

WITNESS INTERMEDIARY SCRIPT

1. Hi there, my name is Jane and I am a witness intermediary. I have been a witness intermediary in many cases, especially those relating to young children and teenagers.

2. [Leave in but potentially this para won't be read out] My role in speaking to you today is to hopefully give you an insight into:
 - a. What a witness intermediary is
 - b. What our role is
 - c. What we are not;
 - d. What a witness intermediary report is; and
 - e. To provide some practical information to help you and the witness assist the Court as best we all can.]

What a Witness Intermediary is and our role?

3. A Witness intermediary is appointed by the Court to impartially facilitate the communication between a witness and the person asking the witness questions.

4. The aim is to ensure that the witness can provide their best evidence.

5. My role is to help facilitate communication with the witness. I might be involved in the child's interview or interviews with the police, at any mention of the matter in Court where I am asked to be present and during the child's evidence - whether or not that is pre-recorded.

6. We are not volunteers. Intermediaries are paid and are required to come from professional backgrounds such as Psychology, Social Work, Speech pathology, Occupational therapy or Teaching. In addition we are required to undergo specific training and assessment before becoming accredited as an intermediary.

What I am not?

7. I am not instructed as an expert witness. I am not there to conduct the interview or ask the questions, nor am I present as a support person. I cannot give an opinion on the accuracy of a witness's recall of the facts in this case

nor can I give an opinion on whether a witness is telling the truth in their evidence.

8. It is really important for the parties to know that I am impartial. I am there to assist the court in eliciting the best possible quality of evidence from the witness.

What a witness intermediary report is?

9. An intermediary will prepare a report for the Court on the relevant witness.
10. Our report is a summary explaining how the witness communicates and identifying the unique needs of each individual.
11. When I am preparing a report, I am usually asked to address:
 - a. Whether the witness has the ability to communicate;
 - b. If so, how?; and
 - c. The most effective way of communicating questions to the witness.
12. The report will be specific to the witness who is to be questioned.
13. The report will address the witness's ability to communicate including their use of language but also their ability to understand language. The witness intermediary will consider both the reading and writing ability of the witness and their non-verbal communication. They will give an opinion on the ability of a witness intermediary to be able to assist the witness in communicating.
14. There may be other issues that are relevant to the witness's ability to communicate, for example due to a disability or their education background. These could also include social, cultural, and mental health issues.
15. Other recommendations that might be made will be practical ones like:
 - a. Where I should sit while the questions are being asked. It might be necessary to sit next to them to be able to see if they are having any difficulties understanding questions;
 - b. When the witness might need to have a break. Even though a witness might continue to answer questions, it can be obvious to the intermediary that they have lost concentration and are not providing their 'best evidence' in the circumstances;
 - c. Whether a communication aid is required (for example a body map, stress ball or doll);

- d. The way the intermediary will intervene if necessary. In the report I usually suggest that I put up my hand and say “Your Honour”. What comes next will depend of what the problem appears to be, but it might be a reminder not to use tag questions “Your Honour can counsel please not use tag questions?”. It might also require a suggestion about what needs to be done, for example “The witness doesn’t understand before or after, so perhaps use a timeline”;
 - e. That the judge and advocates do not wear wigs or that people are referred to by their first names.
16. The intermediary will set out specific information in the report which is relevant to the questioning of the witness. This information will likely include:
- a. The questioning recommendation;
 - b. The suggestion for the questioner; and
 - c. The rationale for these points.
16. The report is provided to the court and the advocates before the witness is examined in Court. This gives everyone a good opportunity to consider the recommendations in it and to prepare their questions having regard to them.
17. These recommendations set out clear parameters for the questioner so that they can prepare the questions they need to ask. It should include examples of the types of questions that are going to be most effective in getting responsive answers from the witness.
18. The report will be used and discussed by you and your opponent in the Hearing before the Judge about the report. This is often referred to as the Ground Rules Hearing.
19. It is very important for you to be across the report.

Some other Practical Information?

20. Advocates are invited to contact the witness intermediary before the hearing if they need to discuss matters that it raises. We also encourage you to show the intermediary all or any questions you may have for the witness. These would not be disclosed to anyone. This would allow the intermediary to assist you in whether or not the witness will be able to understand and respond to them. This has the advantage of limiting interruptions during the court proceedings.

21. The witness intermediary is an officer of the court. Our role is to ensure the witness is able to give their best evidence. As the questioner you can assist this process by appreciating that we are not trying to stop you from asking questions. It is not the role of the witness intermediary to interrupt the flow of examination in chief or cross-examination or having realised where the questioner is going with their questions, to try anticipate that for the witness and deflect or defeat the purpose of the questions.

22. The witness intermediary is there to assist the witness to give their best evidence and this is all about ensuring the witness is able to communicate with the person asking those questions, either in understanding what is being asked of them or in giving an answer to the questions asked.

End

23. Thank you for you listening and good luck.