

Suggested Police Process for Using Communication Assistants

Communication Assistants are not yet commonly used by the NZ Police, although police in England and Wales make regular use of their equivalents, the Registered Intermediaries.

The following process is suggested for the use of Communication Assistants by the NZ Police.

A CA should be engaged as soon as a witness is identified by police as vulnerable (or potentially vulnerable) (see “Identification” above). Even if identification occurs at a later stage (e.g., after the witness has been interviewed), a CA can *still* be engaged (for further EVI or for trial purposes). However, it is better to involve the CA as early as possible.

1.1.1 Principles

The CA’s primary role is to assess the witness then advise police on how best to interview the witness in order to facilitate best evidence.

- The CA should never meet the witness alone—there should always be a third, responsible party present.
- The CA must keep detailed case notes throughout the entire process.

1.1.2 Preliminaries

- The O/C and Crown Prosecutor (if already involved) meet to discuss the use of a CA.
- If both agree to engage a CA, the O/C obtains the witness’ consent to do so. [Q What about children—child assent and caregiver consent? Written consent? How to fully inform?]
- If the witness consents, the O/C engages a CA with a skill-set matching the witness/suspect’s communication issues.

1.1.3 Assessment phase

- **Briefing:** The O/C briefs the CA on the witness’ communication needs, supplying only that information which relates to the witness’ communication issues. Information about the alleged offending is only given if it is strictly relevant (e.g., if the case involves alleged sexual assault, the CA will need to ascertain the child’s understanding of words for relevant body parts).
- If the O/C has gathered information about the witness’ communication and other needs from family, carers and other professionals involved with the witness, this can be shared with the CA with the witness’ consent.
- **Time/venue of assessment:** The O/C contacts the witness to organise the time and venue for the CA to conduct an assessment. Venue options should be agreed upon with the CA and may include the CA’s own offices, police premises, neutral premises or, if these are not possible, the witness’ home (but not at a witness’ school).
- **Assessment(s):** The CA assesses the witness in the presence of a responsible third party. That third party should be the O/C or a forensic interviewer but NOT someone who may be called as a witness if the case goes to trial. Ideally, the assessment is audio or visually recorded (with the witness’ consent) to keep an accurate and detailed record.

Police and forensic interviewers report that observing an assessment gives them invaluable insight into the witness' communication competencies and how they should adapt their questioning. [Insert examples, citations, etc, to be added].

- In some cases, more than one assessment may be needed. With particularly vulnerable witnesses, the CA may need to spend a considerable amount of time rapport building before the assessment can even proceed.

CA preliminary report: The CA prepares the preliminary written report on the witness' communication to inform subsequent interviewing by police. This may include an oral briefing. If a police interview is imminent,

- Planning and preparation phase

The interviewing officer and CA together plan how best to interview the witness, based on the assessment and any other relevant information provided. This may include determining the best time of day to interview the witness, how best to test truth and lies, the layout of the interview room, the frequency of breaks, the vocabulary appropriate to the witness, how to make instructions and questions clear and unambiguous, the use of visual aids (e.g., pen and paper for drawing, maps, pictures, models etc) and how and when visual aids might be introduced during the interview.

1.1.4 Interviewing phase

- The CA's role during the police interview is typically to monitor communication and advise if the interviewer encounters difficulties communicating. They do *not* conduct the interview.¹
- In the case of an EVI, the CA must make a declaration at the beginning of the interview (either before or after the witness has been brought into the room). The declaration that has been used previously in Aotearoa/NZ is: [insert]. [Q: Is this required when the CA is only observing, not interviewing the witness? What about when the interview isn't an EVI?].
- The interview is conducted by the police officer or forensic interviewer with the CA present and visible on camera (if any). The CA's participation in the interview must always be transparent.

1.1.5 Post-interview phase

- If police decide to proceed with the case, the O/C and prosecution should agree on whether a CA will be required at trial.
- If so:
 - The CA completes a CA Report for the court with recommendations on how the witness should be questioned at trial and any recommendations for modifications to pre-trial and trial processes (see s.X and Appendix 2. The report is sent to the commissioning party (i.e., the person who engaged the CA, typically the O/C). [Q: What if the police decide not to

¹ In some cases, however, the CA may be the only person who can interview the witness. In such cases they do so under the close supervision and instructions of the EVI interviewer. [Add example of eye-gaze in UK].

proceed—does the CA still complete the report in case police change their minds?].

- The prosecutor must complete a new Referral Form and send it to the CA Preferred Provider. [Q: Do we have referral forms and preferred providers yet? If not, we'll have to rephrase. Presumably this form asks for the *same* CA].
- The report is appended to the s.80 application for a CA.
- The police or prosecutor are responsible for informing the CA of the case listing (CRI number) and current details of hearing dates, including any contested s.80 hearing, all Ground Rules Hearings and the trial dates.