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Dear David

Feedback on the Review of the Use of Communication Partners in South Australia

Thank you for the opportunity to provide some further feedback in relation to the use of Communication partners in South Australia.

To complete this submission, I will be referring to some of the questions that were posed in the original correspondence. If you have any further queries, please contact Monique Bianchi at monique.bianchi@sa.gov.au.

Do you see a need for communication partners in South Australia?

There is a need for a communication partners scheme in South Australia that is accessible to all who require the service. Evidence from other jurisdictions, including elsewhere in Australia and in the UK, indicate that the use of communication partners has had many advantages. Positive outcomes include shorter trials, a greater understanding and appreciation from legal officers (including defence barristers and Judges), and more balanced and fairer trials due to better and clearer evidence. Communication partners in England have been so successful that they are now in every jurisdiction.

Further, the need for communication partners was a recommendation made by the Royal Commission into Institutionalised Child Sexual Abuse. Although the government has accepted this and says it is complete, the communications partner model was deemed unsuccessful in South Australia for some of the reasons set out above, most notably a lack of awareness and a lack of guidance surrounding its existence, implementation and evaluation.

What would make the next iteration of the communication partner scheme a success?

The office believes the following factors are required to ensure success for the next scheme:

- Adequate support and resourcing by government for an extended pilot, with a review at the end of the pilot.
- Strong leadership supporting the program in all areas of justice, including prosecutions, the Law Society, judges, victim services and SAPOL.

- Well-defined guidance for all parties to understand when and where the scheme should be taken up, similar to the guidance in place in other Australian jurisdictions. The requirements regarding the use of communication partners could also be inserted into legislation, similar to the UK.ⁱ
- Monitoring to oversee the usage of the scheme and when and where it is used, similar to current practice in Wales and England.ⁱⁱ
- Using communication partners who are professionally trained, and supported by guidance, training and ongoing professional development.

What should be the role of the communication partner?

The role should be similar to that of the schemes operating in the UK and other states, where communication partners:

- are an independent and impartial officer of the court;
- assess the victim's communication needs;
- inform police and the court on the best ways to communicate with the victim giving evidence at the special hearing;
- facilitate communication between the individual and other parties to prevent or overcome a communication breakdown; and
- prepare a report with recommendations based on their assessment of the victim's communication abilities.

Communication partners should be involved in any legal process as early as possible.

When and where should the communication partner model be used?

The scheme could start off with providing a communication partner for children who are the victims of criminal offences, much like how other models begun, both in the UK and within Australia. After it is adequately resourced and supported, there should be a review of the model. If successful, it can be extended to vulnerable parties (children and people living with a disability) charged with criminal offences, as well as other jurisdictions.

What criteria should be used to determine the eligibility to be a communication partner?

Communication partners should be either trained as a psychologist, occupational therapist, social worker or speech pathologist or similar occupation. In respect to those working with children, they should have experience with working with children with communication needs.

Are trained volunteers or paid experts preferred?

Paid experts would be preferred. In other jurisdictions (NSW, Qld, Tasmania and Victoria) communication partners are contracted out. In the ACT there are two full-time witness intermediaries who assisted over 150 vulnerable witnesses in the first year of the operation of the scheme.

If the government decides not to resource a paid scheme, it should provide adequate resources for a successful scheme run by volunteers. If it is decided that all children in the criminal jurisdiction are to have a communication partner and that the scheme will then be extended, the supply of volunteers may not meet service demand and need. As such,

the government must give thought on how a volunteering model can be sustained in the long-term.

All communication partners need to have minimum qualification (see above) as well as initial training to familiarise themselves with the court process and continual professional development. A paid service would also encourage young people completing their University Degrees in South Australia to remain in South Australia, rather than these young people having to move interstate to commence their career.

All communication partners should receive training in topics including, but not limited to:

- trauma-informed practice;
- disability awareness;
- child development and communication; and
- culturally aware and competent practice.

I hope that this submission is of assistance.

Yours sincerely,



Helen Connolly
 Commissioner for Children and Young People

ⁱ For example, the intermediary role was introduced by section 29 of the Youth Justice and Criminal Evidence Act 1999 (YJCEA) (UK). It provides for the examination of a witness in criminal proceedings, other than a defendant, to be conducted through an intermediary. Section 16 of the YJCEA stipulates that a witness is eligible for assistance from an intermediary if:

- they are under the age of 18 at the time of the hearing; or
- if the court considers that the quality of evidence given by the witness is likely to be diminished by:
 - o a mental disorder (within the meaning of the 1983 Mental Health Act¹); or
 - o a significant impairment of intelligence and social functioning; or
 - o a physical disability or physical disorder.

ⁱⁱ See The Witness Intermediary Scheme Annual Report 2019/20, accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919858/witness-intermediary-scheme-annual-report-2019-2020.pdf