Language barriers in the CJS: Some key findings

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The research

**Exploratory:** investigating how speaking English as second or additional language (ESL) affects experiences & outcomes in the criminal justice system (CJS);

‘Contact’ as: victims, witnesses, **suspects, defendants** and **people with convictions** – in prison & under probation supervision.

The research aimed to:

- enhance understanding of nature & implications of language barriers;
- raise awareness of their impact on access to justice
- identify areas for improvement in policy and practice
- support improvements through engaging with practitioners
Research activities

**Review:**
- legal rights and entitlements to language support;
- numbers of individuals who speak ESL in contact with CJS

**Primary research**
- Interviews with key stakeholders working in policy, practice and academia
- Interviews with practitioners from statutory and voluntary sectors in two geographic areas and with interpreters who work across the CJS (N=63);
- National of frontline staff and volunteers about experiences of supporting victims who speak (N=163)
- Interviews with victims and witnesses (N=19)
- Interviews & written correspondence with people with lived experience of prison (N=7);

**Workshops**
- with practitioners working across CJS to ‘test’ findings and develop good practice
Quantifying the issue

The data

- No robust data to assess scale & range of language support needs in CJS
- Language information **not** collected routinely by statutory agencies
- Language **not** included in demographic data used to monitor treatment & outcomes in the CJS
- Reliance on flawed, proxy measures for ‘guesstimates’

**What we can say**

- Wide range of languages spoken in CJS based on language support requests
- Eastern European languages most frequently requested
- HMCTS most common user of formal language support
- From literature review and primary research, intersection of language needs and other vulnerabilities, including insecure immigration status
## Interpreter requests

**Language service requests under Ministry of Justice contract arrangements in England and Wales**, 12 months to March 2020

<table>
<thead>
<tr>
<th>Commissioning body</th>
<th>No. of completed service requests</th>
<th>% completed service requests</th>
</tr>
</thead>
<tbody>
<tr>
<td>HM Courts and Tribunal Service</td>
<td>149,884</td>
<td>89</td>
</tr>
<tr>
<td>The Salvation Army</td>
<td>7,674</td>
<td>5</td>
</tr>
<tr>
<td><strong>HM Prison and Probation Service</strong></td>
<td><strong>7,069</strong></td>
<td><strong>4</strong></td>
</tr>
<tr>
<td>HM Prison Inspectorate</td>
<td>6</td>
<td>&lt; 1</td>
</tr>
<tr>
<td>Other</td>
<td>3,034</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>167,667</strong></td>
<td></td>
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</tbody>
</table>
The legal and policy framework

Rights and entitlements to language support

Links to legal principles, statutory codes & good practice for ‘delivery of justice’ & UK obligations under international treaties.

**Reporting & giving evidence:** Victims Code of Practice, 2020; Witness Charter, 2013

**Detained or charged:** Police and Criminal Evidence Act (1984); ECHR (Article 6)

**Court hearings:** Witness Charter, Criminal Procedural Rules, Equal Treatment Bench Book

**Prison:** Prison Rules, 1999; Bangkok Rules, 2010; Nelson Mandela Rules, 2015

**Probation:** No specific guidance for supporting speakers of ESL

**Quality of language support:** responsibilities assigned to police, prosecutors, defence lawyers, prison staff to organise ‘competent’ or ‘accredited’ interpreters

**Expectations of inspectorates** reinforce requirements for language support
Accommodating language diversity

Common challenges

**Applying rights:** Messy realities, incl. time and resource pressures and lack of information about language requirements, Covid-19

“We can’t spend a lot of time with the individual [no more than 10 minutes as Covid-19 prevention strategy]... So, we have an issue where sometimes we can’t deliver language support because of those [time] constraints.” [Prison]

**Limited training and guidance:** Incl assessing language proficiency; working with interpreters; understanding & responding to language and cultural barriers

“We don’t, as a service, have a standardised way to test the proficiency of someone’s English. Generally-speaking, it would be more of an informal way, so I would say, ‘Are you comfortable having your supervision in English?’” [Probation]

**Monolingualism of provision:** Limits to information

“The general information that we are putting out is changeable. So, every time that a policy changes, we have to go and change these documents again... So, we have to get it done via the translation service: Big Word do it. But the last, I think, I heard of it, [it was] about £10 a page... If you are thinking 35 languages, eight pages and that is just one document. Maybe 10, 15 documents to translate: you are into thousands.” [Prison]
Impact of communication barriers:

“It is hard to put yourself in their position, but the best way to look at it is: What would it be like if you were in a foreign country, and you can’t speak the language? You can't understand the officers. It becomes a barrier because there is massive risk of falling into an abyss, where they go into the background and they kind of disappear and you don't see them, and they might get forgotten about.” [Prison Officer]

“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]

Intersection of language and other needs:

“When I’m working with my clients, I can notice that their anxiety regarding the immigration issues is very, very high because they don’t understand very well the letters they get, for example, or they don’t understand very well the procedures. They need someone to translate and to explain to them. I think this causes an increase in anxiety.” [Voluntary Sector]
Limits to services and support

“My experience has been, especially with solicitors - they’re always so busy - to ensure the client fully understands. But that is their duty, and they need to make sure clients fully understand.” [Voluntary sector]

“...”

“It has been talked about, if we could do programmes in another language, but then it is just making sure you have got the full amount to go on it, which never really happens.” [Probation]

“...”

“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]

“...”

“I think there are a lot of challenges... What’s a real shame is we don’t have any programmes we can offer to help someone improve their English... 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.’” [Probation]
Accommodating language diversity

Less formal strategies & innovation

• Using *Google Translate*
• Drawing on **language skills of staff & volunteers**, 
• **Friends & family** (with caution and only permitted in certain contexts)
• **Adapting English** to reduce terminology & complex/technical vocabulary
• Easy read and pictorial representation
• **The power of peer support**

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Developing service capacities

“In my office, I’m probably one of the only people who just speaks English” [Probation]

We’ve got a broad range of [staff] from different walks of life. Maybe there can be a more conscious effort to allocate client to [staff] with the same language”, [Voluntary sector]

“We have a small team of volunteer interpreters ... We have Arabic and French Speakers. We have an Eritrean volunteer, we have a Pashtu and Hindi speaker..., We have a need for Albanian speakers, Vietnamese, Chinese, Romania and Kurdish Sorani.” [Voluntary sector]
Peer support

Fellow prisoners as source of language support: Organised programmes (e.g. Shannon Trust) but also day-to-day informal help to navigate prison life

Language lifeline

‘I was helping a lady who could not speak one word of English at all... She had no idea what the officers are asking her; nothing’.

[Another woman] ‘They only link her up with an interpreter [for court] but what about requesting for help in prison? There is no service available for her at all. Not just for her, for any nationality, so if you are not understanding English or you are not British, then your life in prison is going to be absolute mayhem’. [Peer Supporter]

Language lifeline during covid-19

‘[ESL speakers] find it very difficult to approach staff, to verbalise their issues, let alone venting their frustrations - So they approach [other] foreigners like me. Now this has been very difficult during lockdown...I have been called nearly 40 times so far during lockdown for help with paperwork, talking through the [cell] door window’. [Peer supporter]
Peer support

Extract from correspondence with a peer supporter:

‘It is hard enough for a native speaker with family in this country’.

Matt was supporting a Polish and a Greek friend, and he sent us this list of challenges they have:

• Can’t set up telephone contact with family;
• Requested place on ESOL course and is still waiting 17-months on;
• Turned down for work in prison gardens because of poor English;
• Unable to read the label on medication prescribed by doctor; and
• Does not understand his sentence plan or letters from his solicitor

Strengths-based approach ‘

“Peer workers used our own skills to interpret things and to produce documentation. To be fair, we got a lot of support. There was a virtual campus, which had 20 or so computers, and we were allowed to use them to do this, with a degree of supervision but a reasonable degree of trust, but that was self-help” [Peer supporter]
Recommendations

Collecting data to build understanding of language barriers
- Recording first and other languages across CJS
- Collecting data in easily retrievable form to review experience and outcomes

Rights and entitlements to language support
- Senior accountability for upholding legal and procedural rights
- Strict evaluation by inspectorates
- Training and awareness of rights, incl. guidance about assessing language proficiency

Improving services and widening access
- Reviewing language requirements to translate/target information, incl. easy read or pictorial
- Provision of ESOL

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Empowering practitioners to support service users

- Training & guidance for staff on the nature and impacts of language barriers (incl. cultural barriers)
- Training & guidance about supporting speakers of ESL with & without formal language support

Deploying innovative solutions

- Review staff volunteer language skills
- Explore how staff and volunteers might enhance language support
- Exploring opportunities to formalise peer language support.
Thank you
Language Barriers in the Criminal Justice System
Evidence-based work

• Grant funding

• Influencing systems/policy change

• Providing tools, training, and resources
Existing resources – good practice guidance

Language barriers in the criminal justice system
Support for those who speak English as a second or additional language

Language barriers in the criminal justice system
Good practice guidance for practitioners working with victims and offenders of crime who speak English as a second or additional language

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Existing resources – In-cell worksheets

ESOL worksheet E2-3

About me

Task 1 Match the words and the pictures. See the example.

- chef
- swimming
- yoga
- taxi
- builder
- computing
- tennis

Task 2 Read the text below.

Hello. I am Salim. I am 22 years old. I come from Tunisia. Now I live in Tipton. I live with my brother, Ali, and his wife, Lila. They have two sons. Ali is a builder. Lila drives a taxi. I am a student. I study computing at university. I work in a café at the weekend. I am a chef.

I speak three languages. I speak French, Arabic, and English.

I like sports. In my spare time I swim and play tennis. I do yoga every morning. It helps me relax. I enjoy reading too. I like books about food and travel.

I like living in the UK. I meet people from many countries here.

Answers on page 2.

My friend Tara

Task 1 Here are some words you need to finish the story. Use them to fill in the gaps. See the example.

- laugh
- drums
- sad
- wheelchair
- hair
- strong
- eyes

Begin: This is my friend Tara. He lives near me in Tipton. Tara comes from Tuna. He has brown hair and blue... Tara is a care worker. He looks after people with disabilities. On my street he looks after Mick. Mick is 35 years old and cannot walk. Nor can he... Sometimes Tara takes Mick to the park on Sunday. Mick watches us play football. Then we go back to my house for dinner. Mick is very funny. His stories make me... Tara also likes telling stories. Some are funny, some are... Tara likes music. He plays the... in a band. He is very good. I hope he becomes famous one day! I like Tara because he is kind and good fun.

No disability: something that makes it difficult for someone to do the things other people can do. For example, people who cannot walk or see have a disability.

Answers

Task 1 1 hair 2 eye 3 strong 4 wheelchair 5 laugh 6 sad 7 drums.
Existing resources – Tutor resource pack

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Developing a community of practice

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First name *

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Company/School

Select a programme

Message *

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