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Policy Briefing: Language Barriers in the Criminal Justice System

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Language barriers in the criminal justice system

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- The right to language support and assessing the scale of needs.
- The challenges.
- Detailed recommendations.

Our recommendations at a glance

- Agencies should assess and record first and other languages of individuals at every point of contact.
- The right of victims “to understand and to be understood” must be enshrined in law, actively promoted, and its implementation monitored.
- Agencies should introduce training and guidance for frontline staff on the nature and impacts of language barriers, as well as providing high-quality interpreter services.
- Agencies should be aware of, and remove barriers to access, for speakers of English as a second or additional language (ESL).
- HM Prison and Probation Service (HMPPS) should ensure that service users who speak ESL have access to the appropriate level of ESOL classes as part of their rehabilitation.
- HMPPS should explore opportunities to formalise peer language support and offer educational opportunities for those who wish to undertake such peer work.

Background

The criminal justice system (CJS) is central to guaranteeing the safety and security of our communities, yet speakers of English as a second or additional language (ESL) are presented with numerous challenges in accessing fair justice outcomes and avenues of support. With over five million ESL speakers in the UK, language must be made a key consideration when evaluating the efficacy of the CJS in delivering equitable access to justice for everyone, regardless of their language.

The apparent challenges are made clear in this case study regarding a Romanian woman who, having contacted the police to report her abusive partner – himself fluent in English – found herself handcuffed in a police car:

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“They were just saying ‘speak English! Speak English!’. They didn’t understand me in English so I switched to Romanian, and I said, ‘feel how I feel when I can’t understand what you’re saying to me’. I was devastated, they [police] were speaking English to me, ‘stand up’, they lifted me forcefully, bent my arms, searched me. And what am I supposed to do? How am I supposed to tell what I’m telling?”

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This briefing has been developed by The Bell Foundation, a charitable, evidence-led foundation that funds research into the experiences of speakers of ESL who are in contact with the CJS as victims, witnesses, suspects, defendants, and people with convictions. It is based on work the Foundation funded with the Centre for Justice Innovation, the Institute for Crime and Justice Policy Research, Birkbeck, University of London, and Victim Support. [Explore the evidence on our website.](#)

The right to language support and assessing the scale of need

Individuals have various rights and entitlements to language support when in contact with criminal justice agencies. Language support also has a more instrumental purpose in the process of delivering justice: that is, to ensure witnesses and defendants can provide their “best evidence”.

Responsibility lies with police, prosecutors, defence lawyers, and prison staff to provide “competent” or “accredited” interpreters and the translation of key documents for:

- Victims and witnesses to allow them to report crimes and give evidence.
- Arrestees and defendants to understand their rights and the charges against them and to a fair trial.
- People in prison to be informed about regulations, the prison regime, and available services in a language they understand.¹

There are no robust data, however, on the scale of language needs and the range of different languages spoken by those in contact with the CJS. Language is not included in demographic data used to monitor differential treatment and disproportionality in the CJS nor is it mentioned in equality objectives for people who reoffend.

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The challenges

Speakers of ESL can be disadvantaged in both being denied fair justice outcomes, and in terms of constraints on access to services and support, including rehabilitative initiatives. Language needs also intersect with other vulnerabilities, including being victims of trafficking and having legally insecure immigration status – taken together, these can further reduce access to services and support in the CJS.

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“In one case, we heard from a man who was violently assaulted at work who described his proficiency in English as ‘very bad’ in daily life, and inarticulate under stressful situations. An interpreter was not provided when he attempted to report the assault as the responding police officer felt it was not required. The victim was not informed about his rights to interpreter under the Victims’ Code and gave a statement over the course of an hour, in pain, and under stressful circumstances. He subsequently had to enlist the help of a friend to translate correspondence for him.”

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¹ In brief, this correlates to language support for victims and witnesses when reporting crimes and providing evidence to the police or in court (The Victims Code of Practice, 2020; The Witness Charter, 2013); for arrestees and defendants to ensure their understanding of charges against them and their right to independent legal advice (Police and Criminal Evidence Act, 1984) and to a fair trial (enshrined in Article 6 of the European Convention on Human Rights); and for those held in prison to be informed in a language they understand about prison regulations, the regime, the range of health and education services available, and any disciplinary action against them (Prison Rules, 1999; ‘the Bangkok Rules’, 2010; ‘the Nelson Mandela Rules’, 2015). However, research demonstrates that many of these are not put into practice or enforced. ICPR et al, [Language-barriers-in-the-criminal-justice-system](#), March 2022.

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“We also heard from a man currently serving a custodial sentence about the additional problems faced by speakers of ESL within prisons, drawn from his experience of assisting friends. ESL speakers struggle to set up telephone contact with family, are turned down for certain workstreams due to poor English, cannot understand sentence plans or legal letters, and are left waiting for requested places on English language courses for over 17 months. He also noted the general lack of rehabilitative interventions available, with the sole programme, on victim awareness, being delivered exclusively through literature in English.”

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Detailed recommendations

- **Agencies should record first and other languages of individuals at every point of contact.** This could be done when protected characteristics are recorded, to comply with the Equality Act (2010). Agencies should ensure this data is easily retrievable to routinely review outcomes for ESL speakers.
- **The right for victims of crime “to understand and to be understood” must be enshrined in law, actively promoted, and its implementation monitored** by agencies working with victims.
- HMPPS should ensure that service users who speak ESL have **access to the appropriate level of English for Speakers of Other Languages (ESOL)** classes as part of their rehabilitation.
- **Agencies should be aware of, and remove barriers to access, for speakers of ESL.** This should include regularly reviewing service users’ language requirements to ensure service information is translated and appropriately targeted.
- **Agencies should introduce training and guidance for frontline staff on the nature and impacts of language barriers**, as well as providing high-quality interpreter services where interpreters are familiar with the workings and vocabulary of the CJS.
- Agencies should **review existing staff and volunteer language skills and aim to have a workforce that reflects the linguistic diversity of service users.**
- HMPPS should **explore opportunities to formalise peer language support** and offer educational opportunities for those who wish to undertake such peer work.

About The Bell Foundation

This briefing has been developed by The Bell Foundation, a charitable, evidence-led foundation that aims to improve educational, employment and justice outcomes for people who speak English as an Additional Language (EAL). The Foundation collaborates with leading universities and think tanks to develop an evidence base and works with a network of schools to develop and deliver practical solutions to help improve the attainment of pupils who are at risk of underachieving. In 2022, the Foundation supported over 26,000 teachers and educational professionals to support children who use English as an Additional Language through the training of teachers and webinars.

A series of policy briefings about our three programmes, EAL education in schools, ESOL and post-16 English education, and overcoming language barriers in the criminal justice system, is available on our website here: [Policy - The Bell Foundation \(bell-foundation.org.uk\)](https://www.bell-foundation.org.uk)

