

PROPOSED AMENDMENTS TO THE VICTIMS AND PRISONERS BILL

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Our proposed amendments

The Bell Foundation and its network of partners welcome the positive changes being brought about by the Victims' Code of Practice and the increased focus on the needs of victims, particularly those experiencing additional vulnerabilities including language and cultural barriers. The prominence of the 'Right to understand and to be understood' in the Code is welcome and has the potential to significantly improve the experiences of victims who speak English as a second or additional language (EAL).

For these rights to be upheld and to make meaningful change, however, they must be enforceable. Therefore, whilst it is understood that it would not be suitable to transpose the Code in its entirety into legislation, it is vital that the basic rights are enshrined in more detail in primary legislation.

In particular, the entitlements underpinning the 'Right to understand and be understood' must be enshrined more directly in the Victims Bill than in the current draft, using the following amendments:

- Clause 2(3)(a), at the end insert 'in a language or format they can understand'.
- Clause 2(3)(c), at end insert "and should be provided with appropriate support to communicate these views."
- These amendments will ensure that the 'Right to understand, and to be understood', as outlined in Right 1 of the Victims' Code, will be enforceable through primary legislation.

The case studies below outline some of the experiences we have gathered from victims of crime who speak EAL and demonstrate the need for the 'Right to understand, and to be understood' to be enforced. This will be a positive step towards eliminating the linguistic barrier existing between many victims of crime and our criminal justice system, which presently serves only to further confusion, distress, and potentially unjust consequences.

- If you are interested in proposing or sponsoring our suggested amendments, or would like to discuss the proposals further, please do get in touch at: alastair.feeney@bell-foundation.org.uk

Case Studies: Barriers to justice for EAL speaking victims

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 EAL.

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 EAL 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 EAL reporting a crime in the first place.

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 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

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 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 EAL, 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

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. 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