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Access to Justice for All: The Impact of Language Barriers

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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](#).

Background: language barriers in the criminal justice system

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, whether as victims, witnesses, suspects, defendants, or people with convictions, either in prison or under probation supervision.

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 and rehabilitation for everyone, regardless of their language. If not addressed, these issues will continue to prevent the CJS from delivering justice for victims, tackling the prisons crisis, and cutting reoffending.

This briefing outlines the key issues in the system, evidenced by research, funded by The Bell Foundation, conducted by the Institute for Crime & Justice Policy Research, Victim Support, and the Centre for Justice Innovation, and recent inspection reports from His Majesty's Inspectorate of Prisons (HMI Prisons) and His Majesty's Inspectorate of Probation (HMI Probation).

Understanding the scale of the problem

There are no robust data 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. This omission means the true extent of language support requirements remains hidden, and makes it impossible to effectively allocate resources, target interventions, and track progress.

Putting victims first: how language barriers obstruct justice

Inconsistent language support for victims and witnesses

Access to language support is inconsistent across the CJS, affecting the ability of ESL speakers to fully participate in justice processes. This undermines any drive towards equity of experience and outcomes and erodes trust in the system.

Inconsistent use of interpretation and translation

Whilst in general practitioners have good knowledge about rights and entitlements regarding language support, and about how to access this support, there are significant barriers to their accessing it in a timely manner. The key challenges reported by practitioners are:

- Finding and arranging an interpreter quickly or at a scheduled time, especially for practitioners with already busy and changeable workloads or working in chaotic prison environments.
- A lack of awareness of an individual's language needs due to poor sharing of information between agencies.
- A lack of knowledge and expertise in assessing an individual's language needs, which are not static and may change throughout an individual's interactions with the system, and in working with interpreters.

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“As a first responder, that is not going to be at the top of my priority list... because in order to submit that request, I am going to have to come back to a police station to then submit the request. To then get in contact with that victim and say, ‘Can you please attend at this police station at this time on this day?’ Do you see what I mean?”

Police officer, Language Barriers in the Criminal Justice System: The experience of victims and witnesses who speak English as a second or additional language, p20

“As a frontline officer you have got other calls to attend. The interpreter might be able to come out in four hours’ time, but your shift might have finished.”

Police officer, Language Barriers in the Criminal Justice System: The experience of victims and witnesses who speak English as a second or additional language, p20

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Where language support is offered, it is not always of sufficient quality. Practitioners report a lack of capacity in interpretation services to cater for rarer languages or dialects, and systems that are not suitable for ongoing support, such as repeat-booking of interpreters to work with the same individual.

Similarly, written materials including key legal documents or information about court proceedings are often not translated for speakers of ESL. This can lead to a lack of clarity that causes vulnerability and frustration, hampering the ability of victims, witnesses, and defendants to fully participate in justice processes, potentially leading to delays, dropped charges, and a lack of justice for victims.

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“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 words which I never... I didn’t understand it.”

Victim, hate crime, Language Barriers in the Criminal Justice System: The experience of victims and witnesses who speak English as a second or additional language, p6

“We’re sending out letters in English. We don’t have the facility to send it out in their particular language, so we’ve got letters going out in English. They’re looking at it. If they don’t have anyone to help them, they’re looking at it, thinking, ‘What the hell does this mean?’”

Witness Service staff member, Language Barriers in the Criminal Justice System: The experience of victims and witnesses who speak English as a second or additional language, p6

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Practitioners ‘getting by’

Practitioners across the system have to rely on their “professional judgement”, often without sufficient training, to assess an individual’s support needs. They regularly use a range of strategies, some more effective than others, to “get by”, including:

- Requesting language support from multilingual colleagues, which is effective in isolation but not a sustainable solution without proper strategy and systemic support.
- Using tools such as Google Translate, which may be helpful in very specific, simple circumstances but cannot facilitate the proper, accurate conveyance of important legal and other detail.
- Utilising friends or family of the individual to interpret, which can be highly inappropriate or even dangerous in certain situations.

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“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 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, Language Barriers in the Criminal Justice System: The experience of victims and witnesses who speak English as a second or additional language, p5

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Case study: victim of violent assault

“Zane describes his proficiency in reading and writing English as ‘very bad’. Under ‘normal’ circumstances, he can speak and understand English well but when he is stressed or overwhelmed, he feels he has ‘no words’.

Zane was violently assaulted at work. He reported this incident to police and requested an interpreter to support him with making his statement by phone. Despite this request, an interpreter was not provided because the police officer believed that Zane could communicate adequately without one.

Zane was not informed about his right to access an interpreter under the Victim’s Code and gave his statement in stressful circumstances, in acute pain as a result of the attack, and in a conversation with the police officer that lasted for one hour. He told us that he ‘100% needed an interpreter to explain properly what happened’. Thereafter, his contact with the police was by email and he had to enlist the help of a friend to translate the correspondence for him.

Reflecting on his experience, Zane felt he was unable to accurately articulate what had happened to him and he wishes he had been informed about his rights to language support and the complex workings of the CJS – ‘I never know what I have to do, who I have to call, where I have to go but why do I have to ask?’”.

Language Barriers in the Criminal Justice System, p36

Eroding trust and effectiveness in the system

This lack of consistent, high quality language support often represents a failure to meet fundamental rights, and can lead to erosion of trust in police and criminal justice procedures, higher rates of disengagement from justice processes, and lower police efficacy (and therefore lower prosecution rates). These outcomes directly contradict efforts to ensure that people continue to engage and cooperate with police, and that justice is delivered effectively.

Erosion of trust and disengagement

Where victims or witnesses who speak ESL are unable to articulate important circumstantial details to the police, they are likely to feel disempowered. The experience may be stressful or even traumatic, particularly in some shocking examples in which victims are mistakenly identified as a perpetrator, such as in the two examples below. Such experiences are likely to negatively impact an individual’s perceptions of the police and their willingness to engage in the future, undermining efforts to build trust between police and communities.

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“He [the 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, Language Barriers in the Criminal Justice System, p36

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Case study: survivor of domestic abuse

“Angela is a survivor of domestic abuse. When she arrived in the UK, she did not speak any English but for the past three years has been attending English language classes. Although she understands some English, she struggles with certain topics and where more complex, colloquial or specialised language is used. She often does not understand what is said to her in English when she is under stress.

Angela was in an abusive and controlling relationship. She contacted the police but her then partner – who was fluent in English – convinced them that he was the victim. ‘They peeled me away from the stairs. They cuffed me, put me in the police car, so I said why? What? How? I was being treated like a criminal, so I was in great shock’. The police did not ask Angela if she understood what was happening. They did not ask if she needed an interpreter. Even when she started speaking in Romanian.

‘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?’.

Angela was arrested and held in police custody – ‘There were questions about my medications, medical history, a nurse came. But all of it was in English. I only got the translator after eight in the evening, even though I asked for them around two or three in the afternoon’. After explaining through an interpreter what had happened to her, Angela was released and allowed to go home. Her partner was later charged, and the case proceeded to court.

At court Angela was offered an interpreter when giving evidence. She could read the court paperwork as this had been translated for her. ‘I had gotten a translator because the prosecutor was there, my previous interrogations were [translated for court] in Romanian and English. I was able to read everything. That lady [interpreter] was describing what I had lived through. [interpreters] were certified, really qualified. They were there to translate my feelings’.

A copy of the court ruling was sent to her in English, and she paid for this to be translated. ‘Court informed me that he’s guilty and has a restraining order and that he’ll be arrested. I wanted a confirmation of the ruling, that he’s been sentenced or something, I had problems with where I can obtain it. The social worker from [place] helped me to get it because I didn’t know where. First, because of the language barrier and second, I was clueless as to where to look for it. They sent me to the court, the court said no. Later someone called and they’ve sent me the ruling in English’.

Language Barriers in the Criminal Justice System, p35

Impact on justice processes

This lack of trust, along with the frustrations of being unable to fully articulate experiences or understand processes, is likely to increase the chances that a victim or witness will disengage from the process. This decreases the chances of a successful prosecution and may add to the significant backlog of cases in the UK Courts due to ineffective trials.

Furthermore, language barriers that prevent clear communication between victims or witnesses and the police can significantly impact the police's ability to take accurate statements. This is not only frustrating and disempowering for a victim or witness, but may

undermine the system's efforts to secure justice, or cause delays to an already overworked system.

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“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, Language Barriers in the Criminal Justice System, p36

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Breaking the cycle: language barriers and reoffending

A lack of services and support for ESL speakers in prison and on probation

Inconsistent use of interpretation and translation

As with victims and witnesses, prisons and probation services provide inconsistent access to language support for people under their care, leaving already vulnerable individuals isolated and unsupported, unable to engage properly with the justice process or the systems and services set up to reduce reoffending. Written materials are also heavily monolingual, leaving ESL speakers unable to interact fully with the regime. This is true in prisons with a high ESL population as well as those with a small, often vulnerable minority.

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“Staff were still not making use of professional interpretation services to communicate with prisoners who spoke little English, including some foreign nationals. Some staff did not know how to use the telephone system to access interpreters and one prisoner, for example, had not spoken to staff in his preferred language since he arrived three months earlier.”

Report on an unannounced inspection of HMP Peterborough (men) by HM Chief Inspector of Prisons, April 2024, p26

“We were not confident that telephone interpreting services were always used when necessary. Other prisoners were being used instead which was not always appropriate, particularly when personal issues were being discussed.”

Report on an unannounced inspection of HMP Cardiff by HM Chief Inspector of Prisons, p27

“We saw examples of key work sessions that should have been conducted with an interpreter, such as this record of a session with a Vietnamese prisoner: ‘Went and tried to speak to [prisoner], the language barrier is a big issue but felt like he could understand a few things, asked if he was ok and he stuck up his thumb. Asked/signed if everything was ok on the wing, again he stuck up his thumb. From what I gather everything is ok at the minute for [prisoner].’”

Report on an unannounced inspection of HMP Durham, November 2021, p34

“While we were told that prison information was available in different languages, prisoners we spoke to could not recall any instances where they had received translated material about the prison.”

Report on an unannounced inspection of HMP Full Sutton by HM Chief Inspector of Prisons 11–21, March 2024, p29

“There was a dearth of accessible health information and advice throughout the prison. The health care department had some easy-read documents but there was no information in other languages.”

Report on an unannounced inspection of HMP Five Wells by HM Chief Inspector of Prisons, p31

“The induction booklet about life at Morton Hall was only available in English. Some related induction documents had been translated into eight additional languages, which was still insufficient for the wide range of languages spoken.”

Report on an unannounced inspection of HMP Morton Hall (FNP Prison), p13

“In our case inspections we saw...several instances where interpreters were required but not provided in key sessions such as assessment and planning discussions.”

An inspection of probation services in: Northamptonshire PDU The Probation Service – East of England region, July 2024, p16-17

“So, you won’t have a consistent interpreter all the way through, and that can cause its own problems, in that you want continuity. It’s just like when we’re managing someone, we are very conscious about continuity, how important it is for building that relationship, breaking those barriers down and getting to know someone, all that type of stuff.”

Probation staff, Language Barriers in the Criminal Justice System: The experience of victims and witnesses who speak English as a second or additional language, p23

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Monolingual services

Despite increasing language diversity in the UK, services in prisons and probation services remain largely monolingual and difficult to access for ESL speakers. This puts ESL speakers at a significant disadvantage in their rehabilitation journeys as compared to English-speaking peers, undermining efforts to improve offenders’ access to purposeful activity and reduce reoffending. Research suggests that the kinds of provision that ESL speakers may be unable to access include “access to legal advice, especially in relation to immigration issues; rehabilitative interventions as part of community supervision under the probation service; and various services, interventions, and activities provided in prison.” (Language Barriers in the Criminal Justice System, p5).

One commonly cited example in HM Inspectorate of Prisons reports is access to books and other library resources.

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“Few books were available for prisoners with specific needs such as emergent or ESOL readers (English for Speakers of Other Languages).”

Report on an unannounced inspection of HMP Five Wells by HM Chief Inspector of Prisons, p38

“There were few translated titles or materials in the library, despite this being raised consistently by equality representatives. This resulted in some prisoners reporting having to read the same book repeatedly because of a lack of choice. These prisoners were told that foreign language titles could not be provided because they did not have British certification, although the lead for this area told us that there were plans to address this issue.”

Report on an unannounced inspection of HMP Full Sutton by HM Chief Inspector of Prisons 11–21, March 2024, p29

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As well as rehabilitative services, there is insufficient and often poor-quality English language education to enable people in prison or under probation supervision to develop their English and be able to engage with the prison regime, or to seek further opportunities such as employment on release.

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“Translated materials were not routinely provided...and there was a waiting list for English for Speakers of Other Languages (ESOL) classes.”

Report on an unannounced inspection of HMP Cardiff by HM Chief Inspector of Prisons, p27

“There was no provision for the small number of prisoners with minimal English language knowledge to study English for Speakers of Other Languages (ESOL).”

Report on an unannounced inspection of HMP Five Wells by HM Chief Inspector of Prisons, p41

“However, in ESOL and the multi-skills course, the quality of education was not good enough. Leaders were rightly concerned that there was not enough provision for ESOL learners. In ESOL, teachers did not plan the curriculum well. They did not use prisoners’ starting points as the basis for planning their learning activities or provide enough opportunities for prisoners to practise their speaking and listening skills and use them in prison contexts. As a result, some prisoners found the written language in learning activities too difficult.”

Report on an unannounced inspection of HMP Durham, p49

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These problems extend to prisons with both high and low ESL populations, including prisoners exclusively holding foreign national prisoners (FNPs) such as HMP Morton Hall:

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“There were also not enough spaces for prisoners who wanted to study English for Speakers of Other Languages (ESOL).”

Report on an unannounced inspection of HMP Morton Hall, p36

“Prisoners could make complaints in their own language, but only two had been submitted in languages other than English in the past year. Report on an unannounced inspection of HMP Morton Hall 24 complaints forms in different languages were often held in staff offices, and the translation service was not well enough promoted.”

Report on an unannounced inspection of HMP Morton Hall, p23-24

“Telephone interpreters had been called 971 times in the previous six months, which was more than usually seen, but we found several cases where they were not used when clearly needed. Other prisoners had also been allowed to interpret for sensitive matters where accuracy was important, such as health care examinations and key work sessions. People with interpreting needs were not systematically identified at reception or on the electronic case notes system. Home Office documentation was not routinely translated into foreign languages.”

Report on an unannounced inspection of HMP Morton Hall, p25

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It is important to note that FNO status does not necessarily equate to ESL status and is a poor proxy that is often used to predict language barriers. Many FNOs come from English-speaking countries, and many British Nationals speak ESL. Due to the lack of data regarding language needs and the poor job that FNO status does in predicting language barriers, the most vulnerable ESL prisoners might be those in prisons with low ESL populations, where they are isolated, unsupported by English-speaking staff and peers, and at risk of falling through the cracks.

While there is of course significant overlap between the FNO population and those who speak ESL, the two groups are not identical. There are a number of FNOs in the prison system from English-speaking countries such as Ireland and Jamaica, and there are also British citizens who do not speak English as a first language (3.51% of the general public according to the 2021 Census). They may share a number of vulnerabilities, including social and economic isolation and insecure immigration status, but there are also a number of impacts that are specific to those facing a language barrier.

Language is a key identifying criteria for ethnicity and should therefore be considered as part of this protected characteristic under the Government and the MOJ's Public sector equality duty.

A dearth of appropriate services from probation

Probation services offer very few programmes for speakers of ESL, and services are unable to offer English language education (ESOL) that could facilitate access to a wider range of interventions and break down barriers to opportunities such as employment.

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“I also think what’s a real shame is we don’t have any programmes we can offer to help someone improve their English in the community. A lot of people say, ‘I’d really like to get my English better.’ Obviously for me to offer them any other intervention, if their English improves then I can say, ‘Let’s get you working with the employment person.’ We don’t have that first step so sometimes they get stuck, I’d say you don’t receive as good a service overall ...if you really don’t have a lot of English at all, I think the service you receive is poorer.”

Probation, Language Barriers in the Criminal Justice System, p37

“When it actually comes to interventions with those with limited English, I think there is still a deficit, I think we would accept that and accredited programmes, domestic abuse programmes, skills programmes aren’t available for foreign national offenders.”

Probation, Language Barriers in the Criminal Justice System, p37

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Preventing effective rehabilitation

A lack of access to purposeful activity, rehabilitative services, and English language education significantly disadvantages speakers of ESL in prison or under probation supervision. This negatively impacts attempts to drive down reoffending rates and break down barriers to opportunity. ESL speakers are already less likely to be in employment, and it stands to reason that this would be true of prison leavers or those on probation as well.

Recommendations for change

1. First and other languages should be routinely recorded at each point of contact with the CJS, whether with a statutory or voluntary sector service.
2. The evidence base is widely acknowledged in the sector, and every policy or commissioning decision considers the data and the evidence, either:
 - a. with adaptations to services that meet the needs of speakers of ESL, or;
 - b. with additional services tailored specifically to speakers of ESL where adapted services are not appropriate.
3. The system’s language support services meet a minimum standard:
 - a. quality, consistent, and CJS-appropriate interpretation and translation services;
 - b. access to appropriate ESOL learning.
4. All frontline staff working in the CJS are given language and cultural awareness training.

5. All forms and service-user-facing paperwork are provided in easy-read and/or translated formats.

Taken together, these recommendations would allow the criminal justice system to:

- Understand the scale, and cost, of the impact of language barriers on justice and rehabilitation, and how to structure and fund services to better achieve these goals. This would underpin all other goals.
- Contribute to the restoration of trust in policing with ESL speakers by making sure that victims are heard and understood and treated equitably.
- Reduce delays and failed prosecutions caused by victims losing faith and dropping out of the system.
- Improve reoffending rates by ensuring access to effective rehabilitation interventions for speakers of ESL, and by breaking down language barriers to vital opportunities such as employment on release from prison.

