

**The Bell Foundation response to the Ministry of
Justice's consultation on improving victims'
experiences of the justice system**

10 February 2022

About The Bell Foundation

The Bell Foundation is a charity which aims to overcome exclusion through language education by working with partners on innovation, research, training and practical interventions.

The Bell Foundation's Criminal Justice Programme works with a range of partners to remove the systemic language barriers to justice and rehabilitation for anyone in contact with the criminal justice system (CJS) who speaks English as a second or additional language (ESL), and to further develop the capacity of the criminal justice sector to meet the needs of these groups.

We are submitting evidence to this consultation to highlight relevant research *from* 'Language Barriers in the Criminal Justice System', the Foundation's recently funded research project from the Institute for Crime & Justice Policy Research at Birkbeck University, Victim Support, and the Centre for Justice Innovation, which will be published in March 2022.¹ The evidence and findings included in this submission are drawn from a review of victims' existing rights and entitlements, surveys and in-depth interviews with statutory and voluntary sector staff working across the sector, including police officers and victim support practitioners, and in-depth interviews with individuals who speak ESL with lived experience of the CJS including victims and witnesses. Interim findings focused on language barriers in courts and for victims and witnesses were published in October 2020 and are available [on our website](#). We will share the full findings with the Ministry of Justice at the point of publication and will invite further discussion at that point.

Introduction: Victims who speak ESL

As spoken language is not recorded systematically within the criminal justice system, there is no accurate data available on the number of victims of crime who speak English as a second or additional language (ESL). However, there are a number of factors that indicate it is likely to be a high number. Evidence also suggests that any data is likely to show an underestimate in the number of people who speak ESL who have been the victim of a crime, due to factors such as systemic language and cultural barriers, higher levels of mistrust in the police and justice system, and insecure immigration statuses, are likely to decrease the likelihood of a victim who speaks ESL reporting a crime in the first place.^{2,3}

When looking at the data on ethnicity and language, and ethnicity and crime, a correlation can be seen between the likelihood that someone speaks ESL and the likelihood that they have been the victim of a crime. For example, individuals from Arab backgrounds are among the

¹ Hunter et al, *Language barriers in the criminal justice system*, in press

² Hunter et al, *Language barriers in the criminal justice system*, in press

³ Cambridgeshire County Council and Cambridge Research Group, *Under Reporting of Crime for Cambridgeshire & Peterborough*, 2014

most likely to speak ESL (59%)⁴ and among the most likely to have been the victim of a crime in the last year (17%).⁵ 52% of individuals from a Bangladeshi background speak ESL, and 14% have been the victim of a crime in the last year. 38% of those from a Pakistani background speak ESL, and 18% have been the victim of a crime in the last year. This compares to White British people, fewer than 1% of whom speak ESL and 13% of whom have been the victim of a crime in the last year, and White Irish people, 1.5% of whom speak ESL and 12% of whom have been the victim of a crime in the last year.

While race has been widely acknowledged to be a strong factor in the likelihood that someone will be the victim of a crime, the number of victims from non-British white ethnic groups indicates that race alone does not explain these variations in rates of crime. 64% of individuals from White Other backgrounds (all white ethnic groups other than White British, White Irish, or White Gypsy/Traveller) speak ESL, and 15% have been the victim of a crime in the last year.

That individuals from these ethnic groups are the most likely to have been the victim of crime is supported by analysis of case management data by Victim Support, which found that the most commonly spoken languages among the 750 victims of crime who speak ESL supported by Victim Support in the 12 months to March 2020 were Polish, Arabic, Turkish, Urdu, and Farsi.⁶

Victim Support analysis also found that the majority of victims who spoke ESL were women who had been victims of violent crime, suggesting that when they are victims of crime, victims who speak ESL are also more likely to have been the victim of gender-based violence, and trafficking/modern slavery.⁷

A number of codes and legal principles lay out the Rights and Entitlements of victims who speak ESL, most notably the Code of Practice for Victims of Crime (2020) which outlines the Right to understand and be understood, including the right to be offered language support. These rights are not consistently upheld, however, and, even where they are, are not always sufficient to overcome the language and cultural barriers that face victims who speak ESL. The findings below outline these language barriers and their impact.

The first barrier faced, and the most prominent example of Rights and Entitlements that are not upheld, is the **inconsistent provision of language support**. Although some victims spoke positively about the benefits of language support when it was offered, others reported that it was not offered or that their request for support was denied because staff believed their proficiency in English was sufficient to continue without an interpreter.⁸

“It was 100% I would need an interpreter to explain properly what happened with me and what [the perpetrator] said or this or that... I already said to the

⁴ Office for National Statistics, *English language skills*, 2018

⁵ Office for National Statistics, *Victims of crime*, 2021

⁶ Hunter et al, *Language barriers in the criminal justice system*, in press

⁷ Hunter et al, *Language barriers in the criminal justice system*, in press

⁸ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

police... I think I said, 'Can I take interpreter?' ... The police said, 'Your English is very well. I can understand you.' But I was needing an interpreter, to be honest..."

(Victim, Violent Crime)⁹

There is also evidence that CJS practitioners often 'make do' with alternative forms of support such as the use of *Google Translate*, which victims report to be much less helpful than professional language support.¹⁰

"So only in the first police interview I did not have an interpreter or translator with me, it was the computer programme, Google translation. But as of the next interview, so second interview, after that I always had an interpreter with me... I was very nervous, and I was very stressed.... But the second time when I was interviewed, in the presence of an interpreter all my statements, my previous statements, were corrected... The atmosphere was a lot better [on the second time] as the interpreter was Polish as well, and so I felt a little bit more relaxed."

(Victim, Human Trafficking)¹¹

The absence of interpretation provision was linked to a number of adverse outcomes, ranging from inaccurate statements being taken to negative effects on victims' wellbeing and trust in the police.¹²

Similarly, systemic pressures on time and resources mean that victims are often not provided with **translations of written materials**, which can be particularly problematic for letters sent in the post regarding case progression and court case dates.¹³

"And the way that the letters [from the Crown Prosecution Service (CPS)] are written, some of the words are in quite a high standard level of English... Even the letter which I received from the police when they let me know the date of the court, I pretty much understood only that sentence, which says 'the court date will be at...' that time. On the top of the letter and the bottom of the letter, there were

⁹ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

¹⁰ Hunter et al, *Language barriers in the criminal justice system*, in press

¹¹ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

¹² Hunter et al, *Language barriers in the criminal justice system*, in press

¹³ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

words which I never- I didn't understand it.”
(Victim, Hate Crime)¹⁴

Many victims turn to informal sources of language support, such as friends or family members. As well as further inconveniencing victims who speak ESL, and causing potential miscommunications or delays, this has significant implications for confidentiality and the safety of victims, particularly when concerning domestic abuse, domestic violence, or other violent or sexual crimes.¹⁵

“[The caseworker] contacted me, he sent me the emails, but obviously because I don't speak English, I forwarded that email to my nephew [who] speaks English.”
(Victim, Violent Crime)¹⁶

Language proficiency, and the need for support, are not static. Some victims explained that while they may need less or no support early in the process, such as when giving basic information to the police, they may need additional support later as they encounter more complex legal terminology or due to situational factors such as stress.¹⁷

An additional factor related to the varying need for language support concerns the specific language skill required; some are much stronger or more confident in spoken English than written, for example, or vice versa.

“If I am in a good mood, I can understand everything properly and I can speak properly as well ... My reading [in English] is very bad, to be honest. I cannot read properly ... Writing [in English], is very bad.”
(Victim, Violent Crime)¹⁸

Many victims report that if they turned down language support in their initial interaction, it was never offered again, leaving them at a significant disadvantage.

A significant outcome of the absence of language support is **victims being unable to articulate important circumstantial details to the police.** Concerningly, at its most extreme, this has led to **victims being mistakenly identified as the perpetrator** and treated as such.

¹⁴ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

¹⁵ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

¹⁶ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

¹⁷ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

¹⁸ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

There is also evidence of perpetrators who speak English disrupting and interfering with victims' attempts to explain the circumstances to the police.

"He [police officer] said that he took, I don't know, some details from the landlord [the perpetrator], then he said to me, 'Be careful because I'm going to arrest you...' I said 'what for. I mean, I called you, we called you...' And he said 'you're giving problems to the landlord...' They were very rude."
(Victim, Burglary)¹⁹

As well as increasing the stress and potential trauma on a recent victim, this has long-term implications in that it exacerbates a lack of trust in the police from minoritised communities; some victims believe that the police were less likely to listen to them once they were identified as speaking ESL.

"I was in this country for so many years and what I gathered, have seen, is that the police don't listen to people like us who speak Urdu and can't speak the native language."
(Victim, Hate Crime)²⁰

Finally, the research found that **cultural barriers, both in the sense of the victim's culture and the culture and processes of the CJS, added to these language barriers** and made the system very difficult for victims who speak ESL to navigate. Even when victims were provided with language support, they still faced barriers due to a lack of knowledge of their rights as victims, how cases progressed, and why decisions had been made regarding prosecutions. Cultural differences, such as women victims' discomfort discussing the sensitive nature of events with a male officer, or different implications of the word 'offence', create further barriers and layers of misunderstanding, all of which are detrimental to victims' experiences of the CJS and therefore their likelihood to continue to engage.²¹

¹⁹ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

²⁰ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

²¹ Hunter et al, *Language barriers in the criminal justice system*, in press

Removing language barriers for victims who speak ESL

There are several overarching themes and recommendations that would improve experiences and outcomes for victims who speak ESL, and we have outlined these in detail below in response to specific questions raised in the consultation.

The key themes under which we make recommendations are:

- **Collecting data to understand the scale of the issue and its impacts;**
- **Providing consistent, quality language support services;**
- **Empowering staff;**
- **Providing services that represent and serve communities; and**
- **Improving accountability.**

We encourage the Ministry of Justice and all agencies with responsibilities for victims to consider the recommendations below in all decision making, to ask where their implementation could improve experiences for speakers of ESL. Language is a strong indicator of ethnicity²² and should be a factor in ensuring non-discriminatory access to justice alongside other protected characteristics.²³

Question 1: Do you agree that the key principles set out in the consultation are the right ones? If not, do you have any other suggestions?

The Bell Foundation supports the key principles set out in the consultation, and the proposal to place the key principles of the Victim's Code in primary legislation. **If implemented with consideration of potential language barriers and accessibility, the Victim's Law could improve outcomes and wellbeing for victims who speak ESL.**

What victims should expect

It is right that the Right to understand and be understood is prioritised in the Victim's Code, and this should be enshrined in law to ensure that all victims have the legal right to this support, and that the system can be held to account if this is not upheld. It is also important that the Victim's Law repeats the requirement of the Victim's Code for language support services to be 'offered to' victims, as opposed to having to be requested and that there is a strong accountability framework in legislation (see questions 11 and 12, below).

Recommendation: The Victim's Law enshrines the Right to understand and be understood, as does the Victim's Code.

²² Office for National Statistics, *Inequalities data audit: focus on ethnicity*, 2018

²³ Equality Act 2020, s.149

Performance and accountability

As acknowledged in the consultation, victims do not always receive the service to which they are entitled, and our research demonstrates that this is the case for victims who speak ESL.

As well as being enshrined in law, **a stronger and more consistent accountability framework that demonstrates a high level of understanding of the needs of victims who speak ESL would ensure that their Rights are more consistently upheld.** See questions 11 and 12, below, for our specific recommendations on performance and accountability.

Community-based support services

Evidence suggests that voluntary organisations often employ innovative solutions to ‘get by’ when resources or other pressures mean that professional language support is not available. In particular, **organisations that are rooted in or representative of the community they serve were more able to make use of the language diversity of staff and volunteers to provide informal interpretation services.**²⁴ There is evidence of recruitment drives, such as in policing, seeking to attract people into the service who were fluent in another language, and practitioners report that greater ethnic and linguistic diversity of staff strengthens the system’s capacity to accommodate language diversity.²⁵ The Bell Foundation supports such goals, and encourages more agencies to consider language as a key characteristic when striving to ensure that their staff reflect the diversity of the communities they serve.

Services that are led by, and delivered for local communities, are also more effective at meeting those communities’ needs. These organisations often have expertise in how to support under-served minoritised groups which larger providers often view as disengaged and ‘hard-to-reach’, a term often used to ‘forgive’ services that do not meet the needs of all individuals equally.²⁶ Evidence suggests that facing language and cultural barriers in the CJS, including being unable to access services that address victims’ specific needs, can lead to mistrust and a lack of willingness to engage with the system.²⁷

Harrow Law Centre, for example, provides a service in Urdu including a part-time solicitor fluent in Urdu, who is from the local community and who manages casework primarily for victims of trafficking and modern slavery, many of whom have previously engaged with the police and not been successful in accessing justice due to facing significant language and cultural barriers. These services should be commissioned directly by Police and Crime Commissioners (PCCs), who have responsibility for understanding and supporting their local area, individually or in partnership with larger providers, rather than by utilising larger providers as subcontractors which can reduce the resources available to deliver the services that are needed.

²⁴ Hunter et al, *Language barriers in the criminal justice system*, in press

²⁵ Hunter et al, *Language barriers in the criminal justice system*, in press

²⁶ Ali, H. *I am not ‘hard to reach’*, 2020

²⁷ Hunter et al, *Language barriers in the criminal justice system*, in press

Recommendation: All agencies with responsibilities for victims review and utilise the existing language diversity of staff, and aim to recruit staff who are from, and who represent, the communities they serve.

Recommendation: Commissioners explore opportunities to provide standalone services, or additional support within existing services, in languages other than English and tailored to meet the needs of under-served communities.

Improved advocacy support

The Bell Foundation welcomes improved support for victims of traumatic and hidden crimes, which could have a significant impact on the engagement, outcomes, and experiences of victims who speak ESL. One suggestion to improve this support is to introduce cultural mediation – see questions 35 and 36 for more detail.

Question 2: What more can government and agencies listed in the Code do to ensure that frontline professionals are aware of what is required of them under the Code?

Evidence shows that many practitioners are aware of victims' right to language support, but often **systemic pressures such as a lack of time or resources means that they proceed without support anyway**.²⁸ Practitioners' lack of awareness or confidence also impacted the likelihood that they would offer language support; some report feeling **reluctant to offer language support in case the suggestion offended the victim**. However, regardless of their own requirements victims who speak ESL believed that language support should always be offered – it was suggested that language support is offered as a matter of course for any victim speaking ESL to remove any implication of judgement or offence.²⁹

Enshrining this right in law, as above, would make some progress in ensuring that the right is upheld, but this is not enough alone. All practitioners working with victims must be provided with training and written guidance on how to support individuals who speak ESL, including:

- The rights and entitlements of victims who speak ESL;
- The impacts of language and cultural barriers for victims who speak ESL and the further impacts of these on the justice process;
- How to recognise and understand when someone is facing a language barrier, including situational factors that can impact someone's ability to communicate in English and the different language skills required throughout the process of accessing justice (e.g. reading, writing, speaking);
- How and when to sensitively and appropriately offer language support, including making the offer on a regular basis (see 'Understanding language proficiency', below);

²⁸ Hunter et al, *Language barriers in the criminal justice system*, in press

²⁹ Hunter et al, *Language barriers in the criminal justice system*, in press

- How to effectively work with interpretation services, including understanding the role of the interpreter and its limits, the impact of having an interpreter present, and how to prepare all parties to ensure effective communication.

Recommendation: All staff working with victims are provided with training on language barriers and their impact on the system, as well as how to remove and overcome them.

It is also important that staff have the time, and agencies have the resources, to provide language support as a routine part of the service rather than an auxiliary service. To achieve this, caseloads must be managed to take into account the extra time that may be needed when working with a victim who speaks ESL when compared to a native English speaker.

Recommendation: Victim support staff caseloads are managed with consideration of the additional time required to provide equitable support to speakers of ESL.

Question 3: What more can government and agencies listed in the Code do to ensure every victim is made aware of the Code and the service they should expect to receive under it?

To ensure that every victim is made aware of the Code, the service they should expect to receive under it, and additionally to fully understand and engage in the justice system, all victims who are identified as speaking ESL must be consistently provided with high quality language support, including both interpretation services and translation of written documents.

Translation of written documentation

As a minimum, all written documentation should be written in easy read format. This is an accessible format which would benefit other groups facing communication barriers as well as speakers of ESL. Much of the written documentation in the CJS is in complex and archaic legal language, creating barriers to understanding for all victims.³⁰

Recommendation: All written documentation, including the Victim's Code, should be provided to victims in easy read format as a default, and a minimum standard of service.

The Victim's Code and other commonly required documents such as information, advice, and guidance should be provided in the victim's preferred language. To achieve this, a central body such as the Home Office or Ministry of Justice should commission the translations and make them available centrally for all police forces, victim support services, and other services. They could also be available to download directly for members of the public. Anecdotally we know that many services pay for these to be translated into the most commonly used languages, which is a good example of the sector 'making do', but this leads to expensive duplications of

³⁰ Hunter et al, *Language barriers in the criminal justice system*, in press

costs, and may not address the needs of those who speak less common languages in particular areas and are therefore often further isolated and vulnerable. The one-off cost of translation into each of the 94 spoken languages in the UK³¹ would be significantly lower than each of the 39 PCC areas in England and Wales translating documents into a much smaller number of languages.

Recommendation: The Home Office commissions the translation of the most commonly used documents, including the Victim’s Code, into a wide variety of languages, and makes them available centrally for the sector and the public to download.

Interpretation services

Also of vital importance is the provision of quality interpretation services. Evidence suggests that the quality of interpretation services varies between commissioning areas and providers. Access to interpretation services, as included in the first Right in the Victim’s Code, is not sufficient if the quality of services provided is substandard.

For interpretation services to be of sufficient quality, commissioners should ensure that providers hire or contract only interpreters with the necessary qualifications and experience. This means that in all interactions with potential consequences, such as taking a victim’s statement, offering legal advice, or informing a victim of the outcome of a case, interpreters must be highly qualified and experienced, holding a level 6 qualification in Public Service Interpreting and at least 400 hours of relevant experience. For more everyday interactions such as general interactions and updates, interpreters should have a level 3 qualification in Community Interpreting.

Recommendation: Commissioners ensure that contracted language support providers meet the above minimum standard of qualifications and experience.

Additionally, as included in the Victim’s Code, these services must be ‘offered to’ the victim as opposed to having to be requested, and due to the dynamic nature of language proficiency and the impact of situational factors such as stress or emotional experiences, this offer must be made at least at the first point of contact with each agency/member of staff, and then again at the beginning of each new interaction. This information should form part of staff training – see response to question 2, above.

Community outreach

As well as providing language support, it is vital that services actively reach commonly underserved groups, including racially, ethnically, and linguistically minoritised communities.

³¹ Office for National Statistics, *Census 2011*, 2013

Finally, services should work with community and faith organisations to raise awareness of individual rights, both as victims and more generally in terms of interactions with the police and other services. Harrow Law Centre and The Law Centres Network, for example, have run a number of sessions and workshops with local groups to provide advice and education on different forms of exploitation, police powers, and victims' rights in cases involving county lines and sexual exploitation.³²

Recommendation: Local police forces and victim support services to lead awareness-raising campaigns targeted at marginalised groups and under-served communities.

Question 4: Do the current procedures around timing and method of communication between the police/CPS and victims about key decisions work for victims? Are there any changes that could be beneficial?

As discussed above (see question 3), in order to properly engage with the CJS all victims must be provided with information in a language they can understand, through the use of professional translation and interpretation services. The recommendations outlined in question 3, regarding documentation in easy read format and the centralised provision of translated key documents could improve the police and CPS's communication with victims who speak ESL, including by reducing delays caused by the additional timing required to translate individual documents.

As evidenced above, many victims turn to unofficial forms of language support such as asking a friend or family member to translate for them. Wherever possible, the victim's first/preferred language should have been recorded at the first point of contact, and all communications following this should be translated into this language. For this to be delivered realistically and proportionally, one option is the exploration of a centralised system, such as readily available translations of commonly used paragraphs, i.e. informing of the date of an appointment or court appearance, or the outcome of a court case. This must be designed and implemented carefully in order to ensure proper functionality – a poorly designed or managed solution could further add to issues of miscommunication.

Recommendation: The Home Office explores innovative approaches to providing centralised translation services for letters and other written communication to be sent to victims.

Question 10: What should the role of PCCs be in relation to the delivery of a quality service and commissioning victims' support services, and what levers

³² Harrow Law Centre, *Recognising exploitation and understanding your rights: online workshop for young people*, 2020

could be given to PCCs to deliver this role and enhance victims' experiences of the criminal justice system at a local level?

One of the biggest challenges to improving the experiences and outcomes of victims who speak ESL is the **lack of available data on how many victims there are who speak ESL, and where they are in the country**. A better understanding of this would underpin all the proposed principles and actions by ensuring that resources can be targeted effectively at areas and groups with the highest need. Anecdotally we know that many service providers and police forces record when a victim speaks ESL as a 'note' on the victim's record, but this does not allow for large scale analysis and monitoring as is the case with protected characteristics.

All databases, including those managed by police forces, victim support services, and national databases such as the National Referral Mechanism (NRM) should record, in mandatory and structured (retrievable) data fields:

- Speaks 'ESL' (y/n);
- Preferred language(s) - this could be differentiated for spoken and written preference, and should be completed according to the victim's preference rather than staff judgement;
- Previous language support – this could be an unstructured field allowing staff to communicate notes around historical language support provided and its benefits.

While individual forces and services will have to enter and manage the data, PCCs should have responsibility for supporting the implementation of this new data requirement, and oversight of its continued recording, as they do for the recording of data regarding protected characteristics.

As well as a basic understanding of the scale of need, this will allow for further monitoring as required of PCCs and Chief Constables by the Public sector equality duty,³³ and for deeper analysis of, for example, the relationship between facing a language barrier and satisfaction rates, dropout rates, and experiences of crime overall.

Recommendation: All agencies working with victims, and contracted delivery partners, introduce structured (retrievable) and mandatory data fields for 'Speaks ESL' and preferred language(s).

³³ Equality Act 2020, s.149

Question 11:

- a) Do you think the current inspectorate frameworks and programmes adequately focus on and prioritise victims' issues and experiences and collaborate effectively across the criminal justice system to do so?**

Neither the HM Inspectorate of Constabulary and Fire & Rescue Services' (HMICFRS) Policing inspection programme and framework³⁴ or the HM Crown Prosecution Service Inspectorate's (HMCPPI) Business Plan³⁵ or inspection programme³⁶ mention language barriers or the needs of victims who speak ESL.

Accountability is crucial for the improvement of support for victims who speak ESL, as, in part due to significant budget cuts and financial pressures in recent years, services and support for speakers of ESL have been seen as an optional or auxiliary part of service delivery: a 'nice to have'. As discussed above, language is a strong indicator of ethnicity and therefore must be considered a potential discriminatory factor under the government's and CJS agencies' Public sector equality duty.³⁷ With services continuing to face these pressures, strengthened accountability is vital to ensuring that their equality duty is met, and victims who speak ESL are not discriminated against in their attempts to access justice.

- b) Could inspectorates be reinforced further in relation to victims?**

A stronger focus on victims

Both HMICFRS and HMCPPI have complex and wide-ranging remits, and as such the needs of victims, and particularly subgroups of victims such as those who speak ESL, are not central to either. **A new inspectorate focused on the experiences of and outcomes for victims, could significantly improve the oversight and accountability of all agencies with responsibility for victims.**

Recommendation: A new independent inspectorate is introduced to assess and report on the experiences and outcomes of victims of crime.

Improved standards of service for victims who speak ESL

All inspectorates, whether the existing inspectorates with responsibility for victims or a new, victims-focused inspectorate, must include consideration of language as a barrier to justice, including as a permanent feature of inspectorate frameworks and through the use of thematic reports focused on speakers of ESL.

³⁴ HMICFRS, *Policing inspection programme and framework 2021/22*

³⁵ HMCPPI, *Business plan 2021-22*

³⁶ HMCPPI, *Our inspection programme, 2021*

³⁷ Equality Act 2020, s.149

Equally important is to understand what 'good' looks like regarding services and access to justice for speakers of ESL. As discussed above, the basic provision of language support services is not sufficient to overcome language and cultural barriers if it is not consistently offered or of substandard quality. The accountability framework must go beyond the basic provision of language support, and should expect the following minimum standards:

- Victims' preferred language(s) are routinely recorded by each agency and this information informs service provision, including services that are delivered 'by and for' the local community;
- All key documents are provided in easy read format, and wherever possible in victims' preferred language;
- Language support is routinely offered at each point of contact with the system and at regular intervals during interactions with a high potential to impact proficiency in English, such as recounting a stressful or traumatic crime – victims should not have to request this support;
- Interpreters contracted to provide language support meet the minimum standard discussed above (in all interactions with potential consequences, such as taking a victim's statement, offering legal advice, or informing a victim of the outcome of a case, interpreters must be highly qualified and experienced, holding a level 6 qualification in Public Service Interpreting and at least 400 hours of relevant experience. For more everyday interactions such as general interactions and updates, interpreters should have a level 3 qualification in Community Interpreting);
- Staff are trained in the specific language and cultural barriers facing victims who speak ESL, their impacts, and how to overcome them.

Recommendation: The inspection frameworks and inspection programmes of all inspectorates with responsibility for victims include the above minimum standards of service for speakers of ESL.

Question 12: Do you think that the current inspectorate arrangements allow sufficient collation of, and reporting on, victims' data and issues across the criminal justice system? Could they be utilised further for this?

As discussed above (question 10), PCCs are best placed to collect and collate data regarding victim equality, including data on victims who speak ESL, as part of their equality duty. However, inspectorates should also collate this information on a national level, conducting thematic inspections and reporting on the experiences and outcomes of victims who speak ESL and using their role to highlight areas of good practice in different PCC or police force areas.

Recommendation: Inspectorates with responsibility for victims conduct thematic inspections on the experiences and outcomes of victims who speak ESL, and highlight good practice in the sector.

Question 18:

a) What data should criminal justice agencies collect about victims' experiences, and at what key points in the process?

All agencies with responsibility for victims should record spoken and preferred languages at every point of contact with the system – see question 10 for full details.

Question 35 and 36: What are the challenges in accessing advocate services, and how can the Government support advocates to reach victims in all communities? What other advocacy roles exist that support victims of hidden crimes, such as forms of other serious violence? Please outline the functions these roles perform. To what extent are the challenges faced similar to those experienced by ISVAs and IDVAs? Are there specific barriers?

Evidence suggests that victims who speak ESL are often confused by the purposes and functions of the many different parts of the criminal justice system, including confusion and sometimes mistrust about the relationship between voluntary sector victim support services and the police.³⁸ Victim advocates can play an important role in bridging these gaps in understanding and providing reassurance to support victims to continue engaging in the process. When a victim speaks ESL, an advocate can play the role of a cultural mediator to provide further support and overcome additional language and cultural barriers.

Cultural mediation

Cultural mediation is a tool commonly used in other European countries, particularly in the healthcare and social sectors.²⁷ It goes beyond simple interpretation to overcome cultural barriers and bridge understanding, and has been shown to be particularly effective with women victims/survivors from migrant communities by creating a holistic approach that emphasises the survivor's needs.³⁹

“The idea of cultural mediation is to create a space where women can use their own words and languages to express what they are going through. In this context, the cultural mediator is asked to be much more than an interpreter, rather an expert at finding equivalences between languages...to fill in the gap of understanding between institutions and migrant women.”⁴⁰

³⁸ Victim Support, *Language barriers in the criminal justice system: the experience of victims and witnesses with English as a Second or Additional Language*, in press

³⁹ Rakovica, B and Ianovitz, S. *Cultural mediation: an inclusive solution to help reduce the cultural and language barriers experienced by survivors of trafficking*, 2021

⁴⁰ Rakovica, B and Ianovitz, S. *Cultural mediation: an inclusive solution to help reduce the cultural and language barriers experienced by survivors of trafficking*, 2021

Victim advocates who are trained as cultural mediators can act as an alternative to traditional interpretation services in the appropriate environments, such as when a victim or survivor is identified as speaking ESL or showing signs of facing significant cultural barriers, such as severe mistrust or difficulty communicating despite the presence of traditional language support. More generally, cultural mediation techniques can be introduced into existing practice for all victim advocates and other practitioners to make steps to remove cultural barriers. These include creating a safe space, listening to the victim or survivor's needs with a completely non-judgemental lens, and taking the time to build trust.⁴¹ Techniques such as these should form part of staff training – see question 2.

Recommendation: Advocates who work with victims who speak ESL are trained as cultural mediators.

Question 49: Have we correctly identified the range and extent of the equalities impacts under this consultation in the equality statement? Please give reasons and supply evidence of further equalities impacts that are not covered as appropriate.

Language is a key feature of ethnicity, and, as discussed throughout this submission, can have a significant impact on the equality of access to, experiences with, and outcomes from, the criminal justice process for a significant number of victims from minority groups. Any equality analysis should therefore include consideration of language alongside other protected characteristics.

The evidence of the impact of this equality characteristic is laid out throughout this response, and The Bell Foundation will share the full 'Language Barriers in the Criminal Justice System' research report upon publishing in March.

Recommendation: All Equality Impact Assessments conducted by agencies with responsibility to deliver services under the Victims' Code include consideration of language barriers and equality of access to justice for speakers of ESL.

⁴¹ Rakovica, B and Ianovitz, S. *Cultural mediation: an inclusive solution to help reduce the cultural and language barriers experienced by survivors of trafficking*, 2021

For more information

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