

Written evidence submitted by the Royal College of Speech and Language Therapists (PCB 06)

Executive summary

- The Royal College of Speech and Language Therapists welcomes the Prisons and Courts Bill's aim of reforming prisons and courts and particularly supports the emphasis on rehabilitation for prisoners.
- There is a high prevalence of speech, language and communication needs in the criminal justice system. These needs are often hidden and unsupported.
 - over 60% of young offenders have speech, language and communication needs;¹
 - a project based in Pontypridd Probation Service showed that all participants had below average speech, language and communication ability, and revealed specific problems experienced with comprehension and expression, which would affect their ability to understand the justice system and to communicate their wishes and needs.
- Left unidentified and supported these needs risk a number of negative consequences. They can:
 - impact negatively on a person's mental health, or be a consequence of mental health problems;
 - affect their ability to engage with verbally mediated physical and mental health assessments, include suicide risk screening, and education, rehabilitation and reform programmes;
 - affect the ability of staff in the criminal justice system to fulfil their responsibilities and respond appropriately to people with speech, language and communication needs;
 - make court processes inaccessible and risk miscarriages of justice through people not being able to mount an effective defence.
- To ensure that the aims of the Bill are to be achieved for those with speech, language and communication needs, we believe the following Clauses need to be amended:
 - **Clause 1** - Prisons: purpose, and role of Secretary of State;
 - **Clause 2** - Her Majesty's Chief Inspector and Inspectorate of Prisons;
 - **Clause 4 & 9** - The Prisons and Probation Ombudsman;
 - **Clause 23, 25, 26, 28, 29** - Conducting preliminary proceedings in writing: criminal courts;
 - **Clause 32 & 33** - Audio and video technology: criminal courts;
 - **Clause 36** - Automatic online conviction and standard statutory penalty;
 - **Clause 37** - Online procedure: the civil and family courts and the tribunals;
 - **Clause 41** - Making online procedure rules.
- In addition, we believe that:
 - the Bill should be amended to extend registered intermediaries to the family courts.
 - Section 104 of the Coroners and Justice Act 2009 should be implemented so that registered intermediaries can be made available to defendants in criminal courts.
- The Royal College of Speech and Language Therapists is the professional body for speech and language therapists in the United Kingdom, representing over 17,000 members. Speech and language therapists work to ensure better lives for people with communication and swallowing needs. This submission has been developed after consultation with expert members who work in the criminal justice system.

1. Clause 1: Prisons: purpose, and role of Secretary of State

Page 2 after line 7 insert -

(c) ensuring the individual needs of prisons and prisoners, including their speech, language and communication needs, are identified and supported.

1.1 Given their prevalence and potentially negative impact, identifying and supporting speech, language and communication needs is essential for the reform and rehabilitation of offenders and to prepare them for life outside prison. It is particularly important that an individual's communication needs are identified and supported if verbally mediated physical and mental health assessments, including suicide risk screening, are to be accurate, and education, rehabilitation and reform programmes are to be accessible and effective. The Secretary of State's annual report should therefore assess the extent to which each prison identifies speech, language and communication needs and has access to speech and language therapy services.

- vocabulary difficulties at age 5 are significantly associated with poor literacy, mental health, and employment outcomes at age 34.²

- 1 in 3 children with untreated speech and language difficulties will develop subsequent mental health problems, with resulting criminal involvement.³
- men who have speech difficulties in adolescence have a significantly higher risk of mental health problems.⁴
- specific mental health conditions can have communication difficulties associated with them. These include depression, schizophrenia, dementia, and psychosis.
- Home Office Findings has recognised the difficulties in access to rehabilitation programmes, recommending accommodation for literacy needs.⁵

2. Page 2 after line 12 insert -

(4) In this section, 'prisons' refers to both adult and young offender estates.

2.1 As currently drafted, Clause 1 and 2 do not apply to young offender institutions or places used wholly or mainly for the detention of persons aged under the age of 18, secure training centre and secure colleges. We believe that these Clauses should also apply to young offender settings to ensure the identification and support of speech, language and communication needs and statutory responsibility for young offenders' reform and rehabilitation.

- 66-90% of young offenders have low language skills. 46-67% of these are in the poor or very poor range.⁶
- around 40% of young offenders find it difficult or are unable to access and benefit from rehabilitation programmes that are delivered verbally, such as drug rehabilitation courses.⁷
- approximately a third of young offenders have speaking and listening skills below the tested level of an 11 year old⁸ and are unable to access education and treatment programmes due to their poor language and literacy skills.

3. Clause 2: Her Majesty's Chief Inspector and Inspectorate of Prisons

Page 4 after line 29 insert -

(6) The Chief Inspector must report on how speech, language and communication needs are being identified and supported.

3.1 The Chief Inspector's annual report to the Secretary of State on the treatment of prisoners and the conditions of prisons should also highlight how speech, language and communication needs are being identified and supported as part of their new duties under Clause 2.

4. Clause 4: The Prisons and Probation Ombudsman

Page 9 after line 21 insert -

(7) The process of complaining must be accessible to those with speech, language and communication needs.

Clause 9: Investigation of complaints by the Ombudsman

Page 11 after line 45 insert -

(7) The process for the investigation of complaints must be accessible to those with speech, language and communication needs.

4.1 For the complaints procedure to be effective, it is essential that speech, language and communication needs are identified and supported, including through making reasonable adjustments to the procedure for submitting complaints.

5. Clause 23: The written information procedure

Page 21 after line 45 insert -

(10) The written information procedure must be accessible to those with speech, language and communication needs.

Clause 25: Either way offence: choice of written procedure for plea before venue

Page 24 after line 30 insert -

(4) the written procedure for plea before venue must be accessible to those with speech, language and communication needs.

Page 24 after line after 45 insert -

(9) The explanations required by subsection (3) must be given in a format accessible to those with speech, language and communication needs.

Clause 26: Either way offence: choice of written procedure for mode of trial

Page 26 after line 22 insert -

(5) The explanations required by subsection (3) must be given in a format accessible to those with speech, language and communication needs.

Page 28 after line 36 insert –

(9) the written procedure for mode of trial must be accessible to those with speech, language and communication needs.

Clause 28: Low-value shop-lifting: choice of written election for Crown Court trial

Page 30 after line 40 insert –

(1D) The explanations required by subsection (1A) must be given in a format accessible to those with speech, language and communication needs.

Clause 29 Sending cases to the Crown Court: adults

Page 31 after line 33 insert

(2D) The documents must be available in a format that is accessible to those with speech, language and communication needs.

5.1 Given the prevalence of speech, language and communication needs in the criminal justice system and their impact on literacy and numeracy, it is essential that reasonable adjustments are made to the written information procedure to make both the language and written material accessible to those with such needs.

- half (51%) of people entering prison were assessed as having literacy skills expected of an 11 year old⁹ — over three times higher than in the general adult population (15%).¹⁰
- 20-30% of people in prison are estimated to have learning disabilities or difficulties that interfere with their ability to cope with the criminal justice system.¹¹
- 80% of prisoners with learning disabilities or difficulties report having problems reading prison information – they also had difficulties expressing themselves and understanding certain words.¹²

6. Clause 32 Expansion of availability of live links in criminal proceedings

Schedule 4 page 84 after line 20 insert – Accessibility of proceedings

7 The audio and video technology must be accessible to those with speech, language and communication needs.

Clause 33 Expansion of availability of live links in other criminal hearings

Schedule 5 page 98 after line 11 insert – Accessibility of proceedings

16 The audio and video technology must be accessible to those with speech, language and communication needs.

6.1 Reasonable adjustments must be made to the technology used in live links to ensure that it is accessible to those with speech, language and communication needs. This includes those who use Augmentative and Alternative Communication (techniques that support or replace spoken communication, including gesture, signing, voice output communication aids) and those with dysfluency (such as a stammer).

7. Clause 36: Automatic online conviction and standard statutory penalty

Page 34 after line 43 insert –

(4) the written notification must be accessible to those with speech, language and communication needs.

7.1 The written information must accessible if those with speech, language and communication needs and limited literacy are to understand and engage with it.

8. Clause 37 Rule for an online procedure in courts and tribunals

Page 39 after line 6 insert –

(3) The online procedure rules must be accessible to those with speech, language and communication needs.

Clause 41 Making online procedure rules

Page 44 amend line 28 after ‘as they consider appropriate,’ add one of whom must be a speech and language therapist, and

8.1 To help ensure that the online procedure rules are accessible to those with speech, language and communication needs, it is essential that the Online Procedure Rule Committee consults speech and language therapists for specialist expert advice on information accessibility.

9. New clause – Use of registered intermediaries

Page 53 after line 2 – insert

Use of registered intermediaries

(1) Registered intermediaries must be available in family courts.

9.1 To ensure the effective administration of justice in the family courts, it is essential that those with speech, language and communication needs have the ability to have the support of a registered intermediary. In addition, we believe that Section 104 of the Coroners and Justice Act 2009 should be implemented so that defendants in criminal courts are able to have access to a registered intermediary.

10. Background: communication needs in the criminal justice system

- A significant number of conditions prevalent amongst prisoners in both the youth and adult estates may also lead to speech, language and communication needs.¹³ These include autism spectrum disorder, traumatic brain injury, learning disability, and mental health problems.
- Communication skills are fundamental and foundational. They are not simply expressive skills (our ability to make ourselves understood), but also receptive (our ability to understand).
- Communication disorders are often hidden and difficulties with comprehension can be overlooked.
- If these difficulties remain unidentified or unmet, they can have negative consequences for both people's ability to access and engage with the justice system and for those working in the justice system to be able to recognise and support people's individual needs.
- People with communication needs will have limited understanding of, and participation in, the legal process, and in programmes designed to reform and rehabilitate them which are verbally mediated. This has consequences for reoffending. In addition, if their communication needs are not identified and supported, they are also at risk of not being able to participate in verbally mediated physical and mental assessments, including suicide prevention interventions.

11. Policy recommendations

11.1 To help deliver the aims of the Bill, we believe that dedicated speech and language therapy services should be commissioned as part of all relevant multi-disciplinary teams in the criminal justice system (including in prisons, the new secure colleges, secure children's homes, young offender institutes and youth offending teams.) This would help deliver:

- **SCREENING:** when people first come into contact with the criminal justice system they should be screened for communication needs (to help ensure effectiveness, the screen should be developed and training in its use provided by speech and language therapists);
- **TRAINING:** training to support those working in the criminal justice system to recognise and support communication needs, including knowing when to refer someone to dedicated speech and language therapy services for specialist help;
- **SUPPORT:** providing support to a wide range of criminal justice staff to fulfil their responsibilities. Staff may need support to administer verbally mediated physical and mental health assessments effectively including suicide risk screening. Reform, rehabilitation, treatment and education programmes, and group work, will need modification to ensure that they are accessible to those with communication needs. Staff may need more direct speech and language therapy support to manage prisoners with more complex speech, language and communication needs.

11.2 In addition, registered intermediaries should be made available in family courts, and Section 109 of the Coroners and Justice Act 2009 should be implemented so that registered intermediaries can be made available to defendants in criminal courts.

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References

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- 8 Davies E, et al Exploring the benefits and risks of intermediary models, Questioning child witnesses, September 2011.
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