schoolteachers. This helped them gather a picture of the witness and their communication:

So that (the request for service) usually has a very short description of the person. If there is any indication that there might be some degree of autism (for example), then I would ask a series of questions around what types of things upset somebody, what makes them feel anxious, what happens when they become anxious…not to that person, but to their carer, teacher somebody like that. (Victoria, line 67).

Victoria points out that the information the RI receives about the witness during the referral is not very detailed, and it is far more useful to gather further information about the witnesses’ communication needs from a person they have regular contact with.

**Subtheme 2.2:** **Relationship between the RI and interviewer.**

Another essential element is the relationship between the RI and the interviewer, and making sure the interviewer is involved during the assessment. The RIs stated the RI and interviewer both need assistance from each other in order to conduct best practice and enable best evidence from the child::

It’s a great way to involve the officer…to show that they’re part of the team that we are in, that he’s not just sitting there watching from the side-lines. (Deborah, line 174).

Monique explains that involving the officer during the assessment is also important because the officer can see first-hand how the child communicates:

I think it’s very beneficial, I can actually hear their brains ticking when we are doing the assessment. Cos they’ll often go… “oh this person has no problem but we thought we’d just get you involved”…suddenly you can hear them thinking “oh gosh they don’t sequence very well…they haven’t got the language skills I thought they had.” (Monique, line 402).

The RIs explained that often interviewers think the child communicates well, and it is not until different elements of communication that are essential for questioning in this context, are isolated and assessed, does the interviewer gain a more accurate picture of the child’s communication skills.

Kerry explains that involving the interviewer during the assessment is essential because the child needs to build rapport with the interviewer and learn to communicate information to the interviewer too:

The child needs to feel comfortable conveying information to the officer. They need to have practised doing that…there have been times when the child tends to build better rapport with me and that is not helpful in the interview (Kerry, line 165).

**Subtheme 2.3: Functional communication.**

RIs stated that the parts of communication that were assessed had to be elements representative of the parts of communication that the child would use when being questioned. There was much discussion around the merits of standardised tests/formal assessment methods as opposed to informal assessment methods (Standardised tests are tests which require the participants to answer all questions in the same way, which then makes it possible to derive a score for that person which is relative to the performance of other people in that group, for example, I.Q.):

And it really doesn’t matter to me where they would score on a standardised test…it doesn’t tell you how they are going to cope in a practical sense in an interview situation or an evidence situation…I think the problem with doing standardised sorts of assessments is it might tell you whether this child knows ‘in’, ‘on’ and ‘under’ but if that’s not going to be part of what they are going to be asked about, then what’s the actual point of that assessment. (Angela, Lines 122 & 835).

A large proportion of the RIs in the study expressed a similar opinion. They were clear that scoring on standardised tests were not informative with regards to how the child would communicate in a forensic setting, because they were not designed with these settings in mind.

**Theme 3: Why the assessment process is effective**

The RIs often expressed their opinions on why they thought the assessment process was effective at facilitating communication and assisting the production of best evidence. They mentioned many different reasons but the three sub themes referred to most frequently were: (i) child-centred approach, (ii) observation of child and interviewer’s communications skills, and (iii) rapport building.

**Subtheme 3.1: Child-centred approach.**

The RIs explained that adopting a child-centred approach to their assessment technique helped the child engage with the process:

The children succeed with it very easily…it’s a little collection of toys I’ve gathered…they’re listening intently to what you’re doing because they want to succeed…and because you start off with really simple things they can do, they don’t notice it’s getting more difficult and so it doesn’t distress them. (Deborah, line 122).

All RIs in the study described their different assessment techniques and many of these involved the use of visual materials:

I had one case where a witness needed to be able to describe a phone call…did they have the understanding of aspects of voice quality and that’s quite high level and abstract…they needed something quite concrete so we created…buttons with a sliding scale for different aspects to do with volume and speed…I would provide them with different neutral comments and they had to rate the loudness I was using, they had to rate the speed on a scale…(Lorraine, line 80).

The RIs explained that visual materials are easier for children to process and so were effective media for assessing their understanding. For example, Lorraine created a visual scale for the child to help her assess the child’s understanding of voice quality. This would have been difficult for the child to describe in assessment and interview, without the use of a visual communication aid.

**Subtheme 3.2: Observation of the child’s and the interviewer’s communication skills.**

The RIs were clear that one of the main reasons why the assessment was effective was that it provides the opportunity to assess both the child and interviewer’s communication skills:

…your assessment will be able to provide the information…(and) will be comprehensive and clear enough to be able to provide information on this is how to put the question to the witness, this is the vocabulary they will understand, this is the amount of information they will understand…if you want the person to give detail you are probably going to have to do x, y and z…your assessment will have found that out so you can give clear and definitive information to the questioner. (Maureen, line 382).

and the officer will get the chance to ask some questions (during assessment)… So, if I’m using a slower rate of speech with shorter sentences, with lots of gaps, it gives me the chance to have a look at whether the officer is taking on board my style of language with the child (Lesley, line 70).

As stated by Maureen the assessment gives the RI and interviewer a chance to see how the child communicates prior to the interview and court appearance. Therefore, the RI and questioner know what to expect from the child’s communication, and it permits the RI to give clear guidance on what the questioner can and cannot do to achieve best evidence from the child.

The assessment process also provides insight into the interviewer’s questioning style prior to the investigative interview. Therefore, recommendations that the RI provides may also centre around improving the interviewer’s style of communication to ensure that it is compatible with the child’s level of understanding.

**Subtheme 3.3: Rapport building.**

Another frequently mentioned reason why the RIs believed the assessment was effective was that it permitted the RI and interviewer to build rapport with the child prior to asking questions about the allegation:

I can think of a child I saw at the end of last week…they were unsure initially…the assessment was very useful in terms of building that rapport, helping them settle and certainly to develop the relationship with the police officer who they had only seen one time before at school. (Kerry, line 211).

Stephanie also highlights that the assessment can reduce or eliminate the power imbalance between the practitioner and child, and how essential this is to the success of the interview:

…in order to communicate effectively you have to feel that you have some control…children don’t have any control, children who are going to be interviewed have most likely, but not always, been subject to something that is potentially horrific, there’s been a power imbalance – so you need to restore that to get on an equal footing, it’s not going to work if you are just didactic with them (Stephanie, line 340).

**Theme 4: Ensuring recommendations are followed through**

Once the assessment is complete the RI reviews their findings and translates these into recommendations for the questioner to follow at interview and/or court in order to obtain best evidence from the child. There are certain factors that are essential to ensuring that the recommendations are followed through: (i) planning and reviewing questions, (ii) the ground rules hearing, and (iii) support from the judge.

**Subtheme 4.1: Planning and reviewing questions.**

A large part of the RI role is assisting the interviewer in planning the interview based on the findings from the assessment. The RI also reviews the cross-examination questions at court. This preparatory work is essential to ensuring that the assessment recommendations are followed through:

I often ask for the interviewing officer to prepare their questions in advance…we’ll arrange a time to have a planning meeting…just to discuss all kinds of aspects of the interview…how the procedure is going to be explained, how we’re going to cover truth and lies, layout of the room, all kind of aspects of the questioning… I’ll have a look through the questions the officer has prepared just to make any amendments if they need to be made… (Maureen, line 410).

If you manage to establish useful questioning and if possible seeing the questions…and everyone signs up to them so to speak then it’s much more likely to go smoothly in the live link room. I don’t think it’s good for the witness if you’re having to constantly intervene. (Karri, line 616).

Maureen lists some of the elements that the RI and interviewer discuss during the planning phase. Many of the RIs stated how important planning is to help map the assessment findings onto the planned interview practice with the child. Karri highlights the usefulness of seeing the questions at court, making revisions and having these revisions agreed to.

**Subtheme 4.2: Ground rules hearing.**

The RI has a ground rules hearing with the judge and both barristers before the trial. It gives the RI the chance to communicate the most important recommendations to the court and to have these agreed by the judge. Most of the RIs in the study commented on how important ground rules hearings are to ensure that their recommendations are followed at trial:

…practice has improved immensely (before) we wouldn’t always get the ground rules, it was hit and miss. You would be going in blind, not knowing the barrister, not knowing the judge and you always had to interject and adjust questions throughout cross-examination…but now you often get the questions beforehand to adjust…that’s when it’s so important that your assessment is really, really good because you can say I have changed this question because it’s a bit too long, because in my assessment they struggled to understand this question. So, you can really back up everything you say. (Louise, line 329).

Louise started practising before ground rules hearings were in place and she is commenting on how difficult her role was previously, and the fact that she would have to frequently interject during cross-examination because the barrister was not following the recommendations she had outlined in her report. Now, ground rules hearings are standard practice and she can make clear links between her assessment findings and her recommendations for questioning at court.

**Subtheme 4.3: Support from the judge.**

The participants often spoke about how crucial the judge’s support was at trial for ensuring that recommendations from assessment were followed through. Provision of support from the judge was essential for the success of the questioning process:

And most of the time they’re really supportive…and sometimes what’s lovely is a witness might be asked a question and I’ll sort of have my mouth open ready to intervene and I hear from the judge “no, you can’t ask that, that’s too much information” (Amy, line 461).

I had a case…it still haunts me. I’ve only just accepted a case in (name of location) again because it was so horrific. The judge was not on board with it, saw me as a nuisance, the witness was a 4-year-old little girl, a very serious sexual offence…he was very dismissive of all of my suggestions but said yes to a few bits…the first thing he said to defence counsel was “I grant you latitude with your questioning” and off she went, it was just awful. I had to interject so many times, sometimes he would put his hand in the air to shut me up…and the little girl couldn’t understand what was being asked of her (Louise, line 347).

Most of the RIs said that they had positive experiences with the judges they had worked with. Amy describes a time where the barrister had not followed her recommendations; the judge intervened on her behalf and was able to state the reasons why. Those reasons would have come from the judge’s reading of the assessment findings and recommendations in the report.

Louise outlines a very different and difficult experience she had with a judge at court. He was very dismissive of her assessment findings and recommendations. This had a detrimental impact on the child’s ability to give best evidence and was quite a traumatic experience for the intermediary. Most of the participants stated that the majority of the judges were supportive, but most RIs could also describe an experience where that had not been the case.

**Theme 5: Pressures and barriers**

Many of the participants spoke about the various pressures and barriers that they experience in their role as RIs. The most frequently mentioned were: (i) lack of cooperation, and (ii) timing. These issues affect the RIs’ ability to complete their work to the highest standard and create frustration due to an inability to control these pressures and barriers.

**Subtheme 5.1: Lack of cooperation.**

The majority of the participants could provide examples of a good experience they had with an interviewing officer and a barrister at court. Generally, most of the RIs had positive experiences with the police and courts in the adherence to assessment recommendations:

I met with a barrister…we went through the questions and they were disastrous questions…70 odd questions, and in the end he just kind of laughed and said “well 2 out of 75’s not bad is it? So, we’ll start again” and he did, and he really did seriously address that and it made so much difference. (Leah, line 488).

Leah is referring to a very positive experience she had with a barrister who did not seem offended by the correction of his questions, and who was happy to fully cooperate with her suggestions.

However, this appreciation and cooperation does not always occur, and can have a detrimental impact upon the success of the RI role and the production of best evidence from the child:

I have had some trials which have been hopeless because they either haven’t read the report or haven’t understood it or they’ve ignored it, and so the questions have been completely off script and it’s been very difficult then to be effective (Lisa, line 374).

Lisa is describing her frustration when it is clear that the barrister has not read her assessment findings and recommendations from her report. This leads to poor questioning practice from the barrister and interferes with the RIs ability to do their job.

**Subtheme 5.2: Timing.**

According to the participants the timing of practice in the criminal justice system goes from one extreme to the other and ranged between doing things too quickly to extensive delays. The RIs described how this affected the success of their practice:

…and it’s just been a frantic rush…there was one I did where the defence barrister was very pleasant and open but we were just standing there in the court…going through what was quite a large number of questions… “yes, yes, yes that’s fine” and he was scribbling them down but he didn’t stick to it because he hadn’t had the time to internalise it…then when the time came he more or less reverted to the old original question. (Lisa, line 559).

I will quite often do a reassessment. Certainly, one child I had worked with was 13 and 17 (when she got to trial) … so obviously like a different person developmentally…the trial was cancelled three times. So, it was one of the most disastrous things. Watching herself as a 13-year-old on the video recorded interview, as a young woman was very difficult for her (Leah, line 139).

Lisa is referring to her experience with a barrister in court where her questioning recommendations have not been followed and the questions needed to be revised due to time constraints. In contrast, Leah is talking about the problems that occur as a result of an extensive delay between interview and trial. This issue was mentioned frequently by other RIs. Because of the delay, a reassessment was needed to give the court an accurate picture of the young person’s current communication needs. The young person did not respond well to the consequences of this delay.

**Theme 6: Practice development**

The final theme that emerged from the participant interviews is ‘practice development’. RIs spoke about different elements that have contributed towards the development of their practice.

**Subtheme 6.1: Experience and evolution of practice.**

Many of the participants discussed how their practice evolved over time as they became more experienced and confident:

It’s something that is honed with more experience. So, the way I assessed and the way I supported in interview improved as I did more assessments and more interviews. (Kerry, line 78).

Oh I think there is a massive gap. We weren’t taught about assessment at all…I remember spending months, just having completed the training talking to other RIs on the course about how they were putting their assessments together. (Katie, line 357).

The majority of the RIs felt that they lacked confidence and the necessary skills after the initial training, especially with regards to assessment in a forensic setting. This gradually improved as the RIs took on more referrals and discussed their assessment technique with other RIs.

**Subtheme 6.2: Support from other RIs.**

Most of the participants spoke about how important it was to maintain contact with other RIs with regards to improving practice and confidence:

…but you do wonder whether you’re doing it right…so I always just love talking to other intermediaries about how they assess things and pick up tips. (Katie, line 38).

Katie is referring to the fact that RIs are self-employed and therefore work in isolation. She lacks confidence with regards to the appropriateness of her practice and finds it useful to talk to other intermediaries to gain access to their ideas about how to assess children.

It’s difficult because I’m the only intermediary living in (name of location). I wish I could share more information with my colleagues…So we have tried to do this at our network meetings but unfortunately the one we have for sharing our assessments last year I wasn’t able to attend…I wish I had better access to other people’s ideas. (Victoria, line 400).

Victoria has greater difficulty in gaining access to support from other RIs because of her location. All RIs have the chance to attend regional support groups to listen to each other’s ideas and improve their skills, but Victoria is not always able to attend these and feels this has a detrimental impact on her confidence and practice.

**Discussion**

This research represents a novel examination of the assessment and processes involved in relation to RI practice with children, from the perspective of the RI. The findings highlight areas of good practice and also raise concerns, which need to be addressed through changes or developments in practices. The study findings are representative of a range of RIs with differing levels of experience and areas of expertise. Despite this diversity, there was considerable consistency in the RI responses and perceptions as presented through the themes elicited. This demonstrates that whilst RIs work in isolation there is some standardisation to their practice, their views on practice and shared experiences.

Within the theme of ‘assessment constraints and requirements’ standardisation was found in terms of general approach and in what assessments ‘worked’, and which did not. However, it was not generally believed by the RIs to be effective or efficient to have standardisation in the specific practice of assessing an individual child. For example, children presenting with the same vulnerability and communication difficulty may differ in their needs with one child requiring a focus on enabling the ability to attend, whereas another child will require a focus on managing their ability to produce a detailed narrative. This is reiterated in the procedural guidance (Ministry of Justice, 2019) where it is stated that assessment approach should be dictated by the specific needs of the witness, which indicates that a standard approach should not be followed. Furthermore, the most recent version of the procedural guidance has a report template in the appendix with no reference given to the types of communication that should be covered during assessment. This further emphasises the open nature of the RI approach to assessment.

There are also other sources of recommended or suggested ‘tools’ to assist appropriate communication with young children (see Powell & Earhart, 2018), as well as more general communication aids (Brown, 2011). Nevertheless, given the importance of individual assessments, these suggestions may not actually address the needs of the child, particularly in the context of an investigative interview or cross-examination. The RIs in the current study make use of their previous professional experiences in determining how to assess children; the assessments are tailored to the situation (interview or court and cross-examination), and to the information the interviewer needs to explore. This would support relevant and expedient assessments, which were child-focussed and centred on individual needs.

Whilst the RIs in the current study did list what elements of communication they assess, and what approaches they use to assess children, there was considerable overlap in the types of communication listed, for example expressive and receptive language (the production of language and language comprehension), responses to question types, ability to use certain communication aids (for example, drawing, body diagrams) and the presentation of anxiety and distress were all elements that were consistently assessed. Furthermore, for the current training, the trainees are expected to know how to assess communication prior to applying, and they learn on the training course how to modify their pre-existing knowledge in the areas mentioned below to suit the legal context.

During training a range of areas of communication are considered. Trainees are asked to discuss which communication skills they would assess and the manner in which they might assess them formally, bearing in mind the individual needs of their particular witness. They are then taken through aspects of communication and encouraged to demonstrate why and how these might be assessed, for example, understanding of language, question types, expressive language, attention and listening skills, working memory, ability to refute, management of anxiety/distress/emotions, narrative and sequencing skills, understanding of time/frequency/duration/quantity/, nonverbal communication skills, and the use of visual aids (personal communication with members of RI Training Group, 5th May 2020). What this shows is that there *are* communication basics that RIs tend to focus on in each assessment, but with a degree of flexibility in what is assessed and how. What has yet to be researched is whether the current ‘basics’ of communication are truly the most efficient and effective aspects to focus on, and whether or not the assessment of these communication elements, and the subsequent recommendations, positively influence the child’s communication at interview and court.

The RIs did consider some standardisation would be useful in procedural terms with regards to one element of the assessment process. The RIs strongly advocated the need to obtain background information about the vulnerable witness to provide a more general and broader understanding of the child than is afforded by the assessment ‘snapshot’. The RIs supported the collation of background information from both professional and non-professional sources, for example, a child’s family, teachers and carers. There is recognition that this information may not be entirely accurate, but that this informal information, as an adjunct to the RI assessment, is highly useful to inform the RIs’ advice and recommendations. The usefulness of this approach is outlined in the current procedural guidance (Ministry of Justice, 2019).

The timescale of the RI assessment process, as well as the investigative and court processes, are considered difficult to manage as RIs recognise the detrimental impact of delay on child witnesses, and yet recognise the need for time required to complete the assessment process and engage with legal professionals. ABE (Ministry of Justice, 2011) outlines the importance of assessment for planning an investigative interview, but there is little recognition of the need for other legal professionals to fully address and revise their practices in response to RI guidance and advice. The importance of time spent listening to RI recommendations, and using these recommendations to inform effective interview and cross-examination practice, should be highlighted in the training of legal professionals who work with vulnerable witnesses. If this is already emphasised in training then further research needs to address why this guidance is not being adhered to.

Another theme generated by the RI’s responses was in relation to pressures and barriers that they encountered. The RIs stated that to promote appropriate communication for children in legal proceedings, a good partnership approach between the RI and the interviewing officer needs to be developed. Indeed, the RIs indicated that a clearer and more co-operative approach would be advantageous. The investigative officer is, in effect, a gatekeeper to accessing an RI, and the legal professionals have a considerable impact on the investigative interview and trial processes. The RIs reflected on their concerns that there is generally an overestimation of children’s abilities from legal professionals, which, when combined with an overestimation of the questioners’ abilities, can lead to some children failing to receive the necessary communication support. In the current study the RIs are aware that some legal professionals feel that their practice is being criticised, and that acknowledging the need for RI input reflects badly on their skills. However, as RIs are involved in cases that require their expertise in communication needs it is apparent that legal professionals are unlikely to have such specialist skills in all of these areas – thus highlighting the need for a more co-operative working team approach. Once again, during training, legal practitioners should be made aware that the questioning of children, and individuals with vulnerabilities, is a highly specialised skill that requires a collaborative approach from a range of professionals, including intermediaries. This does not mean that any one profession is more important than the other, just that a multidisciplinary approach is necessary to gain successful outcomes.

In the theme of why the assessment process is effective the RIs discussed some of the benefits of the RI assessment process to promote rapport, and to gain understanding of the child and interviewer’s communication skills. The training of interviewers with regards to their understanding of children’s communication capabilities should be addressed through further training and seen as a positive step towards promoting justice. The adherence of interviewers to best practice after training remains an on-going challenge in this field (Powell, Wright, & Clark, 2010). But training alone, whilst supportive of greater skill and understanding, should not reduce or negate the need for the involvement of the interviewer in the assessment process. The RIs stated that the best communication outcome for a child occurs when the RI and legal professionals work more co-operatively. This is seen by RIs to be particularly effective in areas not necessarily directly related to communication concerns, such as the building of effective rapport and confidence (Plotnikoff & Woolfson, 2007). Furthermore, it is suggested that the interviewer gains a greater understanding of the child’s communication through observation of the assessment process, and the communication between the RI and child. Future research could examine whether or not interviewer’s judgements about a child’s communication capabilities are better after assessment than versus professional judgement alone.

The most controversial theme elicited from the interviews with the RIs was that of ensuring recommendations are followed through. Although the research evidence (Henderson, 2015) shows legal professionals are overwhelmingly supportive of the RI scheme, the RIs reported a range of responses to their involvement and implementation of their recommendations. Having an RI conduct an assessment is not useful if the findings are not supported, and then followed through by the legal professionals within the limitations and constraints of appropriate legal practice. The ground rules hearings (Cooper, Backen & Marchant, 2015) are felt by the RIs to be invaluable but, in reality, these may not occur or may be carried out late in the process and therefore have a reduced impact (see *R v YGM* [2018] EWCA Crim 2458) for reference to the importance of early ground rules hearings). In addition, whilst legal professionals may gain an understanding regarding a child’s communication needs from reading an RI report; the ‘translation’ of this into practice can be extremely difficult. The RIs in the current study highlight that reviewing the cross-examination questions prior to trial can assist in this process. However, this has to be carried out in a timely fashion in advance of the trial, and with a possible discussion with the advocate, in order for the recommendations to the fully understood. A full understanding of how complex the language of cross-examination is for vulnerable witnesses needs to be communicated in the training of legal professionals.

Furthermore, the judge’s support was highlighted as pivotal to the provision of best evidence. Indeed, some of the RIs in our sample provided good examples of occasions in which the judge had supported their recommendations. For example, in the case of Wills v R [2011], EWCA Crim 1938) a judge supported the use of open questions to cross examine a vulnerable witness and further upheld the recommendation that leading questions be avoided. However, examples from RIs were also provided where the judge was less than helpful. Whilst it is not for RIs or the authors to have control over judicial decisions, we nevertheless recommend that the role of the RI in supporting justice should be a matter for training of all legal professionals. This is because, according to our results, RIs clearly have concerns that interviewers, advocates and judges do not always follow the recommendations of the RI, and this is reported to have had a detrimental impact on the provision of best evidence from children.

Through the theme of ‘practice development’ the need for improved assessment training for RIs was highlighted, with some RIs stating that they received very little guidance on assessment practice at all during their training. It is worth noting that all of the RIs in the current study were trained prior to 2016. Therefore, they would not have experienced the new RI training in its current form. From personal communication with members of the Registered Intermediary Training Group it is clear that two days’ worth of training on assessment process is now included and discussed in relation to police interview and questioning during trial. How the assessment informs all elements of RI practice is further discussed throughout the entire course. Therefore, it is possible that the revised training has now mitigated concerns regarding useful assessment guidance during training.

The participants in the current study did highlight that their assessment practices were informed by the context (either interview or cross-examination) of their interactions with professionals and witnesses. This demonstrates an awareness of how the communication will differ across different contexts and further emphasises the tailored approach of RIs. The RIs described the need for communication aids and how these could be used effectively to assess a child’s understanding. The RIs were confident in producing or using communication aids, some of which were of their own devising. However, there is little mention of the ABE (Ministry of Justice, 2011) interviewing protocol guidance, nor of the potential risk that their assessment practices and communication aids may have in relation to suggestibility (Brown, 2011). Given the concerns generated by research examining some more commonly used communication aids (for example, Bruck et al., 2016; Poole, et al., 2011; Santtila et al., 2004) this raises questions as to their understanding of how communication aids used during assessment and interview may affect children’s recall. This is not to suggest that assessments and aids should not be used, but that training and CPD in these areas will support RI understanding of these complex psychological phenomena so that RIs can make educated decisions about their assessment and practical approaches.

RIs stated that their practice improved through experience and highlighted the positive benefits of support from other RIs. The RIs feel reliant on other RIs to support assessment practice learned through experience. The mentoring of newly trained RIs by more experienced RIs (as suggested in the Ministry of Justice’s most recent Witness Intermediary Scheme annual report, 2019) is now formalised and incorporated as part of the new post training process. It is possible that mentoring will be supportive of higher-quality assessments and potentially reduce attrition in RIs after training. The procedural guidance (Ministry of Justice, 2019) also includes information about quality assurance, but RIs receive little direction or support to ensure that assessment quality is consistently high, and that practice quality is maintained over time. RIs have to dedicate a certain amount of time to CPD on an annual basis and file a report detailing this CPD for review by quality assurance. They must also have a report peer reviewed by another RI. However, whether or not this adequately examines the quality of RI assessment practice is not clear. Instead RIs feel reliant on advice and support from other RIs to generate confidence in their approach to assessment. Given that RIs are independent practitioners, working in isolation, this lack of quality assurance is of considerable concern, not least to the RIs themselves. All of the RIs recruited for training by the Ministry of Justice must have experience in assessing vulnerable people, but whether or not assessment approaches carried out in other settings are suitable for criminal proceedings remains an area that warrants further examination.

The findings of this study have highlighted the need for improved training not only for RIs but also for all legal professionals in the recognition and management of communication needs particular to criminal proceedings It also outlines some areas that require further research to support effective and appropriate working together of legal professionals and RIs, and to promote justice for all.

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