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| Institution: City, University of London | | |
| Unit of Assessment: 03 Allied Health Professions, Dentistry, Nursing and Pharmacy | | |
| Title of case study: Fair access to justice: improving witness testimony from autistic and non-autistic children | | |
| Period when the underpinning research was undertaken: 2013 – 2016 | | |
| Details of staff conducting the underpinning research from the submitting unit: | | |
| Name(s): | Role(s) (e.g. job title): | Period(s) employed by submitting HEI: |
| Prof Lucy Henry | Professor of Speech & Language | 2013 – present |
| Period when the claimed impact occurred: 2015 - ongoing | | |
| Is this case study continued from a case study submitted in 2014? No | | |
| 1. Summary of the impact <p>Autism affects 1 in 100 people in the UK. Autistic individuals are at an increased risk of violence, victimisation and abuse, so they are likely to encounter the criminal justice system. This case study outlines the impact of research showing that autistic children can be reliable witnesses and that Registered Intermediaries improve the performance of child witnesses. Police officers and advocates are now more aware of how to deal with autistic individuals and have evidence-based guidance and toolkits based on our research that improves the quality of interview evidence. The research has also provided the evidence-base to support the positive benefits of Registered Intermediaries in improving the volume, accuracy, and consistency of recall for child witnesses. This has helped the Registered Intermediary community join together with other criminal justice professionals in improving fair access to justice.</p> | | |
| 2. Underpinning research <p>Registered Intermediaries (RIs) are communication specialists who assist vulnerable witnesses, including autistic and non-autistic child witnesses, within the criminal justice system in England and Wales. RI requests have increased markedly from 2,165 in 2013/14 to a record high of 6,907 in 2019/20 (Ministry of Justice Witness Intermediary Scheme Annual Report, 2019/20). The largest increases in demand are for requests relating to children (up 12.7% in 2019/20 and comprising 69% of all requests), demonstrating increased awareness and importance of their role.</p> <p>Professor Lucy Henry and her team have led on a body of research, funded by ESRC, looking at the effectiveness of RIs for child witnesses and the reliability of witness testimony in autistic children. The importance of this research was underlined by Newlove (2018), 'A Voice for the Voiceless: The Victims' Commissioner's Review into the Provision of Registered Intermediaries for Children and Vulnerable Victims and Witnesses', pp. 13-14: "<i>existing literature on RIs is variable in terms of both scale and scope.... though there are also a limited but increasing number of intervention experiments in this field (see Collins, Harker & Antonopoulos 2017; Henry et al. 2017).</i>"</p> <p>The research aims were twofold: firstly, assessing whether RIs improve the volume, accuracy, and consistency of evidence provided by children; and secondly, determining whether autistic child witnesses are as reliable as typically developing child witnesses of comparable age and ability. In the first empirical investigation of its kind, 6- to 11-year-old children (71 with an autism diagnosis, 201 who were typically developing, all with average-range intellectual abilities) viewed a staged mild crime event and subsequently took part in all stages of a 'mock' criminal investigation comprising: initial statements [3.1; 3.5]; investigative interviews [3.2]; identification line-ups [3.3; 3.4]; and cross-examinations (study completed and submitted to <i>Applied Cognitive Psychology</i>). A novel feature of the research was that a proportion of children were assisted throughout by fully trained, experienced RIs.</p> <p>Key findings – typically developing child witnesses</p> | | |

For typical children, pre-interview assessment and subsequent assistance from RIs during investigative interviews (compared to best-practice police interviews) substantially increased the number of correct details recalled about the event, importantly, without increasing errors [3.2]. RI assistance also improved children's ability to identify the two 'perpetrators' seen in video identification line-ups [3.3]. Finally, RI assistance helped children resist cross-examination challenges on false information posed by experienced barristers 11 months after the investigative interview (study completed and submitted to *Applied Cognitive Psychology*). Overall, RI assistance improved the volume, accuracy, and consistency of witness recall for typical children at all key stages of the mock criminal investigation.

Key findings – autistic child witnesses

At the initial statement phase, autistic children recalled fewer details than typical children, although their accounts were equally accurate [3.1] and coherent [3.5]. Importantly, the number of details recalled by autistic children was equivalent to typical children when both groups were assessed with more structured 'full' investigative interviews (best-practice police interviews, interviews with additional verbal prompts, interviews using a drawing technique to support recall) [3.2]. Further, when neither group was aided by an RI, autistic children did not make more errors than typical children at investigative interview [3.2]. When asked to identify mock perpetrators in video line-ups, autistic children performed largely as well as typically developing children [3.4]. In conclusion, autistic child witnesses were reliable; they recalled valuable forensic details and, in many respects, matched the performance of comparable typical children.

3. References to the research

- [3.1] Henry LA, Messer DJ, Wilcock R, Nash G, Kirke-Smith M, Hobson Z, Crane L. Do measures of memory, language, and attention predict eyewitness memory in children with and without autism?. *Autism & Developmental Language Impairments*. 2017;2:2396941517722139. <https://doi.org/10.1177/2396941517722139>
- [3.2] Henry LA, Crane L, Nash G, Hobson Z, Kirke-Smith M, Wilcock R. Verbal, visual, and intermediary support for child witnesses with autism during investigative interviews. *Journal of Autism and Developmental Disorders*. 2017;47(8):2348-62. <https://doi.org/10.1007/s10803-017-3142-0>
- [3.3] Wilcock R, Crane L, Hobson Z, Nash G, Kirke-Smith M, Henry LA. Supporting child witnesses during identification lineups: Exploring the effectiveness of registered intermediaries. *Applied cognitive psychology*. 2018;32(3):367-75. <https://doi.org/10.1002/acp.3412>
- [3.4] Wilcock R, Crane L, Hobson Z, Nash G, Kirke-Smith M, Henry LA. Eyewitness identification in child witnesses on the autism spectrum. *Research in autism spectrum disorders*. 2019;66:101407. <https://doi.org/10.1016/j.rasd.2019.05.007>
- [3.5] Henry LA, Crane L, Fesser E, Harvey A, Palmer L, Wilcock R. The narrative coherence of witness transcripts in children on the autism spectrum. *Research in developmental disabilities*. 2020;96:103518. <https://doi.org/10.1016/j.ridd.2019.103518>

All outputs were published in prestigious academic journals that apply a rigorous peer-review process prior to acceptance of papers. The outputs were supported by an ESRC Standard Research Grant: Access to justice for children with autism spectrum disorders, January 14th 2013 - July 13th 2016. Principal Investigator: Lucy Henry. Funding value: GBP376,525. Grant numbers: ES/J020893/1; ES/J020893/2.

4. Details of the impact

Results from Professor Henry's research have had an impact on key stakeholders in the Criminal Justice process, leading to fairer access to justice. Dame Joyce Plotnikoff has highlighted the importance of the underpinning research: *"I wish to commend this ground-breaking research. It provides the first empirical evidence demonstrating the benefits of intermediary involvement in the forensic interview of typically developing children aged between 6 and 11. This has important implications for practice in this country and other jurisdictions with an interest in the intermediary special measure.... This research will therefore assist significantly in supporting*

intermediary applications for primary school age children" [5.1]. More generally, according to Newlove (2018), the findings have "*played a crucial role in refuting the early concerns surrounding the introduction of RIs*" [5.2].

Impact has been achieved via changes in approach by three major groups: police officers/trainers; barristers; and Registered Intermediaries. The evidence shows that better quality witness testimony will result in fairer access to justice where children, both typical and autistic, are involved as witnesses. The team's findings have also made an impact on government advice, with some of their research cited in a UK Parliamentary Office of Science and Technology (POST) research briefing on 'Improving Witness Testimony' [5.3].

Police officers/trainers

Working with the UK's leading autism charity (National Autistic Society, NAS) and the Metropolitan Police Service, the team led by *Henry*, produced evidence-based guidelines for police officers on how to deal with witnesses and suspects with autism [5.4]. Published in April 2017 by the NAS, the guidelines were distributed to police forces widely across the UK, with 4,569 views as of September 2019 (figures obtained from the NAS). They are cited in the 'College of Policing's Authorised Professional Practice on mental health' [5.4], cited in the 'Learning the Lessons: Improving policing policy and practice' publication [5.4], and promoted by the National Police Autism Association (who circulated them to UK police forces/services).

The team also organised and hosted three 'Autism and Policing' events to raise awareness among police officers and police trainers about autism and the role of Registered Intermediaries. These events were delivered to 450 police officers and police training staff (the majority of whom had over 10 years of experience) in November 2015, March 2016 and April 2019. Delegates came from six national UK police services, with most from the Metropolitan Police Service. Feedback obtained from 316 officers attending across the three events demonstrated marked increases in knowledge and awareness about autism and the role of Registered Intermediaries, plus greatly increased confidence about interviewing people with autism [5.5]. Substantial increases in confidence around requesting an RI were also recorded (2019 event). Importantly, almost all officers attending these events considered themselves 'likely' or 'very likely' to apply this new knowledge to their professional role, many of them suggesting that the training should be mandatory (e.g., "*Brilliant training - it should be mandatory!*"; "*This is vital for all officers and should be compulsory.*") [5.5]. Of the eight Police Officers in total [out of 35] who had interviewed a victim, witness or suspect with autism and/or requested the use of an intermediary since the awareness event, three agreed to a telephone interview to obtain further details. These interviews, conducted ten months after the 2019 event, revealed they were all implementing their new knowledge (e.g. Officer 3: "*From information presented at the awareness event, it became clear to me (from the behaviours exhibited by the suspect) that the individual may be on the [autism] spectrum. Information about how to interview someone with autism was very useful as well as the types of questions etc. that should be asked...*") [5.6].

Barristers

The Advocate's Gateway (TAG), is an independent body providing free access to high-quality, practical, evidence-based guidance ('toolkits') on questioning vulnerable witnesses and defendants. Together with other academics and professionals, Professor Henry's team produced two TAG toolkits describing best practice for legal and other professionals when working with and interviewing autistic people [5.7]. Since publication in 2015-16, these toolkits have been downloaded well over 3000 times. Feedback on the toolkits from senior legal professionals has been overwhelmingly positive. For example, His Honour, Judge John Phillips (Director of the Judicial College) referred to the toolkits as "*very high-quality material drafted by well-known experts*", whilst Mr Justice Haddon-Cave referred to them as "*an extraordinarily valuable resource*".

Registered Intermediaries

Professor Henry's research and subsequent links with Intermediaries for Justice, the professional organisation for RIs, has helped consolidate the growing RI profession. Intermediaries for Justice worked with the research team delivering three Autism and Policing awareness events (see earlier

section) and organising and hosting two Continuing Professional Development conferences for RIs (May 2017 and May 2018). According to the former chair of Intermediaries for Justice (IfJ) and current RI trainer Jan Jones [5.8]: *“There is no doubt that hosting the [Autism and Policing] Awareness Days had a marked affect [sic] on the understanding of the RI role in the wider CJS [Criminal Justice System]. It has joined together the RI community with other CJS professionals and highlighted the importance of research which informs practice. It would not have happened without the original study, Access to Justice for Children with Autism.”*

Findings from the team’s research have informed national advice set out in the latest edition (to be published by the Ministry of Justice) of ‘Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and Guidance on using Special Measures’ [5.9]. This guidance will be disseminated to and accessed by all criminal justice professionals who come into contact with vulnerable witnesses, impacting directly on RIs, barristers and police officers. Further, a revised version of the statutory ‘Code of Practice for Victims of Crime’ was published in November 2020 by the Ministry of Justice. It states that if the police need to interview a victim, they must consider the Achieving Best Evidence advice, the need for a Registered Intermediary to help the victim to communicate their evidence effectively, and any disabilities or special needs the victim has.

The research has also been commended by Dr Kevin Smith, the National Vulnerable Witness Advisor (National Crime Agency) and lead author of the new edition of Achieving Best Evidence in Criminal Proceedings, as *“of enormous benefit in encouraging operational police officers to obtain the assistance of a Registered Intermediary”* [5.9]. In fact, during 2019/20 the largest increases in RI requests were by the police, which had increased by 14.6% compared to the previous year to a record high of 5,832 (Ministry of Justice Witness Intermediary Scheme Annual Report, 2019/20). Senior intermediaries also note that our research *“has in part contributed to increased requests by criminal justice professionals to have the assistance of a Registered Intermediary when eliciting evidence from vulnerable individuals”* [5.10].

Further, our research findings are now integral to a new training programme for RIs, overhauled by the Ministry of Justice in 2018. Two of our research papers [3.2; 3.3] are included on the official reading list [5.8], and, to date, over 80 new RIs have been trained under this programme (since July 2018 – the scheme was suspended between June and November 2020 due to the coronavirus pandemic). The research findings from the project form part of the discussions and reflections that new RIs have with trainers on their practice, and senior intermediaries describe them as *“informing good practice and so further developing the intermediary scheme”*, noting further that they *“underpin intermediary practice with sound research findings”* [5.10].

Finally, the research team is involved with Intermediaries for Justice and City Law School in developing and delivering (since October 2019) a series of continuing professional development modules at City for RIs, to further consolidate the RI profession and ensure robust standards. Following a CPD session delivered on autism-informed practice (February 2020), one RI described the team’s jointly written NAS guide for police officers as readable, well-written and explains what officers need to know. Jan Jones, the former chair of Intermediaries for Justice and current RI trainer, has concluded, *“Professor Lucy Henry’s contribution has had a definite impact on the way that vulnerable witnesses have been assisted in the justice system.”* [5.8].

5. Sources to corroborate the impact

- [5.1] Email from the co-author of ‘Intermediaries in the criminal justice system: Improving communication for vulnerable witnesses and defendants. Policy Press; 2015.
- [5.2] Newlove, 2018, ‘A Voice for the Voiceless: The Victims’ Commissioner’s Review into the Provision of Registered Intermediaries for Children and Vulnerable Victims and Witnesses’. p.13.
- [5.3] UK Parliamentary Office of Science and Technology research briefing on ‘Improving witness Testimony,’ POSTnote Number 607, July 2019.

- [5.4] The guidelines titled 'Autism: a guide for police officers and staff', published April 2017, have been cited in the College of Policing's Authorised Professional Practice web pages and in 'Learning the Lessons', a magazine for 'Improving policing policy and practice'.
- [5.5] Autism and Policing Events; summary of feedback for the three events: 2015; 2016; and 2019.
- [5.6] Report on delegate feedback 10 months post 'Autism and Policing' 2019 event.
- [5.7] Two autism guidance toolkits: The Advocate's Gateway revised Toolkit 3 on 'Planning to question someone with an autism spectrum disorder including Asperger syndrome', The Advocate's Gateway: London (published December 2016) and The Advocate's Gateway Toolkit 15 on Witnesses and defendants with autism: Memory and sensory issues, The Advocate's Gateway: London (published February 2015).
- [5.8] Testimonial from the former chair of Intermediaries for Justice and Registered Intermediary, dated 20th November 2020.
- [5.9] Supporting letter from a National Vulnerable Witness Advisor, National Crime Agency, outlining the importance of our research for operational police officers and in contributing to national guidance on vulnerable witnesses.
- [5.10] Supporting letter from the Chair, Intermediaries for Justice and dated 12th August 2019.