

Department of Justice

Northern Ireland Registered Intermediaries Schemes Pilot Project

POST-PROJECT REVIEW

January 2015

Table of contents

	Page
Management summary	3
Introduction	5
Introductory note	5
Background	5
Project management	6
Overview of pilot	8
Post-project review (PPR) methodology	9
PPR scope and constraints	10
Findings	11
Monetary costs and benefits	11
Non-monetary costs and benefits	15
Unexpected benefits	18
Issues for consideration	20
Uptake and costs	20
Funding of cases	20
RIs' role at court for evidence giving	20
Court defendant supporter	21
Ground Rules Hearings	21
Awareness of the RI Schemes	22
Training	24
PACE Codes	25
Role of social workers	26
Ability of cases to go forward	26
Timing of cases	26
Access to reports that RIs use	27
Registered Intermediaries (RIs)	27
Intermediaries Schemes Secretariat (ISS)	28

RI and civil proceedings	28
Way forward	28
Appendices	30
Appendix A: Overview of RI Schemes Pilot's statistics	30
Appendix B: Issues for consideration	33
Appendix C: Acknowledgements	35

Management summary

If victims are not able to be interviewed or suspects cannot give a proper account of events, it can make it more difficult to investigate crimes and manage cases in court. In some instances, offending behaviour may go unchallenged, putting others at risk, or the rights of the defendant may not be fully upheld - neither scenario is acceptable in a modern justice system.

It is right, therefore, that people with complex communication difficulties are given a voice and the opportunity to tell their story. They can now be helped to do this following the introduction of Registered Intermediaries (RIs), who are communication specialists, into the criminal justice process in May 2013.

During the course of the 18-month pilot, 260 requests for an RI were made. 200 requests were for victims, 16 for prosecution witnesses, 32 for suspects and 12 for defendants (see **Appendix A** for further detail). The requests were primarily from police officers to assist with interviewing victims. The feedback from officers and others who requested an RI was very positive, with good working relations established between the RIs and criminal justice practitioners. There were, in particular, many examples of full disclosure being obtained from a victim where this previously may not have been possible due, for example, to their young age or learning disability.

One unique aspect of the RI Schemes pilot in Northern Ireland was that RIs were made available to facilitate communication with suspects at the police investigative stage. There were 32 requests made (by the police) in respect of suspects and in none of these cases did any issues arise of which the Department of Justice is aware. The RI Schemes enabled suspects to participate effectively when being interviewed by the police. It is, therefore, concluded that the pilot worked well in this respect.

While 37 requests were made for an RI at court stage, there were only four cases in which an RI facilitated communication at the trial during the pilot. The four vulnerable persons were victims, with no defendants giving evidence in court with RI assistance during the period. Only 12 requests for an RI were made by solicitors despite predictions, both prior to and during the pilot, that numbers would be high – of these there was a guilty plea in five cases. The reason for the low number of requests has not yet been established; some respondents offered the view that this was due to low levels of awareness of the RI Scheme for defendants, though (as set out on page 23), considerable effort was made to raise awareness. The feedback from those solicitors who worked directly with RIs has been positive.

More generally, as the pilot project has progressed and through this evaluation, the Department has considered and addressed issues raised by those availing of the RI Schemes. This report also considers wider issues that have been brought to the Department's attention.

The Judiciary has shown an active interest in the pilot and the RI Project Team has benefitted from the opportunities to provide briefings on the operation of the RI Schemes. The Lord Chief Justice, during a keynote speech at a Vulnerable Witness Conference hosted by the Institute of Professional Legal Studies in November 2014, stated that he fully supported the use of RIs in Northern Ireland and envisaged that they will form part of the justice system for the foreseeable future.

There is clear evidence that the RI Schemes can give vulnerable people a voice, protection and the access to justice to which they are entitled, and the RIs, through their professionalism and expertise, have shown why they should be an integral part of the justice process. The pilot has proven that the RI Schemes work well at the police investigative stage. However, with limited experience at court, the full potential of the RI Schemes has not yet been demonstrated. It is, therefore, proposed that a further phase of the pilot should be undertaken from April 2015 for 12 months. After this time, the pilot should be re-evaluated to inform key decisions in relation to the future direction of the RI Schemes. In view of this, the Department should continue to have oversight of the RI Schemes until a further evaluation is completed. The Department also proposes, in response to feedback received during the evaluation process, to bring hybrid cases in the Crown Court within the scope of the next phase of the pilot.

Introduction

Introductory note

1. This report is a product of the Northern Ireland Registered Intermediaries Schemes (“the RI Schemes”) Pilot. The evaluation was undertaken by the Department of Justice’s (the Department) Victims and Witnesses Branch on behalf of the RI Project Team and the Vulnerable Individuals Steering Group (VISG), which provided oversight of the pilot. The primary aim of the evaluation was to review the RI Schemes pilot generally to assess its effectiveness and value to the criminal justice process. An additional purpose of the pilot was to allow for an assessment of uptake and associated costs of providing Registered Intermediaries (RIs). The report will be used by the RI Project Team and VISG to inform decisions on the future of the RI Schemes from April 2015.

Background

2. Following the devolution of justice in 2010, the Department gave a commitment in its Victim and Witness Strategic Action Plan 2010-11 to develop a model for the provision of intermediaries for particularly vulnerable victims and witnesses. The function of an RI is to facilitate communication during the police investigation and at trial between a person with significant communication deficits and others in the criminal justice process. RIs are professionals with specialist skills in communication, coming from backgrounds such as speech and language therapy and social work. They are required to pass accredited training at Masters level, are bound by a Code of Practice and Code of Ethics and are subject to a complaints procedure. Taken together, this ensures that RIs have the necessary skills to assist those with communication difficulties to give their evidence.
3. The options for the provision of an RI Scheme to help vulnerable victims and witnesses were initially considered by the inter-agency Victim and Witness Steering Group, informed by the scheme in place for witnesses in England and Wales. In developing plans for that scheme, and following helpful discussions with the Office of the Lord Chief Justice, the decision was taken also to cover vulnerable defendants, so as to ensure equality of arms. Since no formal scheme existed elsewhere for defendants, which made it difficult to assess the likely uptake and associated costs, it was agreed to pilot RI Schemes for victims, witnesses and defendants in a discrete geographical area for 18 months from 13 May 2013. The area selected was initially the Crown Court sitting in Belfast for offences that were triable only on indictment and had occurred in the Belfast district council area. This was subsequently extended to all of Northern Ireland

from November 2013 in order to help provide sufficient cases for a proper evaluation of the effectiveness of the RI Schemes.

4. The relevant legislative provisions relating to the use of an intermediary for vulnerable individuals is provided for in Articles 17 and 21BA of the Criminal Evidence (Northern Ireland) Order 1999, as amended by the Justice Act (Northern Ireland) 2011. These provide that an application for an intermediary may be made where their use is likely to improve the quality (completeness, coherence and accuracy) of the evidence given by a witness. For a defendant, this would apply where their use would enable a defendant to participate effectively as a witness giving oral evidence in court and also help to ensure a fair trial. It is, of course, for the Judge to decide if an application for an intermediary is granted,
5. When setting up the RI Schemes pilot, the Department was aware that in England and Wales, in the absence of a formal RI Scheme for defendants, an RI was often appointed for the duration of the trial, rather than for oral evidence only, as anticipated in the uncommenced provisions in the Coroners and Justice Act 2009. The Department considered that the RI's role is not to provide support for a defendant during a trial as they are officers of the court and must be neutral, impartial, objective and transparent in all that they do. If an RI were to support the defendant for the duration of the trial, this would be in breach of these principles of practice and they could be perceived as then acting for the defence. Importantly, there are others capable of fulfilling this support role, which does not require the expertise of an RI. During the pilot there have been instances where this function has been undertaken, for example, by family members, carers or a defence legal team member.
6. Ideally, in our view, such general support should be provided by someone with whom the vulnerable person already has a relationship of trust and a strong rapport. However, there may be circumstances where an appropriate person to provide such support is not available. For this reason, the Department approached MindWise, the organisation that provides the Appropriate Adult Scheme, and they agreed to act in this role, which is referred to as a "court defendant supporter", where requested for the purposes of the pilot. The use of this facility was also considered as part of the evaluation.

Project management

7. The set up and delivery of the pilot was managed by an inter-agency team, with Victims and Witnesses Branch developing the necessary project initiation document. The objectives of the project were as follows:

- plan for the establishment of the RI Schemes;
 - deliver the products necessary to establish the RI Schemes;
 - have the RI Schemes operational within one week of Criminal Justice Bill (which contained a minor amendment to the legislation governing the RI Schemes) being given Royal Assent; and
 - evaluate the project by January 2015.
8. The key deliverables for the project were:
- producing a paper detailing the intent of the RI Schemes and how they will operate;
 - developing process maps for the operation of the RI Schemes;
 - making the necessary additional legislation;
 - recruiting and training professional communication specialists as RIs;
 - training and awareness-raising for practitioners (i.e. criminal justice organisations and other relevant partners);
 - producing guidance for practitioners and RIs; and
 - evaluating the project.
9. The key milestones of the project were as follows:
- recruitment campaign launched – 23 August 2012;
 - product owners have detailed plans drawn up on how they were going to deliver their products – 31 October 2012;
 - paper detailing the RI Schemes' extent and procedures produced – 31 October 2012;
 - accredited training course – 6 December 2012;
 - the RI Schemes launched – within one week of Criminal Justice Bill being given Royal Assent; and
 - evaluation report received – January 2015.
10. The project was authorised by Maura Campbell, Deputy Director, Criminal Justice Development Division, DOJ, who was the Senior Responsible Owner for the project. A Project Team was established, made up of representatives from the DOJ, the Police Service of Northern Ireland (PSNI), the Public Prosecution Service (PPS), the Northern Ireland Courts and Tribunals Service (NICTS), the Public Health Agency, the Child Safeguarding Board Education Committee, Victim Support NI (VSNI), the NSPCC and MindWise. Veronica Holland, Head of Victims

and Witnesses Branch, chaired the Project Team and the project lead was Norma Dempster in Victims and Witnesses Branch. The Vulnerable and Intimidated Witness Working Group initially acted as the RI Project Board, though this work was latterly subsumed within the VISG.

11. The RI Project Team met 13 times between 19 September 2012 and 30 September 2014. At these meetings, updates were provided, progress monitored, issues addressed and risks assessed.

Overview of pilot

12. The pilot commenced on 13 May 2013 in the Crown Court sitting in Belfast for offences that were triable only on indictment and had occurred in the Belfast district council area.
13. However, following an approach from the police and PPS, it was agreed that the Intermediaries Schemes Secretariat (ISS) would provide the matching service for an RI for particularly meritorious cases that fell outside the scope of the pilot, provided that the organisation making the request met the RI's fees. From the start of the project to 10 November 2013, 31 "out of scope" requests were made and between 11 November 2013 and 10 November 2014, 73 out of scope requests were received.
14. Due to the low number of referrals within the scope of the pilot (six), it was decided to extend it to all Crown Courts from 11 November 2013 in order to have a sufficient number and range of cases to evaluate the pilot effectively. Between 11 November 2013 and 10 November 2014, 150 referrals within the scope of the pilot were made.
15. The majority of the requests came from the police in respect of victims. The biggest category of vulnerability was learning disability, followed by young age and autistic spectrum disorder (ASD). It is thought that the high proportion of referrals for those with ASD may, in part, have been as a result of increased practitioner awareness following recent initiatives, such as the publication of the autism guide for criminal justice professionals (produced in association with the National Autistic Society) and a significant programme of training delivered by Autism NI, as part of the Department's contribution to the cross-departmental Autism Strategy published by DHSSPS in January 2013. Three-fifths of the requests were in respect of children, three-fifths were male and three-fifths were for alleged sexual offences. An overview of the RI Schemes pilot's statistics is at **Appendix A**.

16. In the first six months of 2014, 4.25 referrals were being made on average per week. It was, therefore, decided to launch a second campaign to recruit a further cohort of RIs. Following the successful completion of the accredited training in October 2014, 11 additional persons were registered as intermediaries, bringing the total to 20.
17. While the pilot period ended on 10 November 2014, the RI Schemes will continue until the pilot is evaluated and the way forward agreed.

Post-project review (PPR) methodology

18. Terms of Reference for the evaluation of the RI Schemes pilot were agreed by the RI Project Team.
19. As part of the evaluation of the effectiveness of the pilot, there were a number of areas for particular consideration, including:
 - ISS performance;
 - the views of those requesting an RI (Police, PPS and defence solicitors);
 - Judges' views on RIs;
 - RIs' views on their role;
 - the use of RIs when suspects are interviewed;
 - Ground Rules Hearings; and
 - how the pilot performed in respect of procedures put in place for defendants.
20. A document review, using the following resources, informed the evaluation:
 - Project Team minutes;
 - the RI case tracker¹;
 - RI evaluation forms (RIs had to complete one after each case);
 - feedback forms from those requesting an RI (they were also asked to complete one after each referral); and
 - a review of audio transcripts of court cases which involved the use of an RI.
21. Four multi-agency focus groups, made up of persons who had direct experience of working with RIs, were held on 20 and 21 October 2014 in Belfast and Antrim respectively. There was representation from PSNI, PPS, NICTS, VSNI's Witness Service and the NSPCC's Young Witness Service. Areas to be explored during

¹ The RI case tracker recorded details, such as date of match, date feedback forms were received, costs, etc.

the focus groups were shared with participants in advance to assist with preparation.

22. Written input was received from the Judiciary through the Office of the Lord Chief Justice and the first cohort of RIs also provided written input, reflecting on their 18-months working as RIs. A meeting was held with MindWise to review the court defendant supporter role. Feedback was also invited from social workers who had participated in joint protocol interviews with PSNI officers.
23. Views on the RI Schemes pilot were sought at a Vulnerable Witness Conference, which was hosted by Queen's University Belfast's Institute of Professional Legal Studies on 12 November 2014. A key theme running throughout the day was the role of RIs and feedback provided at the conference helped inform the evaluation. The Institute also provided helpful real-time feedback during the pilot.

PPR scope and constraints

24. The evaluation focuses on those cases within the scope of the RI Schemes, that is offences that were triable only on indictment. As noted, an RI was also provided for a number of "out of scope" cases, and it was agreed that the evaluation would be limited to summarising the statistics, including costs, in respect of such cases.
25. Feedback from solicitors was limited for the following reasons: not all solicitors returned the End-user evaluation forms; feedback was not requested from those solicitors who worked with RIs in cases where the PPS was the End-user; and only one solicitor accepted the invitation to participate in a focus group but, in the event, was unable attend.
26. It was also agreed that we would not seek vulnerable persons' views of the RI Schemes directly. This position was adopted in order not to give rise to confusion about the role of the RI (i.e. they act as impartial officers of the court, not as "supporters"). It was also deemed impractical given the communication difficulties of the individuals involved. Views provided by those supporting, caring for or representing vulnerable persons have been considered.
27. It was not intended that the evaluation would cover the RI recruitment and appointment process and training. Given that these were based on that in place in England and Wales, it was not considered that these aspects would materially add to the evaluation.

Findings

Monetary costs and benefits

Monetary benefits

28. There were no monetary benefits realised at the investigative stage and, indeed, none were anticipated by the RI Project Team. However, it could be considered that there were monetary benefits at the court stage. While numbers are low, there is some evidence from the pilot that some defendants pleaded guilty on the day of trial when they saw that the vulnerable witness was present in court and prepared to give evidence with RI assistance. This view has been expressed by both police and barristers. There was, therefore, likely to have been some saving in the cost of trials.

Barrister. The appointment of an RI was a key element in achieving a conviction as the granting of the special measures undoubtedly persuaded the accused that the vulnerable person would be able to present his evidence to the court.

Monetary costs

29. The Department was responsible for paying for the costs of referrals inside the scope of the pilot, practitioner training (including Panel Counsel) and two RI recruitment and training campaigns. It also provided the ISS (one Deputy Principal full-time and, following the increase in the number of referrals, one Executive Officer part-time from July 2014). One of the roles of the ISS was to provide 24-hour cover should an RI be required urgently, for example due to the vulnerability of the victim, the nature of the offence (e.g. serious sexual assault) or because a suspect needed to be interviewed within PACE time constraints. The on-call cost was £52.50 per standard week (i.e. one where there were no public holidays, etc.).
30. An aim of the pilot was to assess uptake and associated costs of providing RIs, in particular for defendants. The average costs for the period of the pilot are set out below.

	Number of referrals	Average cost per case	Total cost ²
Victims & witnesses (police stage)	191	£590	£112,690
Victims & witnesses (court stage)	25	£1,117	£27,925
Suspects (police stage)	32	£560	£17,920
Defendants (court stage)	12	£468	£5,616

31. **Uptake for defendants:** It is unclear why there were significantly fewer referrals in respect of defendants than suggested at the scoping stage (one school of thought was that up to 70% of defendants would need RI assistance). The reason for the limited number of referrals was explored at the Vulnerable Witness Conference but no clear conclusion was reached. One factor may be that particularly vulnerable defendants are often deemed not fit to plead, in which case the court may proceed to hold a hearing for the purposes of determining if the defendant committed the relevant act. There may also be a reluctance to use RIs given the newness of the RI Schemes. Some firms may not yet be fully familiar with the purpose of the RI Schemes, despite efforts being made to publicise them (see page 23). However, those solicitors who actually worked with an RI reported favourably on the RI Schemes. Uptake for defendants is an area that will need further attention, so that we can more accurately estimate future referral numbers for defendants.

Solicitor: The RI was extremely flexible and the service very efficient.

32. **Costs for defendants:** The small number of referrals for defendants makes it difficult to estimate future costs. This is exacerbated by the following:
- four cases were on-going at 10 November 2014;
 - one defendant was assessed by the RI as not requiring assistance to communicate;
 - one was found not fit to plead;
 - the charges against one were withdrawn;
 - the jury was directed by a Judge to acquit one defendant;
 - one pleaded guilty before the trial began; and

^{2 2} Based on an aggregated average.

- four pleaded guilty to lesser charges.

Therefore, an RI has not yet assisted a defendant to give oral evidence. The average RI cost per case during the pilot for defendants was £468 (based on six cases).

33. In assessing costs, it is suggested that the cost of RI assistance for vulnerable defendants could be based on the average cost of an RI assisting a prosecution witness to give evidence as the process is similar. This cost is an average of £1,117 per case.
34. Estimating numbers for defendants remains problematic. It is estimated that, at the lower end of the range, costs could be in region of £13,404 annually if the number of referrals continues in line with the experience of the pilot, at approximately one referral per month. In estimating costs at the upper end of the range, we could estimate on the basis of a pilot of the Royal College of Speech and Language Therapist's communication screening aid, "the Box", which found that 22% of young people (17 in total) may have needed specialist speech and language therapy support. Based on this, it could be estimated that 327 defendants may need RI assistance per annum, at a cost of £365,259. We consider that annual costs at these extremes are unlikely.
35. In terms of the range of costs, the Department considers that uptake is likely to be closer to the lower end, though higher than at present. A correlation could be made between the referrals for RI assistance for suspects who then go on to become defendants. There were 32 referrals for suspects during the pilot. This would cost £35,744 per annum. We consider that this may be more representative of likely defendant costs. However, given the range of estimated costs, a further period to gauge uptake and, therefore, associated costs may be required.
36. Four requests were made for MindWise assistance during the pilot to provide the court defendant supporter role, the cost of which (approximately £800 in total) came from their charitable income. In two cases, the trial did not proceed so the supporter was not needed in the event. In the remaining two cases, support was provided (in one of these cases, the request was made for MindWise assistance only and not for an RI as the defendant was not giving oral evidence). In both cases, the feedback on the MindWise assistance was very positive, including from the defendants, who welcomed being helped by a compassionate but independent person. Solicitors considered that the primary benefit of the court defendant supporter was to help the defendant to understand what was happening as the trial process is complex. The emotional support was considered helpful too.

Solicitor. I would welcome the use of MindWise again as my experience of the organisation has been nothing but excellent. I would like to thank MindWise for taking such an interest in [name of defendant] case and for making [name of court defendant supporter] available to us. She has been integral in helping our client understand what is going on around him, which I think also impacts on his Human Rights and enabling him to have a fair trial.

37. **Costs for suspects:** As part of the pilot, RIs were also available to facilitate communication with suspects with significant communication difficulties, in order to enable them to participate effectively in giving evidence. Thirty-two referrals were received during the pilot at an average cost of £560 per referral. As with defendants, it is considered that the number of suspects typically likely to require RI assistance may be higher and that further assessment of this should be undertaken.

Police officer. The interview proceeded in a way that the suspect could understand and allowed him to give an account that he possibly would not have been able to before.

38. **Uptake and costs for victims and prosecution witnesses:** While the number of defendants using an RI was lower than estimated in the business case, the number of referrals for victims/prosecution witnesses (216) was significantly greater than anticipated. While the Department considers that RI referral levels are more reflective of likely demand for victims and witnesses, this will continue to be monitored. The average cost per referral at the investigative stage was £590 and £1,117 at the trial stage. From 1 January to 10 November 2014, 4.5 requests for an RI were made on average per week. Given that this trend has been steady for that period, this allows for a reasonably accurate prediction of future costs with regard to victims/witnesses.
39. **Unplanned costs:** There were unplanned costs for the Department which arose during the course of the pilot. One was paying the RIs' fees for giving presentations on the RI Schemes pilot to raise awareness of it. However, the presentations were very helpful in that they gave an opportunity to share learning and good practice from the pilot on an on-going basis. Between September 2013 and 10 November 2014, 27 RI presentations were given at PSNI and joint protocol social worker training across Northern Ireland. In addition, presentations were given at NSPCC training sessions, a PSNI Autism Conference, a Disability Action event, a Belfast Child Care Centre training day and Belfast Trust's Adult Safeguarding event.

40. The Department supported the continual professional development (CPD) of the RIs. For example, it funded their bi-monthly Regional Support Group meetings, attendance at CPD Days for RIs in England and Wales, participation in the Vulnerable Witness Conference workshops and a multi-agency study day, focusing on ABE interviews. The Department also provided a range of standardised tests and other assessment aids for RI use.

Non-monetary costs and benefits

Non-monetary benefits

41. There is no doubt that access to justice for vulnerable people has been increased. Police officers, with the assistance of RIs, are now able to interview individuals with significant communication difficulties where previously this may not have been the case. The pilot has demonstrated that there are numerous examples of cases of alleged crimes being committed against very vulnerable people, perhaps targeted due to their vulnerability and perceived inability to communicate, that are now being forwarded to the PPS with a view to prosecution.

RI: Everyone in the Health Service was sceptical as to whether this lady could give evidence given her level of learning disability, communication difficulty and challenging behaviours. Despite constant opposition, PSNI 'stuck with it' and pursued until they were in position to do the interview which went better than anyone expected and she gave more evidence than was expected.

42. The pilot has also shown that there are vulnerable suspects and defendants for whom the use of an RI has helped them during the criminal justice process.

Solicitor: The service provided by the RI is worthy of the highest commendation.

43. As can be seen from the paragraph 41, the non-monetary benefits of the pilot were significant for the PSNI. In the feedback forms and focus groups, officers were unanimous in their praise for the RIs, regardless of the outcome of the investigation. They reported that they sometimes felt overwhelmed by what they were presented with (in terms of the person's communication difficulty) but that RIs have helped them overcome this. The different disciplinary perspective which the RIs brought was very helpful for officers, with new ideas, skills and knowledge being shared and approaches tried in order to facilitate a vulnerable person to give their best possible evidence. The Minister, in his speech at the Vulnerable Witness Conference, highlighted a case where parents and staff in a care home

told the police that it was pointless trying to talk to a victim of alleged sexual assaults as he had extremely limited communication due to a brain injury. However, the police requested an RI and she was able to facilitate communication with the victim to the surprise of those who cared for him.

Police officer: Had it not been for [name of RI], we would not have had the opportunity to communicate with a potential victim. We were able to get a clear understanding of his willingness and ability to engage and understand. I have also had feedback from [name of vulnerable person] parents who greatly appreciated [RI's] input.

44. The RIs too have consistently praised police officers for embracing the pilot and being very supportive and welcoming of the RI role and for allowing innovative and creative practice in order to enable a victim to tell what happened to them.

RI: I have found them to be accommodating, flexible and open to adopting new ideas.

45. **Access to justice for young children:** Amongst the most vulnerable people who were increasingly now being given the best opportunity to say what happened to them were pre-school children. During the course of the pilot, approximately 54 requests (just over 20% of requests) were for an RI to facilitate communication with children aged between 2 and 5 years of age.

Police officer: The RI assisted me greatly to enable me to gain a free flowing account from very young children.

46. Of referrals received, approximately one third resulted in a file being forwarded to the PPS with a recommendation for prosecution. In one third of the cases, there was no/insufficient disclosure. This was for a number of reasons, including it being established that a crime had not occurred but the police (and parents) were appreciative of the opportunity to establish this fact (this was particularly true of investigations involving young victims) or the vulnerable person refusing to talk during the interview - again this was particularly true of children. However, while in many cases there was insufficient evidence for a prosecution, there was often sufficient evidence to put child protection measures in place. Finally, a third of cases did not proceed to interview. Again, there was a variety of reasons for this, including the parents refusing to give consent for the interview to take place; victims not wanting to pursue the complaint; or the victim's communication

difficulty was too severe. However, in cases that did not proceed to the prosecution stage, police feedback on using an RI was still positive.

Police officer: I felt it was a worthwhile exercise despite [name of victim] not engaging. Through use of RI, police suspicion [was confirmed] that [victim] was actively refusing to engage rather than through a lack of understanding or not having the appropriate language skills.

47. **Impact on family members/carers:** Another non-monetary benefit that has been reported was the impact on parents and carers. They were now reassured that, working together, the police and specially trained RIs, who recognised and understood the communication difficulty, would take the time and put in the effort to give vulnerable victims every assistance to tell what happened to them. In one example, a victim's mother cried and thanked the RI following the final ABE session when she realised that her daughter had been able to tell her story and had been taken seriously by the police. Parents also were happier and felt more confident when an RI was involved which conveyed itself to the victim, who was less anxious as a result and able to give better evidence. Even in cases where the communication difficulty proved too severe, parents and carers appreciated the police bringing in an RI to explore all the possibilities.

RI: While disappointed with the outcome, [Mum] was very appreciative of the support she had received from Con. K and, in particular, that he had taken her initial complaint seriously. She had not expected this, as she said that she had lost faith in those who were supposed to support her in her care of [her daughter]. She added that, by taking her concerns seriously and, furthermore, seeking assistance from me as an RI, Con. K had provided [Mum] with some measure of reassurance that, despite her daughter's extreme vulnerability, she now knew that she would be supported, should any future issue of concern arise.

48. **Improved engagement in the criminal justice system:** There has been limited experience of RIs assisting a vulnerable person to give evidence in a trial (four cases, all involving victims). Of the remaining referrals from the PPS:
- ten were on-going at 10 November 2014;
 - eight pleas were entered before the trial;
 - the PPS offered no evidence in one case; and
 - in two cases³ an application for an RI was not, in the end, made by the PPS.

³ In one case, the need for an RI was borderline and in the other, the application would have resulted in an adjournment which was not in the victim's best interest.

However, some non-monetary benefits have been seen. There have been several examples of cases where vulnerable victims have remained engaged in the criminal justice process and attended court ready to give evidence in the knowledge that they will have assistance to give complete, coherent and accurate evidence. In one case, the defendant asked for a re-arraignment after the victim gave his evidence and pleaded guilty. The Judge later described the RI as “magnificent”. There could potentially be an increase in the number of individuals who are pleading guilty before the trial, reducing the impact on victims, speeding up the progression of cases and also potentially reducing costs in the longer term.

PPS: An otherwise impossible prosecution was proceeded with through the court and the defendant, who undoubtedly thought his victim would never withstand the rigours of court process, let alone communicate effectively his account of sexual assault, was brought to justice.

Non-monetary costs

49. There were unexpected costs to the PSNI (and, if a joint protocol interview, to social workers) in terms of time spent interviewing some very vulnerable victims. Depending on the degree of communication difficulty, three or more Achieving Best Evidence (ABE) interviews may have been needed. More time was also needed preparing for interview, especially where communication aids, such as “talking mats”, were required. It was the benefit of taking time to prepare for the interview with officers that RIs found to be the biggest learning point from the pilot (in fact, they described planning meetings as neither “optional nor a luxury”). However, given that in almost all of the most complex cases encountered during the pilot, full disclosure was made enabling a file to be forwarded to the PPS, the benefits outweighed the costs. For example, in a case where the police tried unsuccessfully on three occasions to interview a victim and then brought in an RI which resulted in a further three ABEs, one police officer reported that:

Police officer: We got a statement of complaint; the assistance from the RI was vital in this.

Unexpected benefits

50. There were several unexpected benefits from the pilot. One of the RIs raised the issue of adult furniture being used to interview children and pointed out that this was not conducive to the most effective communication. As a result, child-friendly furniture was purchased from the Victims of Crime Fund for five interview suites

across Northern Ireland.⁴ In addition, the RIs assisted police officers at the clarification/pre-interview assessment (PIA) stage. In particular, they helped to explain the court process to victims using communication tools which they compiled and they provided communication aids to assist the police to cover truth and lies with children. The RIs also provided advice to police officers on explaining the caution to suspects.

51. **Improved communication skills:** Police officers have reported that they have improved their communication skills through observing the RIs. In addition, as a police officer is required to be present during the RI's assessment, they also reported that this presented them with a further opportunity to establish rapport with the victim, which was helpful. Those requesting RIs have also indicated that the RI reports are helpful, in terms of issues to be aware of when communicating with vulnerable people more generally.
52. **RI use at magistrates' court:** It was considered that any use of an RI in the magistrates' court would be dealt with on a case by case basis. There was one instance where a District Judge considered the RI's court report and indicated that an RI could assist a vulnerable victim to give evidence. However, following subsequent discussions, the defendant entered a guilty plea negating the need for evidence to be given by the victim.
53. **Information dissemination:** The uniqueness of a formal RI Scheme for defendants resulted in requests for information and invitations to speak at events, for example from the Prison Reform Trust in England and the National Criminal Justice Forum for Scotland (the Supporting Offenders with Learning Difficulties (SOLD) Network). Invitations were extended to (and accepted by) colleagues in the Republic of Ireland's Department of Public Prosecutions to attend practitioner training events as they do not yet have an intermediary scheme and could learn from our experience. An Acting Assistant Solicitor (Legal) from the New South Wales Office of the Director of Public Prosecutions came to Northern Ireland in September 2013 and met with officials, practitioners and RIs as part of her research project investigating models of intermediaries in the criminal justice system.

⁴ Money collected from the offender levy forms a Victims of Crime Fund, which is used to provide services for victims and witnesses of crime.

Issues for consideration

Uptake and costs

54. Despite some predictions that a high number of vulnerable defendants would need RI assistance, and an estimate that potentially one in three defendants would need RI assistance, this did not materialise. However, it is not considered that the number of requests for an RI for suspects and defendants received during the pilot is a true reflection of those likely to need assistance. Given this, **the pilot RI Schemes should be extended in order to provide better estimates of likely defence uptake and costs and ensure that future budget forecasts are as accurate as possible.**

Funding of cases

55. Cases within the scope of the pilot were funded by the Department, with money being made available to PSNI and PPS to fund out of scope cases from the Victims of Crime Fund. There was concern expressed during the focus groups that, if responsibility for funding the RI Schemes was transferred to the PSNI and PPS, it may be more difficult to get authority to use an RI, potentially adversely impacting on access to the RI Schemes. In view of these concerns, the Department is looking into contributing towards funding the RI Schemes in 2015/16, if money can be made available from the Assets Recovery Community Scheme. **Options for funding of the RI Schemes beyond 2015/16 should be explored.** For example, some of the savings made from the proposed amendments to the Criminal Damage and Criminal Injury Compensation Schemes may allow for future extension of the RI Schemes into other court tiers. The timing of this, and the level of any savings available, would have to be considered further.

RIs' role at court for evidence giving

56. The Department is aware that there remains a view among some practitioners that some vulnerable defendants may need RI assistance for the duration of their trial, for example if they are on the cusp of not being fit to plead. However, having reflected carefully on the role of the RI and the role provided by MindWise, the Department remains of the view that the RI's neutrality is an important factor in gaining their acceptance by all parties in a court case. It is also an important consideration too for the police when they request an RI to assist with a suspect's interview as they have, to quote, "no ulterior motive". Neutrality could surely be called in to question if an RI was writing notes to a defendant or using pictures/diagrams to assist them to follow what was going on but these

communication aids were not visible to the court, only the defendant. Importantly, the role of supporter is not considered to be an appropriate one for an RI.

57. In addition, a recent case in England and Wales seemed to align with the position taken by the Department that an RI should be provided only for oral evidence. In *R v Secretary of State for Justice and Cheltenham Magistrates' Court and Crown Prosecution Service and Just for Kids Law (intervener) [2014] EWHC 1944 (Admin)*, the Divisional Court (Rafferty LJ and Collins J) set aside a decision by the Ministry of Justice not to allow the claimant access to an RI to assist him at his upcoming trial, the magistrates having already ordered that one be appointed. The Divisional Court found that a defendant when giving evidence should be in the same position as a witness for the Crown in being assisted by an RI matched by the Witness Intermediary Scheme. The Court was not, however, persuaded that it was essential to have an RI available to all defendants throughout a trial. They found (paragraph 35) that this was a task “readily achievable by an adult with experience of life and the cast of mind apt to facilitate comprehension by a worried individual on trial”.

Court defendant supporter

58. In response to concerns that some vulnerable defendants may need support for the duration of their trial, the Department put in place a process where the RI would facilitate the giving of oral evidence, as provided for in the legislation, and MindWise would provide a court defendant supporter where no other appropriate adult was available. However, during the course of the last 18 months, this arrangement has not been sufficiently tested (due to low numbers) and, therefore, it is too early to make future predictions about likely uptake of this service. **Given that the RI/court defendant supporter partnership has not been sufficiently tested (due to low numbers), this process should be given a further opportunity to be used in practice.**
59. If this recommendation is accepted, **consideration needs to be given to funding the provision of court defendant supporters from April 2015.**

Ground Rules Hearings

60. From England and Wales' RI experience, one practice which proved to be very helpful was a Ground Rules Hearing (GRH) before the trial commenced. The purpose of the GRH is to discuss and agree the recommendations in the RI's court report. They are a legislative requirement in England and Wales. The judiciary in Northern Ireland were of the view that the GRH should not to be a mandatory requirement but rather viewed as a helpful process. There was initial concern that

this may be a weakness in the process and that a GRH may not be held. However, during the pilot, it was noted that GRHs took place before each trial was scheduled to start.

61. As understanding of the purpose of the GRH grew, these increasingly became more effective. During the evaluation period, there have also been significant changes, as the RI Schemes have bedded in, in terms of the GRH content. The court now tends to have RIs more actively involved in a GRH, with their views sought. There is also increased understanding of the benefits of the report's recommendations, in terms of how best to communicate with a particularly vulnerable person. This can be best summed up by one case in which the Judge indicated that, while he would ultimately have the final say, the RI was the best person to "call the shots" in terms of communication advice.
62. Feedback from the RIs indicated that they found the GRH most helpful as it gives them an opportunity to explain what the vulnerable person's difficulties are and why they considered that their recommendations would help. GRHs also help to dispel the misconception that RIs are acting on behalf of the PPS rather than as an officer of the court. RIs found it was particularly helpful when GRHs took place in advance of the trial to allow counsel time to review their questions and make any necessary adjustments. That GRHs were held on each occasion is most commendable and the role of the Judiciary in ensuring this is acknowledged.
63. In relation to the status of Ground Rules Hearings, this is an area that will be further monitored. **The Department should keep under review whether GRHs should be mandatory, which could be provided for through court rules.**

Awareness of the RI Schemes

64. **Investigative stage:** Feedback from the PPS indicated that having an RI involved as soon as possible in the criminal justice process is needed as it is not helpful for them if there is not an RI at the investigative stage. There will, of course, be instances where an RI has not been requested by the police, for example a communication difficulty has not been identified; the individual's circumstances change between the police investigation and court stage; or an RI is needed as a result of a worsening in the individual's communication abilities due to the impact of the court environment, which is very different from the police investigation stage. While the experience of the pilot has found that police officers have been effective in identifying appropriate cases where an RI is needed, for victims, witnesses and suspects, promoting the RI Schemes on a continual basis is important.

65. Giving presentations to practitioners, in particular police officers and social workers, proved a very effective way of raising awareness of the RI Schemes, increasing understanding of the RI role and sharing learning and good practice. The RI Project Team was grateful for these opportunities and to the RIs for their input during the presentations, which made them more informative.
66. However, it is clear that there remains geographical variations in the use of RIs (**see statistics at Appendix A**); RI use for suspects could be better promoted and increased awareness of the RI Schemes could be made within some specialisms within the PSNI, for example CID and domestic abuse units. In view of this, **efforts should continue to raise awareness of the RI Schemes amongst police officers, especially by providing input at relevant training.**
67. **Defence representatives:** During the course of the pilot, only 12 requests for an RI were made by solicitors for their clients at court. This was despite significant efforts to raise awareness that RIs were available to assist defendants. Initiatives undertaken included:
- e-informer alerts issued by the Law Society when the pilot was launched and when its scope was extended;
 - an information paper for solicitors which was made available on the Department's website;
 - RI-related articles in the Writ⁵ ("RI Schemes", Spring 2013; "RIs in Northern Ireland – making it work", May/June 2013; "The Advocate's Gateway", Winter 2013/14; and "Lacking empathy: Asperger Syndrome and the criminal justice system", March/April 2014);
 - an article on RIs, Better Second Time Around, by Professor Penny Cooper and David Wurtzel was published in the Northern Ireland Law Quarterly in April 2013; and
 - three RI-related events hosted by the Law Society ("Intermediaries and vulnerable witnesses: what, why, how" on 15 December 2011, "Supporting the communication need of vulnerable defendants" on 12 March 2013 and "RIs for vulnerable suspects and defendants: tactics and tips" on 27 June 2014).

The police also raise awareness among the legal profession through their role in identifying the need for an RI in the case of a suspect and liaising with the suspect's solicitor on this.

⁵ The Writ is a members' magazine for practicing and retired solicitors in Northern Ireland. It provides solicitors with up-to-date news, interviews, reviews and information about the law and the Law Society.

68. Raising awareness of the RI Schemes amongst the defence legal profession should also continue as there still appears to be the misconception that an RI is a witness as opposed to an officer of the court. The view was also expressed by some that Counsel are experienced questioners and do not need the assistance of an RI and that Counsel should be provided with an opportunity to undertake their own expert examination of the individual. The issue is not about the skills of Counsel generally, rather the need to take account of and be advised about the communication difficulties of a particular individual and how this can best be addressed when obtaining evidence at either the police or court stage. The RI's role is to advise on this, given their experience. It is not considered appropriate for a further assessment of the individual's communication skills to be undertaken.
69. In view of this, **the Department should continue to seek opportunities to promote awareness of the RI Schemes on an on-going basis with solicitors.** One way of achieving this would be through input at the Law Society's proposed series of workshops on Advocacy and the Vulnerable Witness. The Lord Chief Justice's forthcoming practice direction on vulnerable witnesses should also help to increase understanding and awareness of the RI Schemes.

Training

70. A positive benefit of the RI Schemes pilot has been to help concentrate the minds of those in the criminal justice system on how best to question vulnerable people. There has been a very positive reaction to the RI report recommendations, in terms of the 'dos' and 'don'ts', from the police, prosecution and defence counsel as well as the judiciary. Indeed, it has been suggested that there are many general recommendations in the RIs' court reports that criminal justice practitioners should be doing as a matter of routine when communicating with vulnerable people. One important thought emerging from the Vulnerable Witness conference was that, if criminal justice practitioners were properly trained in identifying vulnerability and there was a general upskilling of practitioners, then RIs would only need to be used in those cases where an individual has significant communication difficulties. This would then mean that there would not be the huge resource strain as predicted by some. While the upskilling of criminal justice practitioners is a matter for individual organisations, there are several planned initiatives which should assist in this. For example, the Law Society plans to hold a series of workshops on Advocacy and the Vulnerable Witness, with the first one being planned for Autumn 2015 on the child witness. Another initiative is the development of a Northern Ireland series of toolkits on questioning vulnerable witnesses and defendants. Northern Ireland practice will be hosted on The Advocate's Gateway (TAG) (www.theadvocatesgateway.org) and will provide general good practice guidance.

71. A helpful recommendation made by the Institute of Professional and Legal Studies was that inter-disciplinary training is an effective way to enable criminal justice practitioners to understand each other's roles and that more engagement is needed. In view of this, **consideration should be given to holding another conference in 2016 to share new learning and good practice on working with vulnerable witnesses.**
72. With the RI Schemes processes bedding down, **relevant criminal justice organisations should update their guidance documents as necessary.** In particular, PSNI should consider what amendments are needed to its RI manual, Special Measures Police Service Guide and aide memoire.

PACE Codes

73. **Revision of PACE codes:** At present, PACE is silent on the use of RIs at the investigative stage. It would appear prudent to make clear in PACE Codes the arrangements that should apply in relation to the use of RIs at the police investigation stage. The PACE Codes have recently been reviewed, with proposed changes to be taken forward later this year. It would, therefore, be timely that **the Department should consider making changes to PACE Codes to include provision related to RIs.**
74. **PACE constraints and on call service:** There were concerns at the start of the pilot about the role of the RI when working within PACE time constraints. To mitigate against this, when recruiting RIs, the application pack stated that applicants had to be prepared to accept cases at short notice and to work evenings and weekends, as necessary, and availability was explored at interview. In addition, the ISS provided an on-call service for police officers should an RI be needed urgently. However, during the pilot, the PACE concerns were not realised and only two out-of-hours calls were received (one turned out not to be urgent and the other was looking for an Appropriate Adult rather than an RI). Practice seemed to be that, if a suspect needed RI assistance to communicate, a planned arrest was arranged, which would seem to represent good practice. However, it is assessed that the possibility remains that an RI may be needed urgently outside the course of a normal working day⁶. While the ISS should continue to provide this service, **the Department should review how best to provide the on-call service longer term.**

⁶ On 27 and 28 December 2014, five out of hours requests were made for an RI in connection with a murder investigation.

Role of social workers

75. During the course of the pilot, there appeared to be some confusion amongst social workers about the role of RIs in joint protocol interviews. In view of this, opportunities to raise awareness amongst social workers were sought and a member of the Child Safeguarding Board Education Committee was invited on to the RI Project Team to provide advice on relevant issues. However, **it may be helpful if the child and vulnerable adult joint protocol arrangements are both reviewed to ensure that they reference the RI role where appropriate.**

Ability of cases to go forward

76. With the use of RIs, cases can potentially go forward that may otherwise have been unable to proceed due to the communication difficulties of the vulnerable person. However, this will not always be the case. It had been thought that, prior to the pilot commencing, RIs would be able to assist people with dementia to have access to justice. However, this has not yet been borne out as, in the referrals received so far, the victims' dementia has been too far progressed for them to be interviewed. In a small number of other cases, the communication difficulties of the individual have also been too severe for that person to be interviewed. Despite this, it is evident that RIs are, in most instances, enabling those with significant communication difficulties to have access to justice; even the cases of those with the most severe difficulties are considered further in terms of whether or not it may be possible to obtain evidence.

Timing of cases

77. It was hoped that there would be some "end-to-end" cases (i.e. from police interview to giving evidence in trial) for the purposes of evaluating the pilot. However, this did not materialise within the timescale for the pilot. The Justice Bill, which is currently at Committee Stage in the Assembly, includes provisions relating to reform of the committal process, the introduction of statutory case management powers and measures to encourage those who intend to plead guilty to admit their guilt at an earlier stage in proceedings. The Department is also working with criminal justice partners to deliver administrative improvements, including through an innovative new process to address avoidable delay in Crown Court cases. The scheme is currently being piloted within the Division of Ards. Work is also underway to reduce waiting times at court.

Access to reports that RIs use

78. One issue which arose during the pilot was the defence asking to see the notes which the RIs used when writing their reports. The position is that it is the RI's role to read any relevant reports about the witness (as set out in their Code of Practice) and that, therefore, these do not form part of normal third party disclosure. However, the view was expressed that this remains to be tested as more cases come to court. **It may be helpful if the Lord Chief Justice's proposed Practice Direction on vulnerable witnesses gave clarity on the issue of disclosure of RI notes and reports used by RIs.**

Registered Intermediaries (RIs)

79. The feedback provided on the RIs was overwhelmingly positive. Police officers have described them as "invaluable", "I cannot sing their praises high enough", "RIs are nothing but a benefit", etc. The first cohort were regarded as real ambassadors for the Schemes and, before the second recruitment campaign, when their numbers decreased to nine and approximately five referrals were being made per week, they kept the pilot going despite other commitments.
80. **Indicating that an RI is not needed:** Apart from the volume of cases and the newness of the RI Schemes, one particular challenge the RIs faced was the misconception that they would always indicate that an RI is needed, even if that may not be the case. However, there was clear evidence that the RIs were extremely mindful of their duty, as set out in their Procedural Guidance Manual, that they must indicate if the subject of the referral does not need an RI to communicate. This occurred on ten occasions (around 4% of cases). Indeed, as the RIs point out, their professional integrity is at stake if they take on inappropriate cases.
81. **Quality assurance and professional development:** It is noted that, unlike the Witness Intermediaries Scheme in England and Wales, the Department does not have in place formal RI quality assurance and continuous professional development (CPD) processes. At present, the ISS checks court reports before being sent to the End-user, and challenges and learning are shared with the RIs on a quarterly basis. Six ad-hoc CPD opportunities were also provided by the Department. However, with the recently expanded pool of RIs, consideration needs to be given to the affordability of local RIs continuing to avail of CPD opportunities in England. With a large pool, there would also be merit in Northern Ireland specific activities being considered. In order to assure criminal justice practitioners of the continuing professionalism of the RIs, **the Department should consider putting in place a formal RI quality assurance/CPD structure.**

Intermediaries Schemes Secretariat (ISS)

82. For the purposes of the pilot, the Intermediaries Schemes Secretariat (ISS) was provided by the Department's Victims and Witnesses Branch and feedback on its performance was sought from those requesting an RI (police, public prosecutors or the defence) through the feedback forms and focus groups. This aspect of the pilot seemed to work well with all requests for an RI matched promptly. The ISS also spent a considerable amount of time providing guidance and support both to RIs and those requesting RIs. If it is agreed that the pilot is extended for a further period and the Department provides oversight of this further phase, it is appropriate that the ISS should remain within Victims and Witnesses Branch. However, as the Branch is primarily concerned with policy and strategy, **consideration should be given to the location of the ISS from April 2016.**

RIs and civil proceedings

83. There would appear to be an anomaly where a vulnerable person may have RI assistance to communicate in criminal proceedings but not in civil or family proceedings. Indeed, the Lord Chief Justice, at the Vulnerable Witness conference, posed the question of whether the use of intermediaries in family courts could be considered. The RI Project Team is aware that the Department of Finance and Personnel (DFP) is currently analysing the recommendations in the Northern Ireland Law Commission's report, *Vulnerable Witnesses in Civil Proceedings* (2011). One recommendation was that "the use of intermediaries is included as a special measure in civil proceedings in Northern Ireland". Given the Department's experience gained during the RI Schemes pilot, we can see the potential for RIs to be used in other court settings, with additional training, and would have no objection in principle to the cohort of RIs that we recruit being used in this way. **DFP colleagues may wish to consider the Lord Chief Justice's suggestion about the use of intermediaries in civil proceedings and liaise closely with the Department on this.**

Way forward

84. There is no doubt that the RI Schemes pilot was successful in assisting people with significant communication deficits to give their evidence and that the prevailing view is that the RI Schemes should, therefore, continue. The overwhelming feedback from the focus groups is that the RI Schemes are operating very well at the investigative stage and the different disciplinary perspective which the RIs bring is very helpful for the police in securing quality evidence.

85. **Extension of the RI Schemes:** However, it is still early days as far as gauging how the RI Schemes are working at trial stage and for vulnerable suspects and defendants. The Judiciary pointed out that it was difficult for them to provide extensive feedback given the small number of cases. Consequentially, this aspect of the RI Schemes cannot be effectively evaluated at this time. It is considered that the full impact of the RI Schemes has yet to be realised and this will not become clear until more RIs have assisted communication at court. Only then will the full potential for RIs to make a difference to the most vulnerable people be demonstrated. In addition, the numbers of suspects and defendants needing RI assistance and the associated costs are as yet unclear, and the RI/court defendant supporter process has not yet been sufficiently tested due to low numbers. In view of this, **the RI Project Board should consider a 12-month “Phase II” of the pilot from April 2015 with a further post-project review being carried out in April 2016.** This review should focus primarily on the experience of the RI Schemes at the trial stage.
86. **Hybrid cases at Crown Court:** In addition, **the scope of the pilot should be extended to hybrid cases at Crown Court.** The Department considers that there would be merit in the RI Schemes applying to all cases being dealt with at Crown Court, given that these will have potentially serious implications. It is understood that the Judiciary would be supportive of this approach. Solicitors may also welcome this given that there were two requests for an RI at Crown Court where the offences were not indictable-only. Such requests had been considered on their merits on a case by case basis.
87. In conclusion, there is no doubt that, at the police stage, access to justice was facilitated in a significant number of cases that officers may not have been able to investigate before and full disclosure was made with RI assistance by some very vulnerable people with little verbal communication. The RI Schemes have also assisted suspects at police interview stage and potentially mitigated against a miscarriage of justice. While RIs have been used to facilitate a suspect giving evidence to the police and a witness giving evidence at court, they have not yet in relation to defendants giving evidence at court . Legal representatives for defendants that have engaged with the RI Schemes have been broadly positive about them and the assistance that can be provided to those with significant communication difficulties. The RIs, through their professionalism and expertise, have shown why they should be an integral part of the criminal justice process.

Police officer: In this instance all worked very well and the RI is a wonderful addition to providing a fair and equitable criminal justice system.

88. A summary of the issues for consideration covered in this section is at **Appendix B.**

Overview of RI Schemes Pilot's Statistics

- 260 requests were made by 10 November 2014.
- 223 requests were from PSNI, 25 from PPS and 12 from solicitors
- Geographical range of requests:
 - PSNI Districts:
 - A District – 13
 - B District – 33
 - C District – 18
 - D District – 43
 - E District – 16
 - F District – 23
 - G District – 31
 - H District – 45
 - PPS:
 - Belfast Chambers – 13
 - Ballymena – 1
 - Foyle - 2
 - Lisburn - 2
 - Newry – 4
 - Omagh - 3
- 200 requests were for victims, 16 for prosecution witnesses, 32 for suspects and 12 for defendants
- 148 requests were for males, 112 for females

Age breakdown:

- 104 requests were in respect of adults (oldest 94 years)
- 156 in respect of children under 18 years of age
 - 50 for teenagers (13 – 17 years)
 - 22 aged between 10 and 12 years of age
 - 84 victims under 10 years (youngest two years)

- Nature of vulnerability⁷:
 - Learning disability (91 requests)
 - Young age (63 requests)
 - Autistic Spectrum Disorder (39 requests)
 - Mental health issues (19 requests)
 - Alzheimer's, dementia (6 requests)
 - Attention Deficit Disorder (5 requests)
 - Brain injury (5 requests)
 - Down's Syndrome (4 requests)
 - Cerebral palsy (3 requests)
 - Schizophrenia (3 requests)
 - Aphasia (dense stroke) (2 requests)
 - Deaf mute, selective mutism (2 requests)
 - Language delay/disorder (2 requests)
 - Partially sighted, deafness (2 requests)
 - Ataxia Telangiectasia (1 request)
 - Dyspraxia (1 request)
 - Multiple Sclerosis (1 request)

- Nature of offences:
 - Sexual offences (152 requests)
 - Assault (58 requests)
 - Cruelty/neglect (14 requests)
 - Burglary, robbery, theft (12 requests)
 - Blackmail, fraud (6 requests)

⁷ Ten persons were assessed by an RI as not requiring their assistance

- Motoring offences (6 requests)
- Murder/attempted murder (5 requests)
- Attempted abduction (2 requests)
- Firearm offences, possession of an offensive weapon (2 requests)
- Arson (1 request)
- Harassment (1 request)
- Human trafficking offences (1 request)

Issues for consideration

Core RI Schemes elements

1. The RI Project Board should consider a 12-month “Phase II” of the pilot from April 2015 with a further post-project review being carried out in April 2016.
2. The scope of the pilot should be extended to hybrid cases at Crown Court.
3. Given that the RI/court defendant supporter partnership has not been sufficiently tested (due to low numbers), this process should be given a further opportunity to be used in practice.
4. The Department should keep under review whether GRHs should be mandatory, which could be provided for through court rules.
5. It may be helpful if the Lord Chief Justice’s proposed Practice Direction on vulnerable witnesses gave clarity on the issue of disclosure of RI notes and reports used by RIs.
6. DFP colleagues may wish to consider the Lord Chief Justice’s suggestion about the use of intermediaries in civil proceedings and liaise closely with the Department on this.

Uptake, costs and funding

7. The pilot RI Schemes should be extended in order to provide better estimates of likely defence uptake and costs and ensure that future budget forecasts are as accurate as possible.
8. Options for funding of the RI Schemes beyond 2015/16 should be explored.
9. Consideration needs to be given to funding the provision of court defendant supporters from April 2015.

Processes and procedures

10. The Department should review how best to provide the on-call service longer term.
11. It may be helpful if the child and vulnerable adult joint protocol arrangements are both reviewed to ensure that they reference the RI role where appropriate.
12. Consideration should be given to the location of the ISS from April 2016.
13. The Department should consider making changes to PACE Codes to include provision related to RIs.

Training and quality assurance

14. The Department should consider putting in place a formal RI quality assurance/CPD structure.
15. Consideration should be given to holding another conference in 2016 to share new learning and good practice on working with vulnerable witnesses.
16. Relevant criminal justice organisations should update their guidance documents as necessary.

Awareness raising

17. Efforts should continue to raise awareness of the RI Schemes amongst police officers, especially by providing input at relevant training.
18. The Department should continue to seek opportunities to promote awareness of the RI Schemes on an on-going basis with solicitors.

Acknowledgements

The Department of Justice is grateful to colleagues in the Ministry of Justice, in particular to Jason Connolly, for advice and guidance during the planning for the Registered Intermediaries (RIs) Schemes pilot.

The Department was also fortunate in being able to draw on the expertise of Professor Penny Cooper, Kingston University London, and David Wurtzel, City University London, who were always willing to respond to requests to provide both RI and practitioner training, give presentations to the Judiciary and Law Society and write articles for relevant publications. We were extremely grateful to them for their insights as we developed policy in this area.

The RI Project Team was chaired by Veronica Holland (DOJ) and the membership included Maurice Campbell and Norma Dempster (DOJ), Sam Hughes, Karen Mulholland and Garry Smyth (PSNI), Stephen Donaldson and Linda Keatings (PPS), Debbie Maclam and Paula McCourt (NICTS), Geraldine Teague (PHA), James Marshall (SBNI), Lorraine Finlay and Geri Hanna (Victim Support NI), Janique Burden (NSPCC) and Mirjam Bader (MindWise). The Chair would like to thank all the members of the RI Project Team for their time, hard work and dedication in setting up the RI Schemes pilot and their continuing enthusiasm during the pilot in being advocates for the project and ensuring it was as effective as possible. Particular thanks are due to Norma Dempster, the project lead, for her pivotal role in establishing and maintaining the RI Schemes.

The Department appreciated the assistance of Fiona Donnelly, Queen's University's Institute of Professional Legal Studies, in offering views from a legal profession perspective, advising on ongoing issues and hosting a Vulnerable Witness Conference in November 2014. This provided the Department with an excellent opportunity to take views on the RI Schemes pilot.

And, finally, the Department is very grateful to and appreciative of the work of the original ten RIs – Dilys Barr, Mary Cargan, Caroline Cosgrove, Sheryl Jenkins, Anne Maguire, Marian McConnell, Alison Moss, Suzanne Smith, Tara Thompson and Oliver Wilkinson – particularly as the number of referrals increased beyond expectations. For this, the Minister of Justice, David Ford, in his speech at the Vulnerable Witness Conference, said that he was “extremely proud” of the RIs.