



Language barriers in the CJS: Some key findings

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 Wales¹, 12 months to March 2020

Commissioning body	No. of completed service requests	% completed service requests
HM Courts and Tribunal Service	149,884	89
The Salvation Army	7,674	5
HM Prison and Probation Service	7,069	4
HM Prison Inspectorate	6	< 1
Other	3,034	2
Total	167,667	

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]

Accommodating language diversity

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)

.....

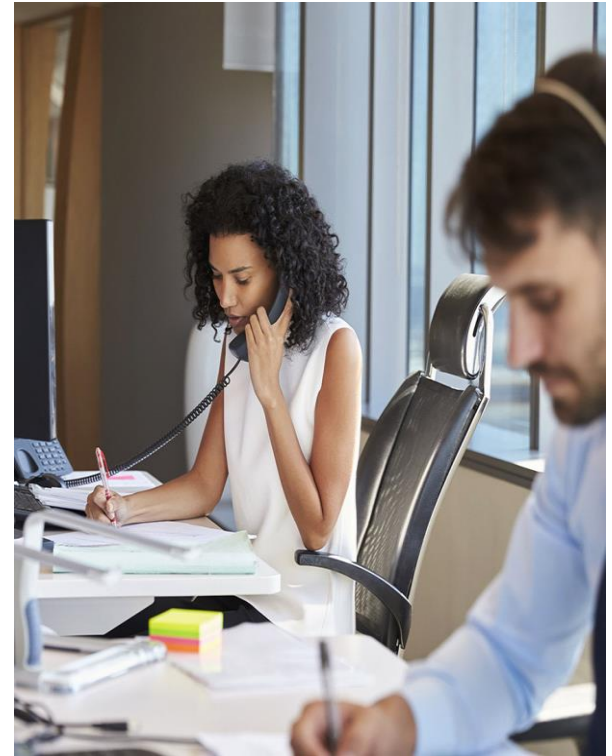
“It has been talked about, if we could do programmes in another language, but then it is just making sure you have got the full amount to go on it, which never really happens.” (Probation)

.....

“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**

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

Recommendations

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

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

In the series of tables below, we outline legal rights and entitlements – where these exist – and provisions in policies and practice guidance for statutory criminal justice agencies, for supporting individuals who speak English as a second or additional language (ESL) at various stages in the criminal justice process. Each table provides an overview of the language support available for different groups (e.g. victims, witnesses, arrestees/detainees, defendants and offenders) as they journey through the criminal justice system (CJS). We also note relevant issues relating to judicial management of criminal trials and 'expectations' of Her Majesty's Inspectorate regarding language support in police custody and prison. While we may not have identified everything that is relevant, we hope this gives an overview of the legal protection and the language support which should be available to adults in contact with the CJS who speak ESL. This provides the 'baseline' against which we explore, in our empirical research, the knowledge and practices of criminal justice professionals who work with individuals who speak ESL and, importantly, the experiences of service users who speak ESL. We have repeated the rights, policies or professional guidance where these apply at different stages of the process or are replicated across national, European and international law and we have provided endnotes for further detail on the information contained in the tables.

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Reporting, arrest and investigation Court hearings Probation (managing victim/offender contact) Post-court

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Language barriers in the criminal justice system

Good practice guidance for practitioners working with victims and witnesses of crime who speak English as a second or additional language

Written by: Tamar Dinisman, Ania Moroz, Andrea Anastassiou and Anna Lynam
Victim Support

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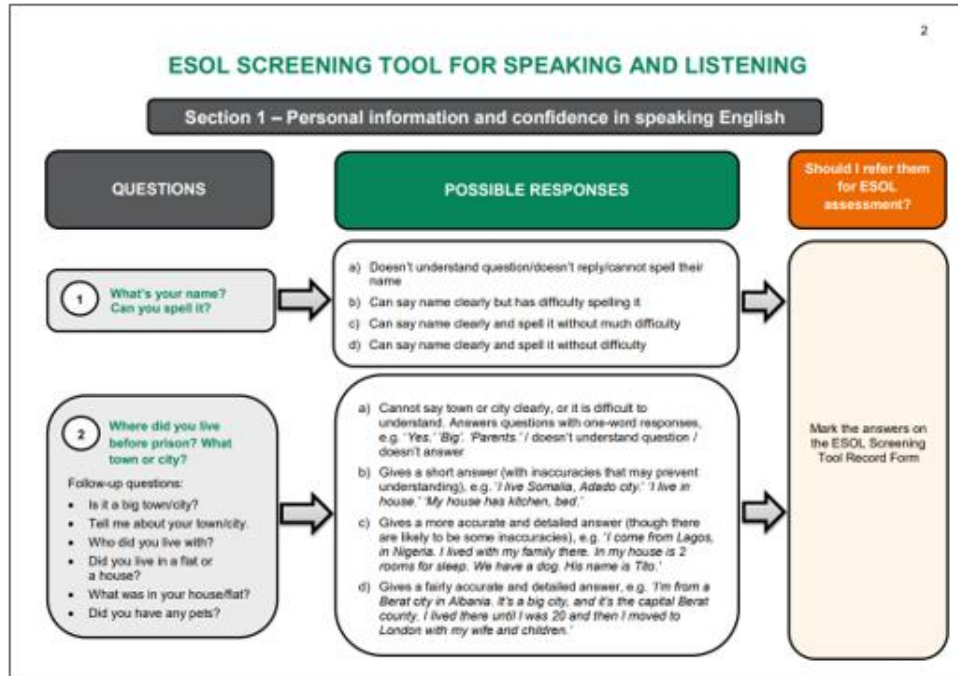
Language barriers in the criminal justice system

Good practice guidance for Probation Service staff and interpreters

Written by: Claire Ely and Suzanne Smith
Centre for Justice Innovation

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Existing resources – ESOL Screening Tool



ESOL SCREENING TOOL FOR SPEAKING AND LISTENING: RECORD FORM

Name (and number) of prisoner: _____

Name (and number) of staff member: _____

Date completed: _____

1. Use the ESOL Screening Tool to ask the prisoner questions. Then, use the table below to record the answers given by the prisoner.

Question asked	Answer level (a, b, c or d)
1.	
2.	
3.	
4.	
5.	
6.	

2. Decide if the prisoner needs to be referred for ESOL assessment.

If the prisoner gives **two or more level a, b or c answers**, they should be referred for ESOL assessment.

Should the prisoner be referred for ESOL assessment? (please tick) yes no

Additional comments:

2

How do you use the ESOL Screening Tool?

Follow the steps below and read the important information for the interview on the next page.

Step 1 – preparation

Find a quiet room to carry out the interview. Make sure you have:

- Read the ESOL Screening Tool carefully
- A copy of the ESOL Screening Tool
- A copy of the ESOL Screening Tool Record Form

Step 2 – getting started

a. Introduce yourself, e.g. *My name is ...*

b. Tell the individual that you are going to ask them some questions to find out if they need help with their English, e.g. *I need to ask you some questions, so I can help you with your English language.*

Step 3 – using the tool

a. Ask them the questions on the Screening Tool, starting at number 1.

b. Then look at the 'possible responses' in the next column. Decide which response best fits what they said (a, b, c or d).

c. Use the ESOL Screening Tool Record Form and write down the answer to each question. Do not write down everything they say – only write the answer level (a, b, c or d) that best fits their response. Look at the 'Diagram for Step 3' (on the next page) which shows you how to do this.

Step 4 – making an assessment

a. Use the ESOL Screening Tool Record Form to decide if they need to be referred to an ESOL specialist for further assessment. If they give two or more level a, b, or c answers, refer them.








Remember: they might be nervous, tired, etc., which might cause them to give a level a, b or c answer. This is why it is important to see if they give more than one level a, b or c answer before deciding to refer them. **If in doubt, check with an ESOL specialist or refer the prisoner to have an Initial Assessment.**

Existing resources – In-cell worksheets

ESOL worksheet E2-3 The Bell Foundation


About me

Words you need
Task 1 Match the words and the pictures. See the example.

						
chef	swimming	yoga	taxi	builder	computing	tennis

Answers on page 2.

Task 2 Read the text below.



Hello. I am Safa. I am 22 years old. I come from Tunisia. Now I live in Tipton.

I live with my brother, Aziz, and his wife, Lili. They have two sons. Aziz is a builder. Lili 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.

^ v 2 of 11 🔍 🔄


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My friend Taras

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

Answers below



This is my friend Taras. He lives near me in Tipton.

Taras comes from Russia. He has brown hair ¹ and blue ². He is tall and very ³.

Taras 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. Mick sits in a ⁴.

Sometimes Taras brings 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 ⁵. Taras also likes telling stories. Some are funny, some are ⁶.

Taras likes music. He plays the ⁷ in a band. He is very good. I hope he becomes famous one day!

I like Taras because he is kind and good fun.

*a **disability** is 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. eyes 3. strong 4. wheelchair 5. laugh 6. sad
 7. drums

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Existing resources – Tutor resource pack

"GETTING A QUALIFICATION WILL HELP ME WHEN I GET OUT OF PRISON"



the bell foundation **L&W** LEARNING AND WORK INSTITUTE

Improving Language, Improving Lives:
Resources for ESOL tutors

"WHEN I GET OUT OF PRISON I WANT TO BE ABLE TO READ TO MY KIDS"



UNIT 1.1 - CIVIC
Respecting self and others

Overview:
Learners will discuss ideas around respect for self and others and how to do this. They will role play scenarios useful to their situations to develop assertiveness while respecting each other's boundaries.
Your learners may not be comfortable with some of the suggested activities: be selective about which ones you use.
For learners to discuss difficult situations, seat them with someone they feel comfortable with. If learners disclose difficult situations or feelings, be prepared to suggest appropriate referrals in the prison such as to the mental health team.

Entry 1	Entry 2	Entry 3
<ul style="list-style-type: none"> Speak clearly to be heard and understood (Sc/E1.1) Speak and listen in simple exchanges and discussions about politeness and behaviour (Sd/E1.1, Lr/E1.5) Listen carefully to short explanations (Lr/E1.1, Lr/E1.2) 	<ul style="list-style-type: none"> Speak clearly and use stress and intonation appropriately (Sc/E2.1) Listen and contribute to discussions about politeness and behaviour, and make suggestions (Lr/E2.8, Sd/E2.1) Listen carefully to explanations (Lr/E2.1, Lr/E2.2) 	<ul style="list-style-type: none"> Speak clearly using appropriate clarity, speed and phrasing (Sc/E3.1) Contribute to discussions about politeness and behaviour, and respect the turn-taking process (Sd/E3.1, Sd/E3.2) Listen carefully to explanations (Lr/E3.1, Lr/E3.2)

UNIT 2.1 - FINANCIAL
Attitudes to money

Overview:
In this unit (probably most suitable for E2/E3 learners) learners will explore possible links between childhood experiences and their present attitudes relating to money. They will also have the opportunity to explore some personal and cultural attitudes to money and identify any they would like to change.

Entry 1	Entry 2	Entry 3
<ul style="list-style-type: none"> Speak and listen in simple exchanges about attitudes to money (Sd/E1.1b, Lr/E1.5) Recognise a limited number of key words (Rw/E1.1a) Write some personal key words (Ww/E1.1a) 	<ul style="list-style-type: none"> Follow the main points and make appropriate contributions to discussions about attitudes to money (Sd/E2.1, Lr/E2.8a) Obtain information from texts and recognise key vocabulary (Rl/E2.1, Rw/E2.2) Write some key words and phrases (Wl/E2.1a) 	<ul style="list-style-type: none"> Follow and make relevant contributions to discussions about attitudes to money (Lr/E3.7, Sd/E3.1) Obtain information from texts through detailed reading (Rl/E3.8) Recognise specialist key words (Rw/E3.1) Spell correctly relevant key words (Ww/E3.1)

Links to other Citizens' Curriculum capabilities

Literacy: Use language to support own and others' development

Numeracy: Readiness to engage with maths

Civic: Awareness of different cultural attitudes and sayings about money, team working

Language points

- Key vocabulary related to attitudes to money e.g. generous, mean, careful
- Using the present and past simple e.g. 'I like lots of money'; 'When I was a child my family had no money'

Additional materials needed

- Activity 1: Vocabulary puzzles, vocabulary notebooks
- Additional materials for higher level learners: Extended vocabulary list and puzzles

UNIT 3.1 - HEALTH
Looking after yourself

Overview:
The "looking after yourself" unit explores aspects of everyday health, including habits, cultural differences, and self-care. The activities are relevant to everyday life in prison, and are transferable to other contexts.

Entry 1	Entry 2	Entry 3
<ul style="list-style-type: none"> Speak about own habits and listen to contributions of others (Sd/E1.1, Lr/E1.5) Listen and respond to questions about health (Lr/E1.4) 	<ul style="list-style-type: none"> Follow the main points of a discussion about habits and make appropriate contributions (Sd/E2.1, Lr/E2.8) Obtain information from health-related text (Rl/E2) Respond to range of questions about health (Lr/E2.5) 	<ul style="list-style-type: none"> Make relevant contributions to a discussion about habits (Sd/E3.1) Make relevant contributions to discussion about health (Sd/E3.1)

Links to other Citizens' Curriculum capabilities

Health: Diet and exercise; making informed decisions; understanding health terminology

Civic: Goals and action planning; cultural awareness

Language points

These activities provide opportunities for teaching and reinforcing:

- Adverbs of frequency: "How often do you...?" "Do you ever...?" "I always/never..."

Additional materials needed

- Modal verbs: making recommendations and giving advice using "should".
- Functions – asking for and giving advice
- Present tense for general statements – "We usually..."
- Imperatives for giving advice – "Drink lots of water"
- Health vocabulary – symptoms

Large sheets of paper; coloured pens
<http://www.choosewellmanchester.org.uk/self-care/self-care-information-for->

Developing a community of practice

<https://www.bell-foundation.org.uk/contact-us>

Enquiry form / Newsletter sign up form


First name *

Last name *

Email *

Telephone

Programme of interest

Company/School

Message *

Re: PLA webinar

