

Questions in advance



What are questions in advance?

At the majority of Ground Rules Hearings, Communicourt intermediaries request questions in advance. They are likely to be requested when an intermediary assessment identifies that an individual has difficulty processing, understanding or responding clearly to particular question types.

This practice requires advocates to submit their intended questions for the respondent, intervenor, witness or defendant to the intermediary in advance of the individual's evidence. Once received, the intermediary will review the questions, drawing from your client's intermediary report, their experience of working with your client, case notes written by previous intermediaries and any other information which may be available (e.g. cognitive assessments).

How do questions in advance work?

Once an advocate has provided their intended questions, written out in full, the intermediary may provide feedback and recommend rephrasing any questions which may not be easily, clearly or fully understood by your client.

They will do so without changing the substance of the question. The intermediary will annotate the questions document, providing recommendations alongside rationales which clearly explain why an alteration has been suggested.

Benefits of questions in advance

This process is beneficial for all parties, as it reduces the risk of miscommunication during your client's evidence, ensuring that the court and your client gain and give the best evidence possible.

Although intermediaries can intervene in real time when your client is presented with a question which they struggle to understand or provide a clear response to, it is often challenging for an intermediary to intervene rapidly enough to prevent a respondent from answering a complex question which they may not have fully understood or may have difficulty answering clearly.

The practice of questions in advance can reduce the need for live intermediary intervention, ensuring your client's evidence runs as smoothly and efficiently as possible, assisting them to give their best evidence to the court.

Frequently asked questions

While many judges and barristers are content to order and provide questions in advance, a few queries commonly arise:

Will questions be shared with other parties?

No. The intermediary's duty is inherently to the court. All questions received from all parties are kept strictly confidential and are not to be seen by any other party, including the individual giving evidence and their legal team.

Counsel are experienced, are questions in advance really necessary?

Although many advocates are highly skilled at questioning individuals with communication difficulties, the demands of examining a witness while also carefully monitoring each question for complex syntax, features and vocabulary are considerable. The practice of writing questions in advance to undergo intermediary review can assist all advocates.

What happens if advocates have limited time?

If advocates have limited time to provide questions in advance, it may be helpful to agree for a smaller selection of sample questions to be provided. This will ensure there is opportunity for the intermediary to provide feedback on the structure and framing of questions, while reducing the demands placed on counsel.

Are topics in advance a suitable alternative?

Although a list of topics in advance may assist individuals with attention difficulties (who may benefit from resources such as 'topic cards' to remain focussed) and those with expressive difficulties affecting topic maintenance, they do not allow the intermediary to provide feedback on the structure of questions or the vocabulary they contain. Rather than topics in advance, a small selection of sample questions is often a more helpful alternative.

Example questions in advance

“Did you not let your family see child A?”

This question contains a negative. If the respondent provides a “yes” or “no” response, their answer may be ambiguous, resulting in miscommunication.

An intermediary may recommend the following rephrasing: “Did you let your family see child A?” to ensure the respondent provides a clear answer which can be more easily understood.

“It’s right that you said in your statement that you took child B to the doctor?”

This question is an interrogative statement (which requests agreement with an assertion) and is unclear as to what it is asking. Is it asking whether the respondent said that in their statement, or whether they took child B to the doctor?

A Communicourt intermediary may recommend rephrasing this as: “Did you take child B to the doctor?” and/or: “In your statement, did you say you took child B to the doctor?”.

If a question is referring to a particular document (as with the witness’ statement above), the intermediary may also include suggestions to support the individual’s understanding or literacy (as required).



Further reading

- [Family Practice Directions \(3AA - Section 5.5\)](#), “The court must consider whether to direct that [...] questions or topics to be put in cross-examination should be agreed prior to the hearing”.
- Section 3 of [The Advocate’s Gateway: Toolkit 1: Ground Rules Hearings and the Fair Treatment of Vulnerable People in Court](#): “It is reasonable for judges to ask advocates to write out their proposed questions for the vulnerable witness and share them with the judge and the intermediary (where there is one): ‘So as to avoid any unfortunate misunderstanding at trial, it would be an entirely reasonable step for a judge at the ground rules hearing to invite defence advocates to reduce their questions to writing in advance.’ (R v Lubemba; R v JP [2014] EWCA Crim 2064, para 42)”.
- [Registered Intermediary Procedural Guidance Manual](#) (MoJ, 2023): “The [intermediary’s] task is to help the advocate in phrasing questions in a way that the witness can understand, but their role is not to ‘protect’ the witness from being challenged on their evidence. They therefore must examine the questions solely from the standpoint of the witness’s ability to understand and respond to them according to their specific communication needs”.

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Intermediary services

If you are concerned about your client’s ability to communicate effectively and participate in legal proceedings, Communicourt can help.

We will assess your client to understand their communication needs and how these might affect them in court. Your client does not need to have a diagnosis. Our reports will identify any particular communication issues and make bespoke recommendations to help you and your client throughout proceedings.

If intermediary assistance is recommended, one of our highly trained intermediaries can be there throughout proceedings to facilitate those recommendations.

Intermediaries are mostly funded by HMCTS, with no charges or payments required by legal representatives.

How to book an intermediary

- 1 Refer online.** Refer your client for an assessment through [our online portal](#) (5 minutes).
- 2 Funding.** We send a quote for you to send to Legal Aid / HMCTS to approve (24 hours).
- 3 Book assessment.** Once funding is approved, please let us know. We will schedule an assessment (2-6 weeks).
- 4 Assessment will** take up to 3 hours and can be conducted in person or remotely. You will then receive a report (7 days).
- 5 Book dates** for hearings or conferences. We will send you booking forms to be signed by the court. Once signed, we will book the intermediary.