



# Implementing Article 13 of the **UNCRPD**: Enhancing Deaf People's Access to Justice in Northern Ireland

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**Brent Elder**  
**Michael Schwartz**

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<sup>1</sup> We use the term 'legal professionals' broadly throughout this report to encompass all those working in the justice system, including police officers, prison officers, solicitors, barristers, and members of the judiciary.

# Contents

1.0	<b>Introduction</b>	5
2.0	<b>Project Context</b>	6
2.1	<b>The UN Convention on the Rights of Persons with Disabilities (CRPD)</b>	6
2.2	<b>Article 13 of the CRPD</b>	7
2.3	<b>Recommendations made by the CRPD Committee</b>	7
3.0	<b>Methodology</b>	9
3.1	<b>The role of the DAG</b>	9
3.2	<b>Scoping review</b>	9
3.3	<b>Focus groups and interviews with legal professionals</b>	10
4.0	<b>Findings</b>	12
4.1	<b>Legal Professionals' Experiences of Working with Deaf People</b>	12
	– 4.1.1 Understanding the communication dynamic	12
	– 4.1.2 Lack of interaction	13
	– 4.1.3 Lived experience	14
	– 4.1.4 Effective communication	15
4.2	<b>Accessing Interpreters</b>	16
	– 4.2.1 Knowledge about how to access an interpreter	16
	– 4.2.2 Time to get an interpreter	19
	– 4.2.3 Low number of suitably qualified interpreters in Northern Ireland	20
	– 4.2.4 Lack of knowledge about how to interact with an interpreter	22
	– 4.2.5 Interpreter costs	24
4.3	<b>Accessing Services in the Justice System</b>	26
	– 4.3.1 A system designed by and for hearing people	26
	– 4.3.2 Communication accessibility	26
	– 4.3.3 Physical accessibility	28
	– 4.3.4 Stigma of disclosure	29
4.4	<b>Potential Vulnerability of Deaf Prisoners</b>	30
4.5	<b>Jury Service</b>	31
4.6	<b>Suggestions for Future Training and Resource Development</b>	33
	– 4.6.1 BSL/ISL Equality Training	33
	– 4.6.2 Online versus face to face training	35
	– 4.6.3 Content of training	36
	– 4.6.4 Supplementary resources and suggestions	38

# Contents

5.0	<b>Conclusion and Recommendations</b>	40
5.1	<b>Recommendations</b>	40
	– 5.1.1 Police Service of Northern Ireland	40
	– 5.1.2 Prison Service Northern Ireland	41
	– 5.1.3 Members of the Law Society of Northern Ireland	42
	– 5.1.4 The Bar of Northern Ireland	42
	– 5.1.5 Courts and Tribunals Service Northern Ireland	43
	– 5.1.6 Members of the Judiciary Northern Ireland	43
	– 5.1.7 Department of Justice	44
	<b>References</b>	45
	<b>Appendices</b>	46
	<b>Appendix A:</b> Information Sheet and Consent Form	46
	<b>Appendix B:</b> Summary of Elder and Schwartz (2018) Research Article for DAG	49



# Introduction

This report has been produced as part of a Disability Research, Independent Living and Learning (DRILL) funded pilot co-produced project between the British Deaf Association Northern Ireland (BDA(NI)), a Deaf Advisory Group (DAG) whose members are drawn from the Deaf community in Northern Ireland, and researchers from Queen's University Belfast, Syracuse University (USA), and Rowan University (USA). Between 2017 and 2019, the partners worked together on a project entitled 'Implementing Article 13 of the United Nations Convention on the Rights of Persons with Disabilities: Enhancing Deaf People's Access to Justice in Northern Ireland'. This report presents the findings from the research element of the study.

The objectives of the research element of the study were as follows:

- To study the perspectives, knowledge, and experiences of legal professionals on Deaf<sup>2</sup> people's engagement with the legal system;
- To identify ways in which Deaf people's access to the justice system could be better supported by legal professionals;
- To identify training and resource needs among legal professionals; and
- To use all of this evidence to inform information sessions with legal professionals, future training, and project outputs.

Section 2 of this report sets out the broad context to the study and highlights the key principles and characteristics associated with Article 13 of the CRPD. It draws on the scoping papers which were developed by the academic team at the beginning of the project. Section 3 provides an overview of the methodology which guided the collection and analysis of data for the purposes of the research. Section 4 presents the key findings that emerged from the data. The report concludes with a set of evidence-based recommendations for legal professionals and BDA(NI) in Section 5.

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2. In line with BDA(NI)'s approach, we use the term 'Deaf' in this report with a capital 'D' to refer to those who define themselves as culturally Deaf with sign language as a first or preferred language unless otherwise stated. The definition of BSL/ISL also includes the languages in their tactile forms as used by some Deafblind people.

It is estimated that more than 17,000 Deaf people in Northern Ireland experience significant communication barriers when they try to access the justice system (Symington and Carberry 2006; Parks and Parks 2012). Effective and timely access to justice is a key human right, enshrined across international, European and national law. While the right of access to justice applies equally to all individuals in society by virtue of being human, its translation into practice has been far from inclusive. The right of access to justice has long been based on the overriding assumption that everyone is able to, and will, engage with and participate in the justice system without obstacle. For Deaf people, this assumption has been exacerbated by the predominance of the medical model of disability which has viewed Deaf people as objects of charity or 'tragic victims' in need of care and protection or cure rather than as active subjects in their own right, or indeed, as potential perpetrators, victims or witnesses of crime, or parties in civil law cases.

## 2.1 The UN Convention on the Rights of Persons with Disabilities (CRPD)

The adoption of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) directly addresses these concerns. The CRPD is an international legal 'agreement' or 'treaty' that was adopted by the United Nations in 2006. It confirms that Deaf and disabled people<sup>3</sup> have the same human rights as everyone else and sets out what these rights are. Importantly, it makes clear what rights mean in the context of Deaf people's lives. Each of the rights in the CRPD are set out in paragraphs known as 'articles'. The CRPD came into force in May 2008.<sup>4</sup>

The CRPD only applies to those countries that have agreed to be legally bound by it. This process is known as 'ratification'. The UK ratified the treaty in June 2009. This means the UK government (including the Northern Ireland Assembly, government departments, and public bodies) are legally obliged to implement the CRPD and to ensure that Deaf people are able to enjoy the rights it sets out.

The CRPD is monitored by the Committee on the Rights of Persons with Disabilities. Each country that has ratified the Convention is required to submit a report every four years setting out what they have done to implement it. The Committee examines this report, identifying good practice and areas for further development in what is known as 'Concluding Observations'.

The CRPD has an 'Optional Protocol'. The Optional Protocol establishes an individual complaints procedure, allowing individuals and groups of individuals to raise complaints with the treaty body where they have exhausted domestic and regional remedies. It also establishes an inquiry procedure in relation to gross or systematic violations of the rights contained in the Convention. The UK ratified the Optional Protocol in August 2009. In 2015, the UK became the first country to be investigated by the Committee under the Optional Protocol in relation to the rights to work and employment, an adequate standard of living, and social security.

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3. Hereafter, the report will focus solely on the CRPD as it applies to Deaf people rather than disabled people more generally.

4. 'For a UN treaty to come into force, it must first be ratified by 20 countries. Ecuador was the twentieth country to ratify the CRPD.'

## 2.2 Article 13 of the CRPD

This project is underpinned by Article 13 of the CRPD. Article 13 states that Deaf people have the right to effective access to justice.

### Article 13 of the CRPD says:

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

From the above we can see that Article 13 requires:

- Access to justice on an equal basis with others.
- Provision of procedural and age-appropriate accommodations.
- Supporting Deaf people's effective role as direct and indirect participants in all legal proceedings.

To facilitate this, countries are required to promote appropriate training for those working in justice system, including police and prison staff.

## 2.3 Recommendations made by the CRPD Committee

As part of this project, Concluding Observations for 56 countries were analysed<sup>5</sup>. From this we can see that the Committee has made the following recommendations to countries across the world:

- There must be sufficient numbers of registered and professional sign language interpreters for all stages of legal proceedings, including in courtrooms and police stations;
- Interpreters must be of 'high quality';
- Information, communications and documents on legislation and court proceedings must be made available in accessible formats, including sign language;

5. Haiti, Nepal, Oman, Russian Federation, Seychelles, Slovenia, Sudan, Latvia, Luxembourg, Montenegro, Morocco, Panama, United Kingdom of Great Britain and Northern Ireland, Armenia, Bosnia and Herzegovina, Canada, Cyprus, Honduras, Iran (Islamic Republic of), Jordan, Republic of Moldova, Bolivia, Colombia, Ethiopia, Guatemala, Italy, United Arab Emirates, Uruguay, Chile, Lithuania, Portugal, Serbia, Slovakia, Thailand, Uganda, Brazil, European Union, Gabon, Kenya, Mauritius, Qatar, Ukraine, Cook Islands, Czech Republic, Dominican Republic, Germany, Mongolia, Turkmenistan, New Zealand, Republic of Korea, Ecuador, Mexico, Australia, El Salvador, Paraguay, China.

- Deaf people should have access to assistive technologies;
- There should be 'protocols' or guidance setting out available supports and how Deaf people can access justice;
- There should be a national plan to ensure adequate accessibility to judicial facilities in terms of physical and communication access;
- There should be access for Deaf people to civil proceedings on an equal basis with others;
- There should be guidance for Deaf people on how to access justice;
- All legal professionals should be provided with training on the CRPD, the barriers Deaf people face, and the importance of reasonable accommodation;
- Deaf people's organisations should be involved in delivering training;
- There should be funding to allow training to be developed and delivered;
- Deaf people should be provided with sign language interpreters to enable them to participate fully and equally as jurors in court proceedings.



The research element of the study consisted of the following key strands:

- Scoping review.
- Focus groups and interviews with legal professionals.

Each of these strands are elaborated upon below. Ethical approval for the study was received from the Research Ethics Committees in the School of Social Sciences, Education and Social Work at Queen's University Belfast, Syracuse University, and Rowan University.

## 3.1 The role of the DAG

The DAG has played a central role in our study. Whilst placed here, this is not, strictly speaking, a 'methodology', but an overarching principle of the project from beginning to end. Members of the DAG were recruited from the wider Deaf community in Northern Ireland by the Project Officer.<sup>5</sup> The DAG were kept informed of the research element of the study throughout with the research team meeting with the DAG five times over the project's time period and maintaining regular communication outside of these times via the Project Officer. The research team were able to avail of the DAG's expertise on all aspects of the research process, from research design, ethics application, who we should interview, the types of questions we should ask, analysis of the findings, identification of themes and development of recommendations. The findings arising from the research element of the study have provided evidence for the DAG to input directly into the design of the information sessions for the Deaf Community and legal professionals. At the same time we, as a research team, have been able to ensure that the research process reflects the priorities and lived experiences of the Deaf community in NI. This has been further enhanced by the fact that BDA(NI) is a Deaf People's Organisation, and two out of the three researchers are themselves d/Deaf.

## 3.2 Scoping review

A scoping review of the literature, law and policy was carried out to identify existing knowledge and best practice on the issues. In particular, the review examined any existing programmes elsewhere and best practice. The aim of the scoping review was to help set the general context for the project.

Three scoping review papers were produced:

**Scoping review paper 1:** Deafness and justice in Northern Ireland (Dr Brent Elder)

**Scoping review paper 2:** Article 13 of the CRPD (Dr Bronagh Byrne)

**Scoping review paper 3:** Case law (Dr Michael Schwartz).

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5. The BDA(NI) project report provides detail on the recruitment and method of communication with the DAG. This will not be repeated here.

These were discussed and shared with the DAG as a form of capacity building. The research team also worked with the DAG and Project Officer to ensure the accessibility of the scoping reviews.

### **3.3 Focus groups and interviews with legal professionals**

As focus groups and interviews have already been conducted with Deaf people by BDA(NI) and Schwartz and Elder in previous projects (see Schwartz and Elder 2018, and Elder and Schwartz 2018), this project did not seek to duplicate that work. The data from these projects were shared with the DAG to identify key themes and training priorities from the issues and patterns that emerged. An accessible summary version of academic papers produced by Elder and Schwartz was produced with the support of the Project Officer and shared with the DAG.

This phase of the research took place between November 2018 and January 2019.

To facilitate focus groups, Dr Byrne attended meetings with the Project Officer and key stakeholders at the start of the project. This continued during Dr Schwartz and Dr Elder's visits in June 2018 and November 2018 as a way of building connections and building up to recruitment. Following this Dr Byrne was able to establish and recruit the following six focus groups:

- Solicitors
- Barristers
- PSNI
- Prison Service
- Judiciary
- Tribunals Service

Participants were provided with an information sheet detailing the aims and objectives of the study, voluntary participation, procedures for anonymity and confidentiality and withdrawal from the study, how data would be stored, and how the information would be used, along with a consent form (see appendix). Completed consent forms were returned to Dr Byrne via email. The principle of voluntary participation was reiterated at the beginning of each focus group.

Prior to the focus groups, the academic team asked the DAG at the first meeting what kind of questions they would like us to ask legal professionals in these focus groups. Questions were then drafted and shared with the DAG via the Project Officer and amendments made in line with the DAG feedback before the focus groups began.

Where it was not possible to recruit to a focus group, or where individuals expressed preference, individual semi-structured interviews were carried out. In total, 35 legal professionals took part in the study and a point of 'theoretical sampling' was reached (i.e. when further interviews would be highly unlikely to produce new findings). The sample can be seen below:

	<b>N</b>
PSNI officers	4
Prison Service Officers	12
Solicitors	3
Judges	4
Barristers	3
Tribunal Members	9
<b>Total</b>	<b>35</b>

Each interview was audio recorded and transcribed, with consent from participants. Interviews and focus groups generated approximately 300 pages of data in the form of quotes in response to interview questions. The researchers read each interview in depth and identified major findings that came up in the data. The researchers used qualitative data analysis packages NVivo and Dedoose to carry out the analysis.

The researchers shared their findings with one another, and then presented the findings to the DAG in May 2019 for their feedback and initial thoughts as to recommendations. The final report and recommendations were shaped by the DAG at a further meeting between the researchers and DAG in September 2019, with further time for DAG reflection provided until mid-October 2019.

It is important to note here that the process of conducting interviews and focus groups led to impact in and of itself, something that does not always happen during research. For example, interviews and focus groups with legal professionals acted as a form of awareness-raising to issues that had not previously been considered, and subsequently led to requests from participants for BSL/ISL Equality Training from BDA(NI) to their organisation. Participants also spoke of how they had or would discuss the issues with colleagues to identify further training needs, and in conducting interviews with members of the judiciary, the research team and BDA(NI) were able to organise a productive meeting between the DAG and members of the judiciary on the exclusion of Deaf jurors who require sign language interpreters. This subsequently led to a request from the Judicial Studies Board for the DAG to design and deliver training directly to the judiciary. This took place on 7th November 2019 and included contribution from Craig Flynn, a Deaf Intermediary employed by the Home Office, to discuss his role.

In the next sections, study themes are outlined into the following six key areas: legal professionals' experiences of working with Deaf people; accessing interpreters; accessing services in the justice system; the potential vulnerability of Deaf prisoners; jury service; and finally, suggestions for future training and resource development.

#### 4.1 Legal Professionals' Experiences of Working with Deaf People

Several themes arose in the interviews with policymakers, police officers and judges when they were asked about their experiences in working with Deaf people. Generally, the legal professionals in the study had very limited experience of working with Deaf people. This included legal professionals with a career of over 30 years to date. As noted below, there appears to be a comparatively high level of under-reporting of crimes or incidents from the Deaf community, and underutilisation of legal advice services; not because there are no incidents to report or need for legal advice, but because of, among other factors, a lack of sustained interaction with the Deaf community. This can mean that any interactions that do take place with the Deaf community are perceived as 'one-offs' rather than indicative of a community-wide issue with a need for community-wide solutions.

##### 4.1.1 Understanding the communication dynamic

Communication works both ways, that is, it is not just the Deaf person's concern. The need for a sign language interpreter runs both ways: both the police officer and the Deaf person need a sign language interpreter in order to communicate effectively with each other. A police officer with the Police Service of Northern Ireland (PSNI) demonstrated an awareness of this duality of communication:

*I have always said if a Deaf person walks into the police station they don't need an interpreter because they can sign perfectly well. [But] I can't. They can communicate but I can't understand them, so I'm the one who needs an interpreter and we do provide interpreters completely free. (PSNI officer)*

The same officer confessed to feeling distressed that a Deaf person who needed the police was forced to contact the police in England even though she lived near the local police station in Northern Ireland:

*I take great pride in the uniform that I wear and I was a little embarrassed about the fact that [the police] had let down this [Deaf] lady because she had to contact [England] police although she lived within a couple of miles of the [local PSNI] station. I thought was a terrible indictment on the services that we offer. (PSNI officer)*

Conceptualising his obligation as going beyond mere legality, this officer understood the police force's responsibility under the law:

*[The police have] a legal obligation as a statutory body to provide [both] equality of service and quality service. We need to do something about it. I wasn't looking at risk and saying, 'Oh, as an organization, we're leaving ourselves open to potential litigation or criticism.' [I saw it as] something that we should do, a moral obligation, you know? As police officers, we're here to help the community, and here was huge room for improvement. (PSNI officer)*

This interviewee pointed the way toward expansion of official thinking so the remedy is done because it is the right thing to do, not because a public service seeks to protect itself from liability.

Asked if he had noticed a trend in the issues brought forward by Deaf people, whether as a victim of crime or a complainant about a specific issue, the police officer replied:

*[Complaints from Deaf people] reflect the general crime trends. I'm delighted that there are more Deaf people who are coming forward. I would see that as reflecting an improvement in confidence in policing. Deaf people are willing to come forward and speak to us, confide in us, even to ask us for advice. (PSNI officer)*

This response points to the possibility of regularisation, even normalisation, of police-community relations, an important goal for Northern Ireland. The Deaf community needs to see the police as a resource for advice and assistance.

#### **4.1.2 Lack of interaction**

Asked if he had any direct interaction with a Deaf person, apart from a group of Deaf people that he had previously met, a police officer replied that he had not, even though he had been a police officer for nearly thirty years. Admitting his lack of awareness of the size of the community within his policing area, the officer agreed with the assessment that given the size of the Deaf community in the region, the lack of interaction between the police and the Deaf community may have had something to do with crime being under-reported by this community. A police officer serving for three decades without seeing meaningful interaction between the police force and the Deaf community should be a red flag for Northern Ireland. Under-reporting of crime, whatever its cause, is a serious problem requiring serious attention. Similarly, judges who took part in the project spoke of how they had either rarely or never come across a Deaf person in their roles:

*Only because of what you've, by doing this you've triggered that thought in my mind, you know? Why am I not, I mean I've been a barrister for thirty years and a high court judge now for three years, and I have not had a deaf person appear in front of me, I haven't been asked to represent a deaf person, in any capacity whatsoever. So [pause] I'm asking myself the question now, is there a problem even before they get to court? (Judge)*

### **4.1.3 Lived experience**

Another police officer hinted at the importance of lived experience for both the Deaf community and the police in how they relate with one another:

*[For Deaf people], it's not just "Here's a load of pamphlets about how to access Deaf services," and off you go because [Deaf people] don't have time, you know? "Yeah, dead on, I'll put that in my folder and I'll read it someday, [but] you never do. [As for the police], it can't be just a lecture, "If you get a Deaf person, this is how you deal with them." We're part of the community. [Sign language] is another form of communication. [Deaf people] don't have to be afraid of [the police]. (PSNI officer)*

At times, the relationship between police officers and Deaf people may be perceived as fearful on the part of both parties. One police officer noted:

*So Deaf people sometimes get put into the too difficult box. If a police officer stops a member of the, say somebody driving a car who's Deaf, and that person starts signing the police officer will probably just wave them on, because they, they just freeze, they just freeze. And the Deaf person seeing the reaction from the police officer, I don't know how they think that is. They probably don't regard it as fear, but it is fear. The police officer's like, 'I don't know what to do here', you know, 'how do I manage this? I'm out of my depth, I can't, I don't know what to do'. But I don't know what the Deaf person sees. The Deaf person might see a dislike, they might see a distrust. (PSNI officer)*

For police officers, getting rid of the fear of dealing with Deaf people requires actual engagement with a Deaf person where the officer realises that while BSL/ISL are different languages to English, Deaf people are actually not different from the rest of the public.

Likewise, for a policymaker, it is not only one's life experience that matters; rather, it is about learning to use one's life experience, through reflection and practice.

*For somebody with a learning disability, you usually found that services were better where there was somebody who had an appreciation for those issues. So I suspect it's*

*probably the same, you know, there'll be an individual judge who, because of personal circumstances, will have some awareness of what it's like to be Deaf interacting with the legal system and will probably do things in a very different way than the norm. It's all about that experience. (Policymaker)*

#### **4.1.4 Effective communication**

Sensitivity to the physical dynamic of giving testimony in open court is absolutely necessary in order to ensure effective communication is happening in the room. As one judge recounted:

*[When] a witness is asked a question by the barrister, the witness is supposed to give their evidence to the judge, they're supposed to look up in this direction. [indicating] But [for] someone with a hearing impairment, that's not easy. So what I have done in the past is [to have] the sign language interpreter stand here, at an angle, [indicating] where I can see the witness, and it makes them feel more comfortable. What I have to make sure is that there's nothing blocking the witness from seeing me, and that the lawyers can see them as well. (Judge)*

As this response discloses, sight lines in the courtroom must incorporate an awareness of the physical layout in terms of effective communication for Deaf witnesses giving evidence. A Deaf witness needs to see and be seen by the judge while also being accessible to the interpreter and counsel.

A tribunal panel member recalled being mistaken about his assumption that utilising a team of interpreters would allow him to take notes:

*I've had at least one case here where both parents were Deaf, and it was unusual in the sense that I think the father came from Derry and the mother came from Belfast, and the Derry man did Irish sign language and the Belfast mum did British sign language. So we had to have two interpreters doing British sign language and [Irish] sign language. I thought [since] this is going to be slow, I'm going to be able to take notes. But it actually was very complicated and it took an awful lot of concentration. (Tribunal panel member)*

The good news in this passage is the fact that the judge arranged for a team of interpreters to handle the different sign languages presented by the Deaf parties in the case. Many judges operate under the assumption that one interpreter can handle multiple parties and multiple sign languages. As this judge learned, the communication turned out to be “very complicated,” taking “an awful lot of concentration.”

A possible approach for preparing the parties, including the court and the interpreters, for a hearing would be a pre-hearing:

*[For tribunals,] I think that what we should have [for] people who are Deaf is a pre-hearing where they can come with interpreters. We can sort out what the issues are as well as judge the [effectiveness of the] communication. (Tribunal panel member)*

Of course, as with all good ideas, the devil is in the details. Would funds be available to underwrite a pre-hearing? Would it be necessary to establish a mechanism in the tribunal for scheduling and arranging pre-hearings?

What these examples also demonstrate, is the inconsistency of practice and the reactive nature of support provided rather than use or existence of any system-wide or co-produced strategy.

## **4.2 Accessing Interpreters**

Issues relating to sign language interpreters emerged as a key theme through the interviews and focus groups with legal professionals. These related to:

- Knowledge about how to access or book an interpreter in the first instance.
- Time it took to secure an available interpreter.
- Low number of suitably qualified interpreters in Northern Ireland.
- Knowledge about how to interact with an interpreter in the room.
- Interpreter costs.

Each of these factors are elaborated upon in the sections below.

### **4.2.1 Knowledge about how to access an interpreter**

There was a distinct lack of knowledge among participants across all legal professions in the study about how to book a sign language interpreter. This was in part because the majority of participants did not see themselves as being in a situation where one was required. However as shall be seen below and as highlighted elsewhere in this report, it was clear that there were situations where Deaf people would have benefited from an interpreter, but where other means of communication were used instead.

The lack of knowledge of how to access an interpreter suggests a reactive rather than proactive approach to engaging with Deaf people across the justice system and has the potential to delay access to appropriate legal redress in a way that is distinctly different from the hearing community. For example:



*Interviewer: If you were asked to book an interpreter, would you know how to do that?*

*Response: I wouldn't have a clue (Solicitor)*

Even where individuals had connections with the Deaf community, this did not translate into an advantage in being able to access interpreters. This was due to the complexity of legal system and the need to follow organisational procedures around approving suppliers of services and raising invoices:

*No, even with my knowledge of the Deaf community I don't think I could do it. I know people who are Deaf, who are BSL interpreters through my own private life... but it's not the official way of doing things. and then it would become a disaster for things like payment and trying to organise who pays for that service and how much that service costs, and who authorises it and all that sort of stuff (PSNI officer)*

PSNI officers who took part in the study expressed familiarity with 'The Big Word', a company which is contracted to provide spoken language translation services to the PSNI via telephone. However, there was a lack of clarity whether this agency provided access to sign language translation:

*I honestly don't know if I was to contact Big Word, to get a BSL interpreter, would I get one, or will they not, Big Word, offer that service? (PSNI officer)*

Reference was made to the distinction between being able to access spoken language translation via telephone, and requiring a sign language interpreter to be there in person, thus incurring a call out fee in addition to services provided:

*[A Deaf person] wanted us to supply an interpreter. The first thing the police officer said to me is 'where do we get one of them? How do we go about that? I don't know, I really, really don't know'. I know we can get them if we have arrested someone, we have a list of interpreters from Poland, you know, Romania... and we have also one for Deaf people. But that incurs a call-out fee and stuff like that. The police, like a lot of public bodies, have lost a lot of funding and a lot of resources. (PSNI officer)*

It was perceived as being much more difficult to access sign language interpreters compared to foreign language interpreters due to the viewed need for a sign language interpreter to always be physically present. There did not appear to be any awareness among participants of the availability of signed video relay services. Others, such as members of the judiciary, did not see it as their direct responsibility to organise an interpreter if required but were able to request that this be done by court services.

*Personally no... I am very lucky; I have a very good chief clerk here in the court service who's in charge of... the civilian end of the court service... And I've no doubt that he has a little book which tells him how to do it, and he's very good... But would I know who to contact? No... I would arrange for it to be done. (Judge)*

While this suggests confidence in the knowledge of court staff, it also suggests that this may not be consistent across the courts or across Northern Ireland. Providing all courts across Northern Ireland with clear information on the process of booking a sign language interpreter might therefore be a useful output from this project.

Members of the judiciary also highlighted the difficulty that can arise in ensuring the courts are aware of the need for an interpreter and of the key role that barristers and solicitors play in this process:

*The first port of call is through solicitors, and then barristers need to inform the court office well in advance, so that we can put in action what we need to do, which is to arrange obviously for an interpreter. (Judge)*

When asked about the process of Deaf people receiving reasonable adjustments in the civil courts, a member of the judiciary said the following:

*It's very important at ground floor level before it comes to court, because from the court's perspective we need the legal representatives to have informed us beforehand that there is a person with disability, whether it be deafness or multiple disability, so that we can make the appropriate arrangements. We do rely on them bringing it to our attention first. So that's really something the lawyers need to do, because, as you probably know, in civil cases we will arrange for a sign language interpreter, at the cost of the court service, to be available. But we have limited numbers of interpreters, so we would prefer to have about eight weeks' notice to ensure that those arrangements can be put in place. Sometimes it's at the last minute that we're asked, and that's no good. That means cases have to be adjourned until such time as there is an interpreter available. So, the first port of call is through solicitors, and then barristers need to inform the court office well in advance, so that we can put in action what we need to do, which is to arrange obviously for an interpreter. So, in all civil cases the court service pays for the interpreter fees. (Judge)*

In addition to letting the courts know in advance what the person with a disability requires to access legal proceedings, they also need to submit evidence of a disability so reasonable accommodations can be made.

*Before a hearing, and I stress I'm talking only about civil cases, the lawyers will need to test the party, they have a disability or not. The lawyer will test the [disabled person's] evidence. (Judge)*

If courts are not informed by barristers, or barristers are not informed by solicitors, of this need, then this would like result in adjournment of a court case until an interpreter is available at a later date. This makes clear the importance of all solicitors and barristers throughout Northern Ireland receiving mandatory rather than optional BSL/ISL Equality Training.

#### **4.2.2 Time to get an interpreter**

Some participants indicated that while they knew how to book an interpreter, they did not know how long it would take from the initial telephone call until an interpreter could be on site. Others had experienced delays and were concerned about the potential implications of this on court cases.

*I was consulting today and I had to do a different time that could've been a difficulty with my court commitments because it took three weeks to arrange [an interpreter] to come down. Now that was fine in a case that's not going to be heard for six months... But if it was a family [case where] there was a dispute about custody of their children, to wait three weeks before they would have had a suitably qualified interpreter to tell their lawyers what the case was about to me appears ridiculous... I don't understand why they can't train [more interpreters]. (Barrister)*

It was not just the time taken to get an interpreter, but the complexity of applying for Legal Aid so that an interpreter could be paid for and arranging a date for a tribunal or court hearing or meeting far enough in advance to suit all parties.

This is also an issue of concern in the case of an individual in prison who requires an interpreter (see elsewhere in report). It appeared that interpreters would only be booked where 'important' information needed to be communicated to a prisoner. This raises questions around the availability of appropriate communication outside of the rare occasions when an interpreter might be available and the potential vulnerability and isolation of the prisoner in question.

*That's an appointment that would have to be booked... there's nothing immediately available. That's an interpreter who would be booked some days in advance to come in. So it'd be usually for something important that needs to be communicated. (Prison officer)*

There are also potential implications in the case of a Deaf person being placed under arrest. Police officers who took part in the study expressed concern at the time it took to get an interpreter, particularly when needing to communicate the reasons for arrest and rights.

*The delay [in accessing an interpreter] is going to be longer [compared to a foreign language interpreter] because they're going to have to physically come down to the*

station. So, again a deaf person is going to be held for longer without knowing what's happening, on average, than a foreign national would. (PSNI officer)

The implications were compounded where an arrest has taken place in the middle of the night.

*I don't know the actual difficulties in, or time, in getting an interpreter in, but I know if it's around about eleven o'clock or twelve o'clock at night, chances are it'll be nine o'clock the next day before they have an interpreter there to actually explain what's going on to them. (PSNI officer)*

#### **4.2.3 Low number of suitably qualified interpreters in Northern Ireland**

Concern was expressed generally at the low number of suitably qualified interpreters across Northern Ireland which contributed to delays in accessing appropriate communication support. Having interpreters who had the required qualifications was considered important given the level of technical language used in legal settings and the potentially serious consequences following an arrest or court case. For example:

*Well I touched on the issue earlier of having sign language interpreters and having appropriately qualified sign language interpreters and having the right number, and that is definitely one challenge that I had in the past. (Solicitor)*

A PSNI representative echoes the solicitor's statement:

*Having so few interpreters is a difficulty because if there's a falling out or disagreement between the person being interviewed and the translator then where do you go with that? I mean, if you're stuck with that person ... or if the defence say 'we want our own interpreter' or 'we want two interpreters in court', you'd be entitled to have that. But if we don't have two certified, qualified interpreters [available] in the country, there'll be a difficulty with that. (PSNI officer)*

Representatives from tribunals highlighted the additional challenges when two sign languages are used. For example, it was explained how, in a case where two parties were Deaf, with one party using a BSL interpreter and the other an ISL interpreter, there had been profound difficulties trying to get a date that suited the tribunal panel members, the parties, and four sign language interpreters (two BSL and two ISL). Examples such as this highlight how difficulties in obtaining appropriate communication support can act as a barrier to timely access to justice.

There appeared to be a lack of understanding as to why two interpreters are required for

any lengthy meeting or court case. For example, one participant referred to sign language interpreters 'insisting' on having two interpreters at every hearing. Indeed, another participant stated that they were aware that a recent civil case involving a Deaf defendant where an application for adjournment had been made because only one sign language had been available and a second interpreter could not be found. In this instance the adjournment application was rejected suggesting a lack of knowledge of the necessity of having two sign interpreters in court settings. It is not known what impact this had on the outcomes of the case or individual experience.

It is also perhaps indicative of the dilemma that members of the judiciary may be faced with in a bid not to waste court resources. Ultimately this points to the need for BSL/ISL Equality Training to extend to all members of the judiciary. A participant provided an example of one sign language interpreter being required to keep going without a break, in contradiction with interpreter guidelines. It was suggested that in such instances comparison was being made to spoken language interpreters who may work alone, however this clearly cannot be used as a direct comparison with sign language interpreters.

The issue of some people having preferred interpreters was also raised. Those with some experience with the Deaf community understood the rationale behind individual preferences for particular interpreters, especially when personal, sensitive or confidential legal issues were being discussed. However, it was acknowledged that this could add additional time to legal processes where a preferred interpreter was not available.

*We always meet their needs. So if someone says 'I don't want someone', we will try and get someone else... But you just have to be aware that you just can't book an interpreter and say 'you're having that interpreter'. You have to say 'is it okay if we use... ' or 'have you a preference as to who you like to work with?' (Solicitor)*

Participants emphasised the importance of privacy and confidentiality as the need for the Deaf person to be comfortable with who their information is being shared with. Given that Northern Ireland has a small Deaf community where many sign language users and interpreters are known to each other outside of professional settings, this can present an added dilemma for the Deaf person on the choice of interpreter:

*There are some issues over the standard of interpreter... So is it a trainee sign language interpreter that is being used, is it a qualified interpreter...? And obviously that comes from a lack of interpreters here in Northern Ireland as well, and also the deaf community being a relatively small community. So, you know, some people will have their preferences and their first choices of preferred interpreters, so yeah, that's definitely a challenge that I've come up against. (Solicitor)*

It should be noted that these experiences were shared with the small number of legal professionals in the study who already had some engagement with the Deaf community. For the majority of participants who did not, it is unlikely that the significance of these issues are fully understood.

The potentially serious consequences of not having a suitably qualified interpreter during court proceedings was highlighted by one participant from the PSNI:

*[Colleague] had told me a story in police college about some [Deaf] fellow who got a heavier sentence in court because of a misinterpretation [by the interpreter]. So, whenever this [Deaf] person told the court that he was sorry, it was interpreted [by the interpreter] as he had made a mistake, as in it was an admission but not remorse because of the misinterpretation. And his sentence was higher than it ordinarily would have been. . . . But because he was profoundly Deaf he couldn't hear what the interpreter told the court. So he said sorry and he believed that the court was aware he was sorry, but the court went on what the interpreter had said. (PSNI officer)*

There was acknowledgement among solicitors, barristers and members of the judiciary, that not having access to a suitably qualified interpreter in court proceedings impacted on an individual's right to a fair hearing. The need for the judiciary to be fully aware of the purpose and role of interpreters was highlighted by one participant who was representing a Deaf client in court:

*Once they'd heard the plaintiff's evidence, and we had two signers in court, the judge said 'those interpreters can go home now' which meant the deaf person wouldn't have been able to follow the rest of the hearing. And we had to explain to the judge why we needed the interpreters to remain in the courtroom. So there is such a lot of work needed to be done just to explain the very basic needs of people with any disabilities in accessing the justice system. (Solicitor)*

In order to provide full access for Deaf people to proceedings, interpreters are required not simply to interpret what a Deaf person may be saying, but to interpret anything that others are saying relating to the Deaf person's case.

#### **4.2.4 Lack of knowledge about how to interact with an interpreter**

There appeared to be a lack of knowledge across the legal professions of how to interact with a sign language interpreter in the room, and with whom to make eye contact and direct questions and answers. It was suggested that advice needed to be given to colleagues across the legal professions about checking seating arrangements, and the need to ensure that both the Deaf person and interpreter(s) are happy with the room arrangement, lighting

and so on. For example:

*I think there would need to be an understanding of how BSL works... [to understand the importance of space for interpreters] I would know to look for that because I have an understanding of BSL but I'm not sure that just a normal bog standard police officer on the street would remember that. (PSNI officer)*

One member of the judiciary in particular demonstrated in-depth knowledge of the importance of facilitating appropriate seating arrangements in court and of ensuring that interpreters have regular breaks:

*I will ask them how long, when they need a break, when they think they need a break, and for them to indicate to me, and then I can rise for a period and let them feel refreshed. (Judge)*

Elsewhere, there were examples provided of family members, including children being used as interpreters in legal exchanges or settings. This appeared to arise, in part, due to lack of knowledge among Deaf people about how to obtain funding for an interpreter, and lack of knowledge among legal professionals about the importance of having an appropriately qualified interpreter as well as concerns around costs.

*We've had incidents where, for example, quite a complex credit agreement, a hire purchase agreement, the vendor, the seller, used the person's child to communicate with them... people think if there's anybody in the room at all that can sign that's okay to use them. There isn't a sense [if] that is appropriate to ask a child or very close family member to be in that role. So I think there are lots of just informal practice that are adopted. (Solicitor)*

A different solicitor highlighted a potential concern if a Deaf person came to them with a family member or friend acting as communication support, for example in the case of making a will and ensuring that the person who is interpreting is not in some way unduly influencing the situation or benefitting from the exchange:

*It's a question you always have to ask a client 'are you happy that there's somebody else in the room when I'm taking instructions or going over instructions?' And they might say [yes], but as a solicitor we have to make sure that we have a full attendance note just in case the will is challenged at a later date, for example, somebody saying 'there was undue influence because Johnny was in the room' although he was acting as the interpreter he maybe benefitted... So there's just extra layers of risk management that you have to take into account. (Solicitor)*

Another participant stated that in a meeting with a Deaf parent who was accompanied by one of her children of primary school age, the child had been used to assist with communication by signing. During the focus group where this was disclosed, there appeared to be emerging recognition from the participant (and the group in general) that this was perhaps inappropriate.

#### 4.2.5 Interpreter costs

There was considerable confusion or lack of awareness surrounding who had responsibility for payment of interpreters. This was a particular issue for solicitors who, as private entities, are generally required to cover interpreter costs themselves when arranging meetings with Deaf clients. One solicitor noted a recent court case on the issue they had been involved in, including providing comparative costs for sign language and spoken language interpreters:

*In our case, we had the prices of sign language interpreters, which are much cheaper than spoken language interpreters, but we still lost our case. The judge said it wasn't a reasonable expense that a solicitor in a small- to medium-sized firm in Northern Ireland should be expected to accommodate if they're doing the first interview, which is free of charge. And that's what the [other] solicitor was saying, 'We're not charging for the first interview. But, you're expecting me to pay a hundred and fifty pounds for an interpreter out of my money for offering a free initial consultation.' So I can't be expected to pay for the interpreter when I'm not getting anything from this. (Solicitor)*

During a focus group interview with barristers, three barristers had the following understanding of free solicitor consultations, the cost of interpreters, who is supposed to pay for them:

*Some solicitors offer initial consultations for free to see if they can get work in from people. If the person attending asked for an interpreter and the solicitor would provide it. But the solicitor then would pick up the cost. There is an argument for some form of government assistance in these situations, because interpreters are just so expensive in this jurisdiction. (Barrister)*

In addition to needing interpreters for initial legal consultation, a barrister recognises that two interpreters will be needed in any court proceedings, which would again increase the cost of providing communication access to a Deaf person in court.

*Interpreters are expensive, particularly when [Deaf people] insist on having two of them for trial situations. If a case of a Deaf person who has their wages deducted up to maybe a thousand pounds, that money could be eaten up in interpreter fees quite quickly. You know, there has to be a number of meetings. And the government isn't going to turn round and say 'Let's subsidise solicitors.' (Barrister)*



If the Deaf person in court is not working with the Equality Commission or using Legal Aid, then their interpreter costs may come out of their own pocket. This makes a good case for the creation of a government fund that can be used for interpreters in these cases. Without such a fund, this barrister goes on to say that getting solicitors to pick up cases that aren't going to make them a profit is a big challenge.

*The cost of interpreters is a hurdle. The solicitors then, if the law would require that they pick up that cost, it's going to be a hurdle for them. A solicitor isn't going to want to take on work that costs them money to do. If the profit they can make from their cases is going to be eaten away by having to pay interpreter fees, then this represents a real significant barrier. (Barrister)*

A solicitor suggested that a fund be set up by the law society so that interpreter fees can be provided "pro bono" (for free) as a potential funding solution:

*There's a perception that interpreters are really expensive, and I think the perception is probably misfounded. The other idea is that as a Law Society, as a profession, we can set up a pro bono system- whereby solicitors and barristers offer their services free of charge, or we could encourage the profession to ask individual solicitors' firms to contribute to a fund whereby that fund would in essence pay the sign language interpreters' fees, so that deaf people could access legal services free of charge, so that the burden is not on the solicitors' firms themselves, and it's spread across everyone's responsibilities? (Solicitor)*

In addition to providing an essential funding pot and allowing Deaf people to have equity of choice in accessing legal services, this would also have the indirect consequence of raising awareness among solicitors as a whole, of Deaf people's communication needs.

While there remains a lack of understanding on who is supposed to pay for interpreters when Deaf people reach out to solicitors, who pays for interpreters in court is clearer. When a member of the judiciary was asked about who pays for interpreters, they stated that in civil cases, with an order from the judge, the court will pay.

*It's a general policy in civil cases if there is a requirement for a sign language interpreter and the judge orders that to be the case, then the court service will normally pay...The Northern Ireland court and tribunal service will arrange and pay for interpreters in all civil, family, coroners, tribunal hearings, and enforcement of judgement interviews and stroke hearings for deaf and hearing impaired persons to ensure the fullest compliance with the disability discrimination legislation. (Judge)*

This member of the judiciary also clarified that as long as the court has enough notice, the court paying for the interpreters is seen as a "reasonable adjustment."

*The courts paying for interpreters is a reasonable adjustment providing that is the judge's perspective and the lawyers alert the court service of that requirement at the earliest possible date to ensure that we have someone in place so that the case is not adjourned, and does not have to be adjourned. (Judge)*

In addition to having a clear understanding about payment of interpreters, there is a need for training on what a reasonable adjustment is.

### **4.3 Accessing Services in the Justice System**

The ability of Deaf people to access services of police, solicitors or barristers, to participate effectively in court proceedings and to settle into the prison environment on an equal basis with others, is hampered by a range of factors. Many of these factors can be easily resolved, either through recognition, awareness, or BSL/ISL Equality Training. In this section we consider issues relating to communication accessibility, the importance of physical accessibility, the potential vulnerability of Deaf prisoners, and the stigma of disclosing deafness in legal proceedings.

#### **4.3.1 A system designed by and for hearing people**

Accessing services across the justice system is unsurprisingly problematic since, as a barrister who took part in the study highlighted, the system was never set up in the first place with Deaf people in mind. For example:

*Court is what's called 'the adversarial system,' where you have questions and answers and things, it's all done in that very traditional style to quickly put questions to people. And that is obviously difficult if it's a deaf person who is involved in it. So the adversarial system was never designed thinking of deaf or hard of hearing people who have just that difficulty in following it or picking up the questions. So, but it all comes back to if there is a deaf person involved in court or in litigation then you, the important thing is the interpreter and it's the access to the interpreter that's the problem. (Barrister)*

Rethinking what a justice system designed by and for everyone, including Deaf people, might look like, and challenging so called 'natural' practices is an important exercise in ensuring a justice system that reflects the 21st century.

#### **4.3.2 Communication accessibility**

It is often assumed that if information is readily available in written form, or a service is advertised through social media, that it is automatically open and accessible to everyone without discrimination. This is far from the case. When asked about his personal experience in

working with Deaf people at his police station, a member of the PSNI reflected on how some police officers react when they encounter Deaf people in the community.

*Speaking to one Deaf lady made me aware that there is under-reporting within the Deaf community. That there is a reluctance on the part of a lot of Deaf people to come forward to police. There's probably reluctance on behalf of everybody to come forward to police. People don't come forward to police unless they feel they really need our help, but there are certain obstacles, primary of which is communication, which prevents Deaf people from coming forward and speaking to police. And communication is two-way. (PSNI officer)*

This police officer goes on to say that aside from the fact that an inaccessible police station is a liability and can lead to a court case, steps to make the station more accessible to all people is the moral thing to do.

*So, I thought, 'Right here, here's something that, not only we need to look at from a legal perspective, it being a legal obligation on us as a statutory body to provide equality of service and to provide a quality service as well as an equality of service.' I thought, 'We need to do something about it.' But for me it wasn't that. It wasn't looking at risk. It wasn't saying, 'Oh, as an organisation we're leaving ourselves open here to potential litigation or for criticism.' It was something that we should do. It was more of a moral obligation than anything else, you know? As a police officer and as a police service, we're here to help the community, and there was, in my eyes anyway, huge room for improvement. (PSNI officer)*

As a result of this police officer noticing the inequality in an inaccessible police station, he took steps to remove some of those barriers. Some of the barriers he identifies include: using an audio phone to contact the police, and too much text on their website. He describes some of those steps below.

*We recommend that members of the Deaf community email us through the PSNI website. If they have any concerns or complaints they can do that. That's what is seen by us as a way round the telephone, audio, use of audio calls to ring in, but that, when I've looked at that, and the deaf people I've spoken to, they've said it's confusing. They said it's too heavy on text, it assumes quite a high standard of literacy. The education system, as I've been finding out, has let a lot of Deaf people down. The standard of education that they've received is poor." (PSNI officer)*

Similar issues arise in the context of accessing solicitors' services. One solicitor explained that there is a need for training so solicitors are more aware of the needs of Deaf people. "[Lack of access] does come from ignorance on the part of the profession. It doesn't come from any

ill will.” While the barriers that face Deaf people within the justice system are not intentional, much work needs to be done to remove them. In particular, communication systems used by solicitor firms need to be adjusted to meet the needs of Deaf clients; for example, providing email addresses or a mobile number instead of a landline number, and awareness of how to use sign language video relay systems. Thought also needs to be given to the accessibility of text on solicitor websites and information leaflets.

### 4.3.3 Physical accessibility

The ease of communication can be hindered by physical inaccessibility and structural barriers such as the use of intercoms at entrances to police stations or solicitor offices. Members of the judiciary identified the physical structures of the court as creating significant communication barriers.

*In regards to courthouses, quite a lot of them are old buildings. They're not necessarily adapted for people with disabilities, and in particular wheelchair access for example, which is a problem. But some of them do have loop systems for people who have hearing impairments. I can remember when I was in the employment tribunals and we had one of our panel members who had a hearing difficulty, and he used to get very frustrated if we weren't in the room that was fitted with the loop system. And he'd always say, 'Are we in the proper room for me to be able to hear?' Which I can understand, you know, because it's crucial that he would hear all that's going on. I think sometimes people are a bit hesitant to make the court aware that they have a difficulty. (Judge)*

Here, the member of the judiciary notes that while some rooms in the court are equipped with loop systems, some are not, and this does not encourage people who may need such supports to request them. Aside from some people requiring loop systems this member of the judiciary also points out other structural barriers in the courts.

*The court that I use..., the witness box is very small. It's up two steps, and the person has to actually come up the steps, turn round, and sit on this little narrow bench. It's not very comfortable apart from anything else, but it's awkward. And it's quite small. So on a few occasions we've had people who are quite large and they're having a bit of difficulty fitting into the space, you know? In that little witness box there would be no room for [an interpreter] to go and be next to them or stand facing them. They'd have to be somewhere else. And the seats for the barristers and solicitors are quite close to the witness box as well. So you have to be careful that the interpreter isn't seen as being on one side or the other, because they're not. They're there to interpret for the person who needs the interpretation, but they're not there as, as I say, as a representative on one side or the other. (Judge)*

The ability to achieve optimum interpreter positioning in court settings can thus be hindered by the quality of physical space available. This should be taken into consideration when developing new courtrooms, redesigning existing courtrooms and conducting accessibility audits of court facilities.

#### 4.3.4 Stigma of disclosure

A number of legal professionals spoke about the stigma associated with having to ask for accommodations in court. There were concerns that some people may be put off from fully disclosing their communication needs and that this could impact negatively on court or tribunal outcomes for the individual in question. Participants spoke of how they came across instances where clients appeared embarrassed to disclose their hearing loss which raised questions as to how frequently this was happening and consequences for cases.

*So in the tribunal, I am aware of people who I think have problems with their hearing and don't want to say. You know, it may not be so serious, but they're straining and they can't, they're embarrassed to say. (Tribunal panel member)*

While some people with hearing loss may be embarrassed to request communication support in court, another court professional mentioned a specific time where he accommodated a Deaf person whose communication access needs were not known until the case was underway in the courtroom.

*Many years ago in private practice I remember acting in a case for a plaintiff, and he had a hearing problem. A very serious hearing problem. But, that didn't emerge until we were in the middle of the case and I was standing here in the courtroom trying to take him through his evidence and he couldn't hear a thing I was saying. I ended up having to move across the courtroom to where the defence barrister was and lean on the witness box and shout in his ear, which was pretty humiliating for absolutely everybody. I think that there must be a great number of unknown people with hearing problems that we just don't know about because it's not asked about in court. Sometimes somebody will be open about it, but I suspect there's a great deal of embarrassment about it, and I'm in court day and judges don't ask, 'Have you difficulty hearing? Has anybody difficulty hearing?' without singling anybody out. So there's perhaps a culture of it going under the radar I think. (Tribunal panel member)*

Here, it is evident that this tribunal panel member made an adjustment on the spot in order to make sure this Deaf person could access court proceedings. However, since the client's communication access needs were not anticipated ahead of time, this created embarrassment for everyone in court. This situation could be avoided if all court personnel had more training on how to support and anticipate the needs of Deaf people in court.

## 4.4 Potential Vulnerability of Deaf Prisoners

Researchers in this project interviewed people who work within the prison service in Northern Ireland. There is a lack of quantitative data about the numbers of prisoners with hearing loss or who are Deaf. However, it is apparent that there are significant potential risks for prisoners who are Deaf. Members of the prison service described the barriers Deaf people face when in prison. As soon as Deaf people are placed in prison, they immediately experience a system that was not created for them. Below, a prison service employee describes some initial barriers deaf people face.

*There's obviously a limitation as to what people can do and get involved in within the prison structure. For people entering prison for the first time, you're trying to give them as much instruction and supervision as possible, but that facility is not created for Deaf people. So obviously they're going to feel sort of vulnerable and isolated, you know? So that has to have an impact on them as well. (Prison officer)*

Aside from the prison being an isolating place, even if a prison service officer wants to support Deaf prisoners, there are barriers.

*I think where we would be exposed massively to unacceptable risk is when we have somebody who is suicidal and deaf and can't read or write. And I think that's our problem, we don't have those mechanisms in place in how to deal with somebody like that. We have a soon-to-be-changing system called 'Supporting Prisoners at Risk,' and it's for those who are suicidal or who actively self-harm, and one of the big cornerstones of it is conversation check, which has to be about how they're feeling. And if we do have iPads in reception or in one location that's not going to meet the requirements for a conversation check with a deaf person. (Prison officer)*

Here, this participant explains the potential harm that can happen to a Deaf prisoner who is not given access to effective communication, especially if they are in danger of self-harm. In addition to sign language classes not being offered or valued, there is limited access to video phones within prisons, as one prison service officer points out.

*You'd also have legal calls. So obviously the only thing available is a speaking telephone, which wouldn't really work for somebody who needed to sign. So we do have a facility in the committal unit for that, but once they move out of that they would then lose that. But again we haven't had very many Deaf prisoners who sign. (Prison officer)*

Aside from not having videophones available to Deaf prisoners, the alarm system is not accessible either.

*Alarms have been issued, alarms are being issued, you know? Prisoners are expected to respond if alarms are activated, so that could be, that could be potentially problematic because they don't have strobe lights on them. (Prison officer)*

In addition to being at increased risk from not having an accessible alarm system, two prison service employees said the following about Deaf people and their general safety in prison.

**Prison officer 1:** *Everything. They'd be right at the bottom of the pile and the richest pickings for some of the less friendly inmates that might be interested in abusing them in some way. I would say if you were Deaf in this environment you would have to be pretty aggressively strong to survive, or else you'd just be wiped out.*

**Prison officer 2:** *I think the wee fella that we're both referring to, he did have a few problems with other boys now.*

**Prison officer 1:** *He did, he was, he was bullied a bit.*

**Prison officer 2:** *He was, he was quite a resilient wee boy, and compliant, but yeah it was issues around other boys targeting him.*

Another prison officer goes on to say,

*I think jail is just a microcosm of society on the outside and the isolation from being deaf is just made worse in here because it's just seen as a sign of weakness. The people that we deal with will just latch onto weakness and see it as a lever or a tool to manipulate that person. How we get around that and make things better for someone in isolation like that? I don't know, because unless you have a group of people that all can sign and are all available all the time the actual communication's not going to be there, you know? Jail is isolating in itself. You're locked in a room by yourself for twelve hours a day. The guys here have doubled up occasionally. So jail is isolating, and being deaf is isolating in itself, so it just makes that matter worse. So I don't know how you would really make things any easier for a Deaf person in jail. It's just going to be a very, very difficult and hard environment for a Deaf person to get through really. (Prison officer)*

That there are very few Deaf people currently in the prison service does not mean their rights can or should be ignored. The high level of mental health need among the prison population combined with the high level of mental health need among the Deaf population in Northern Ireland means that the welfare of a Deaf prisoner must be closely monitored.

## **4.5 Jury Service**

The UN Committee on the Rights of Persons with Disabilities has increasingly commented on cases where Deaf people are excluded from jury service. The main concern centres around the provision of 'reasonable adjustments', in particular, the presence of an interpreter or third

party during jury deliberations. This has been the case in the UK where Deaf people who require an interpreter are effectively excluded from being a juror.

The logistics of how a Deaf person would participate in jury service with an interpreter was noted by members of the judiciary; specifically, that a Deaf person requiring a sign language interpreter would have to be excused from jury duty.

*[Having an interpreter in the jury room], in my view it can't happen, because you are essentially then having thirteen people in the jury room, and no matter how good the interpreter would be, they are not going to be able to deal with what is going on in the jury room. I mean the jury rooms are up here, above. They all talk at once. You know, it's not a matter of, 'Right Juror Number One, what is your view on this? Blah blah blah blah blah blah blah.' 'Thank you. Juror Number Two, what do you think?'...That's not how it works. Jury discussion can be a very animated time, and no matter how good an [interpreter] is, they're not going to be able to interpret everything. And also how do you know how well they're interpreting? (Judge)*

Another judge explained how the courts are used to only accommodating people who are fluent in spoken English.

*The jury is twelve people, and can go down to nine if people are ill and things. But, I don't see how an interpreter can ever be in the jury room. I mean we don't allow someone on the jury who comes along and says 'I speak German only.' I have occasionally disallowed people to sit on the jury because they don't speak English properly and they don't understand English properly. (Judge)*

However, as noted by DAG members during their meeting with members of the judiciary, those who speak other foreign languages generally may have the opportunity to participate in jury service in their country of origin. Deaf people in the UK on the other hand, do not have this option in their home country.

Other participants suggested that, while complex, and subject to legislative change, it may be possible to ensure that interpreters are bound by an oath of confidentiality in jury deliberations.

*I suppose there's no reason why an interpreter can't be bound by an oath of not communicating what goes on in the jury room. The sanctity of the deliberations can be maintained. And it would need quite a skilled person to do that. It's one thing communicating what one person's saying to another, but to have eleven people would be a challenge. (Judge)*



Here the member of the judiciary acknowledges the challenge of interpreting deliberations of a large number of people in a jury room. A key issue of concern related to the increased risk of potential breaches of confidentiality by having an additional person in the jury room. This was exacerbated by recent high profile court cases where members of respective juries had unlawfully shared information about the trial on social media. That interpreters are already strictly bound by confidentiality requirements did not appear to reassure those judges who took part in the project. This is perhaps indicative of a lack of awareness of the nature and content of interpreter training.

While jury service is never a pleasant experience for anyone, the assumption that juries should reflect the composition of society at large and that it is an important part of shared citizenship means that Deaf people effectively become second class citizens, with the importance of their lived experiences nullified through the process of jury exclusion.

## **4.6 Suggestions for Future Training and Resource Development**

All those who took part in this study had views on the kinds of training and resources they felt would be helpful in addressing the issues and gaps highlighted thus far. There was a clear willingness and refreshing enthusiasm for involvement in future training across the majority of legal professionals who took part in the study.

### **4.6.1 BSL/ISL Equality Training**

Professionals consistently referred to the importance of Deaf 'awareness' in enabling them to be sufficiently prepared for potential engagement with Deaf people. It was suggested that targeting legal professionals such as prison officers, police officers, solicitors and barristers during their initial training was critical in opening minds and embedding key skills from the outset, allowing for much more proactive approach to be taken than currently exists:

*It has to be brainwashed into them [police officers] in the college, because if you do it afterwards when they're under pressure they'll forget, you know? You forget the new skills; you remember the old skills that you were taught in the police college. (PSNI officer)*

As one solicitor highlighted, training at the earliest stages of a person's career can help 'plant a seed'. Participants highlighted a number of opportunities for including BSL/ISL Equality Training at these early stages. Providing this to all new recruits or trainees would mean that, in the long term, every legal professional trained in Northern Ireland would have undertaken some kind of BSL/ISL Equality Training.

*It could be a session set up within the recruit training... just like an awareness session to make staff aware when they're dealing with someone with deafness. (Prison officer)*

*All our officers go through initial training whenever they join, which is based in Garnerville. There may be an opportunity... for some input in that, and that would be all police officers when they join... So there would be an opportunity through that process to deliver some training, and that would primarily be frontline officers. (PSNI officer)*

*[T]he Institute of Professional Legal Studies in Belfast, where all solicitors and barristers are trained, even if there were some compulsory classes in that institute, so that before you would qualify as a solicitor or barrister in Northern Ireland you would have a degree of disability awareness given to you, whether it's with people who are Deaf, perhaps people with autism... Certainly I would see the institute as a key place where, if that training before anyone is released out into private practice or to practice at the bar, that at least there would be some fundamentals as to where you could go and what questions you need to ask. (Solicitor)*

Significantly, it was recognised that while awareness raising was important at the early stages of a person's career, this should not be the only source. It was suggested that ongoing refresher training through Continuous Professional Development (CPD) was critical, particularly when considerable time had passed since initial training:

*[I]t's like everything... My initial training was thirty years ago, so the things that I had learnt then and haven't used, I've probably forgotten about. (Solicitor)*

The requirement for the majority of legal professionals to undertake CPD training throughout their careers presents an ongoing opportunity to provide BSL/ISL Equality training. As one solicitor noted:

*[T]hose of us who are older in the profession and more experienced also need reminders and some training as well, the CPD process is an excellent forum. We all get to sort of this time of year, October, November, and we realise that we have not enough points of training as we should have, and you know, an event such as deaf awareness training or something at this time of year would be very helpful to all concerned I think.*

It was noted that training needed to be inclusive of court staff, tribunal staff, those working 'behind the scenes', as well as those working at policy and strategy level.

During a focus group, a solicitor mentioned the "Equal Treatment Benchbook", that is, a guide that judges, solicitors, and other court staff are to apply so that people with disabilities have access to the courts.

*Judges are supposed to apply the Equal Treatment Benchbook. Solicitors should know what's in the Equal Treatment Benchbook so they know what to ask the judges as to what adjustments should be made. So, it's about raising awareness of the things that are already there, the systems that are in place. For example, in the court system, they have a guide arranging in-court interpretation services, a good practice guide for court staff. So, I don't know how many solicitors know that that's available and that you should be able to check what information you have. But again it goes back to training. If solicitors knew what support services were there, what they could access, then they could provide a better service. (Solicitor)*

Thus there is a clear need for refresher training about the Equal Treatment Benchbook. This could be highlighted as part of the BSL/ISL Equality Training.

#### **4.6.2 Online versus face to face training**

There were mixed views on whether training should be online or face to face. While there was merit to be had in online material that could be accessed at an individual's request, the majority of participants argued that delivery of face to face training would be more productive in the first instance and that this could be supplemented by follow up online resources. For example:

*I always think face to face is better... I think you can supplement it, it doesn't have to be one or the other, and there is an increasing trend in favour of online training, digital training. But the problem is that people are so busy. Will they sit down and do the work? Whereas if they have to attend a one-hour session, you know, they'll be physically there and they will take it in... (Judge)*

*Face to face type sessions would be ideal. (Policymaker)*

One participant suggested that as a legacy of the DRILL project, some kind of audio-visual resource could be produced to accompany future training events and act as a legacy of the project. The format of the face to face sessions was considered to be important. It was suggested that the most effective way of facilitating training was to ensure that Deaf people and their organisation(s) were directly involved in its design and delivery. As one interviewee put it, "There's nothing like individual stories to change minds". It was suggested that the British Deaf Association should deliver the training accompanied by Deaf people with direct experiences of the challenges in accessing the justice system:

*It brings it home more when you've got someone there [in the training session] who actually has that difficulty on a day to day basis and has to deal with it. (Judge)*

*It needs to be not me standing up and lecturing... saying 'now what are you going to do?' It has to be the Deaf person going in and going [leading scenarios]. (PSNI officer)*

It was also clear that the information sessions with Deaf people that had been carried out as part of the DRILL project were beginning to have an impact, specifically by facilitating direct contact and engagement between Deaf people and police officers. The participant highlighted that this had enabled police officers involved in delivering the information session to Deaf people to think about how to make their services more accessible.

The challenges in getting legal professionals together for training must be acknowledged:

*I'm trying to get something where I can encourage all the judges to come, because they usually have to come at four o'clock in the afternoon after they've just finished in court. So it's quite a big ask sometimes, if they've got to go home and do paperwork as well. (Judge)*

#### **4.6.3 Content of training**

There were a range of topics that participants felt could be usefully covered in BSL/ISL Equality Training. For example:

*Really basic training on the basics, which is eye contact, positioning, especially for lip-reading, for those who can lip-read. It's teaching staff that are dealing with all the other duties of the day to at least address the basics of looking directly at where you position yourself and trying to communicate clearly in whatever way you can. (Prison officer)*

In addition to general information on deafness, participants had particular questions and concerns that they felt training could usefully encompass.

*One of the issues that came up as well was some of our techniques, police techniques, are we will give verbal instructions. So, for example, if we have to use the likes of CS spray, we would give a warning... and that's okay if the person can hear what you're saying.... So it's wee things like that, that might feed into our training along the line. (PSNI officer)*

*And maybe some sign language for a warning. You know, where you recognise somebody isn't understanding what you're saying..., if you've the time and ability to give a recognised sign. (PSNI officer)*

Members of the judiciary emphasised the importance of highlighting in any training provided to solicitors and barristers, the need to inform judges and court staff of any requirements such as the need for an interpreter, as quickly and early as possible in court proceedings. A solicitor

said that judges, solicitors, and court staff need training on the cost of interpreters, who pays for interpreters, and what “reasonable adjustment” means.

One solicitor who is fluent in BSL highlighted the importance of making legal professionals aware of the extent to which sign language differs from written and spoken English:

*People think that a sign language interpreter is just interpreting word by word and that it's just the same as the written word and they can read. So I actually think if you could even explain that as a basic concept to law students, to solicitors, barristers and to judges, particularly judges; that would be really useful (Solicitor)*

A number of participants expressed a desire for information on how to engage with a sign language interpreter:

*It'd be good just to, in a training session, to be talked through how you answer, ask the question, and who do you look at, and who do you look at whenever they're responding? Are you listening to the interpreter or are you listening to, are you looking at the person who is Deaf? Those basic things. Because you want it to be respectful. (Tribunal panel member)*

*I don't know anything about sign language, so will it cover the legal jargon and legal technicalities I don't know. Will there be legal concepts that'll have to be broken down and explained? I imagine you need to be fairly disciplined in questions, you know, no long-winded stuff, short, sharp questions I imagine. (Judge)*

*I'd be curious to know, are there particular ways that you should ask a question so that the interpreter understands exactly what you're saying, that it can't be misinterpreted to the person who is deaf, do you know what I mean? Or are there ways of speaking to Deaf people that would actually be quite insulting and patronising... Maybe shouting or, you know, speaking like really, really slowly? (Tribunal panel member)*

Another solicitor felt it would be useful to include interpreters in the delivery of training to find out the experiences and challenges experienced by interpreters in working with solicitors, barristers, judges and court staff more generally. Indeed, it was suggested that perhaps interpreters would require training to familiarise them with processes, procedures, and legal terminology across the justice system:

*I have suggested [to interpreter] that we try to get all of our BSL and ISL signers together and we train them. So we bring them into a custody suite and we just run scenarios of interviews and then we go up to a court and we run scenarios in the court as well... to get them familiar with the criminal justice system so they know what*

*they're doing when they come into a police station and they know what they're doing when they go into a court. That'll also mean they are going to better be able to advise Deaf people if, for example, a Deaf person contacts them instead of contacting the police, which we know happens' (PSNI officer)*

#### **4.6.4 Supplementary resources and suggestions**

Participants presented a range of ideas on the kind of resources that would be potentially helpful for their day to day roles. Caution was expressed, however, that while training and resources could be developed and implemented, it was critical that organisational structures and supports were in place to ensure that these were not a one off or did not drop away over time. A point was made that there had been various initiatives in the past that were championed by individual staff with an interest in the issue, but that over time that person may have moved on or funding would be redirected so that the initiative was no longer sustainable.

*These types of things [initiatives] run because somebody in a position of authority has an interest in it, and then once they get promoted, they get moved on or they move out of that role, then it stops being a priority and something else will become a priority... and it just gets over-written... It just dies off because it hasn't got the support'. (PSNI officer)*

This can be linked to broader strategic developments such as the recommendations from the Gillen Civil Justice Review (2017) which contains a number of recommendations on the making the justice system more accessible to people with disabilities including those who are Deaf. Some participants made reference to the need for strategic outreach from the justice system directly to the Deaf community in order to raise awareness of the facilities, processes and supports available. There was concern that there could be a lack of awareness among the Deaf community of Tribunals, their purpose and how they worked.

*I just think there needs to be more of a reaching out as opposed to the hearing impaired community having to sort of say 'this is what I need', or stand up. (Tribunal panel member)*

This led to a discussion on the presence of Deaf people as lay representatives on strategic and advisory bodies across the justice system, including tribunals. It was suggested that the Northern Ireland Judicial Appointments Commission (NIJAC) could take some of this work forward by reaching out to the Deaf community more directly.

An interesting point was made in relation to hearing witnesses in court proceedings (and indeed hearing defendants) and their ability to engage effectively with a sign language interpreter and with a Deaf person who may be another party in court proceedings. A judge who took part in the study suggested that "witnesses might have to be told 'look please slow

down, speak more clearly, repeat what you've just said', and make sure that the witness has been understood". This raises a broader question of how to educate those involved in court proceedings but who are not members of legal professions. In such cases a short leaflet on communication tips might prove useful.

Elsewhere, an audit of the accessibility of premises across the justice system such as police stations (including custody suites), prisons (including visitor areas), courts and solicitor premises is an important consideration. Two participants in the study highlighted how changes would be needed to their premises to ensure accessibility for Deaf people:

*[M]aybe some redesign of our front offices may be appropriate [to make it more accessible]. (PSNI officer)*

*We're looking to see, some custody suites where you can flash the lights as a way of attracting attention [to the person in custody] ... so if somebody presses the call button we can look at a flick of the lights in that one cell and that one cell only ... as a way of just acknowledging the fact that, yes you have called, we know you need... one of us to come down to you and we'll be down when we can. (PSNI officer)*

Tribunal representatives argued that proceedings would be made more efficient if a pre-meeting or preliminary hearing could be held with any individual requiring support to ensure that any issues were addressed in advance. It was suggested this would also have the benefit of demystifying what could be perceived as an intimidating environment. It was suggested that, in the case of tribunals in particular, forms required to be completed by a claimant in advance needed to ask claimants if they had any support requirements so that tribunal members could be made aware as early as possible. This practice does not appear to be consistent across all tribunals at present:

*We could be in situations in tribunals, because we actually don't ask on a form has anyone got hearing impairment, you know, we could be in tribunals where a mother or father could be sitting there, and they actually mightn't be hearing the evidence that's being given by the board... I've been thinking about it since we got the notification about this [research project]. (Tribunal panel member)*

As can be seen from the above quote, the potential ramifications of all parties not having access to what is being said could be very damaging for case outcomes.

The objectives of the research element of the study were to explore the perspectives, knowledge and experiences of legal professionals on Deaf people's engagement with the justice system, with the aim of identifying training need and informing the development of resources, policy and practice.

Article 13 of the CRPD has three key elements: Deaf people have the right to access justice on an equal basis with others; to be provided with procedural and age-appropriate accommodations; and to be supported as direct and indirect participants in all legal proceedings. The findings of this research study suggest, however, that Deaf people's access to the justice system is ad hoc and not well supported. Indeed, in light of the obligations established in Article 13, alongside the Committee's commentary and Concluding Observations, it would appear that current provision in Northern Ireland for Deaf people's legal needs falls well short.

Deaf people's engagement with various institutions of justice risk being perceived as 'one off' instances requiring only 'one off' reactive measures. Significant communication barriers remain; most notably, access to and payment of interpreters across legal settings, and knowledge of what and how supports should be put in place. These barriers contribute to the silencing of Deaf people's experience of crime in whatever form, as well as their experiences of administrative and civil law matters, and ultimately prohibit effective access to justice. At worst, it forces Deaf people into positions of significant vulnerability in situations where rights should be most at the fore; for example, in the reporting of serious crime, individual arrest, trial, or imprisonment. It is further highly concerning that in the context of 21st century citizenship and emphasis on civic duty, that sign language users are being prevented from being full citizens on an equal basis with others through their exclusion from jury service.

This is not the only conclusion of this research. The research team has been struck by the appetite for change among the legal professionals who took part in this project. There is a clear desire to engage with the Deaf community and to learn. It is hoped that this project will establish a solid foundation upon which a system-wide response can be built.

## **5.1 Recommendations**

Our recommendations are as follows. These apply across the justice system, and to the following in particular: Police Service NI, Prison Service NI, members of the Law Society, members of The Bar of Northern Ireland, members of the Judiciary, the Courts and Tribunals Service more broadly, and the Department of Justice.

### **5.1.1 Police Service of Northern Ireland**

- All student officers should receive BSL/ISL Equality Training. This should be delivered by Deaf people.



- BSL/ISL Equality Training should be offered as part of continuous professional development. Training should be delivered by Deaf people.
- Police officers should have the opportunity to obtain qualifications in sign language.
- The PSNI should have a clear policy in place on how to book a sign language interpreter. This should be distributed to all relevant personnel. This policy should be developed in conjunction with Deaf people.
- Only sign language interpreters who are fully qualified and officially registered with the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) should be used (equivalent for ISL interpreters being implemented in 2020).
- Where sign language interpreters are not available in person, video relay services should be used rather than pen and paper.
- All public information videos should be captioned and signed in both BSL and ISL.
- Informational materials online should have a signed alternative in both BSL and ISL. Deaf people should have a central role in producing the signed alternative.
- The PSNI should undertake a Deaf Accessibility Audit of all police stations and facilities in Northern Ireland. This should be undertaken in partnership with Deaf people.
- The PSNI should review the PLOD scheme so that there is a PLOD officer in every police district in NI. This would help increase Deaf people's confidence in police system.

### **5.1.2 Prison Service Northern Ireland**

- All student officers should receive BSL/ISL Equality Training. This should be delivered by Deaf people.
- BSL/ISL Equality Training should be offered as part of continuous professional development. This should be delivered by Deaf people.
- Prison officers should have the opportunity to obtain qualifications in sign language.
- The Prison Service should have a clear policy in place on how to book a sign language interpreter. This should be distributed to all relevant personnel. This policy should be developed in conjunction with Deaf people.
- Only sign language interpreters who are fully qualified and officially registered with the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) should be used (equivalent for ISL interpreters being implemented in 2020).
- All information videos and materials should be captioned and signed in both BSL and ISL. Deaf people should have a central role in producing the signed version.
- The Prison Service should undertake a Deaf Accessibility Audit of all prison facilities in Northern Ireland. This should be undertaken in partnership with Deaf people.
- All Deaf prisoners should be offered an accessibility assessment meeting on their arrival to discuss their needs and ensure support is in place. This meeting should, in itself, be communication accessible.
- Deaf prisoners should have access to video relay facilities. Video relay facilities should be used instead of pen and paper in situations where it is not possible to access an interpreter in person.

### **5.1.3 Members of the Law Society of Northern Ireland**

- All solicitors should receive BSL/ISL Equality Training. The training should be delivered by Deaf people.
- BSL/ISL Equality Training should be offered as part of continuous professional development. The training should be delivered by Deaf people.
- Solicitors should have the opportunity to obtain qualifications in sign language.
- The Law Society/Solicitors should have a clear policy in place on how to book a sign language interpreter. This policy should be developed in partnership with Deaf people.
- Only sign language interpreters who are fully qualified and officially registered with the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) should be used (equivalent for ISL interpreters being implemented in 2020).
- Video relay facilities should be used instead of pen and paper in situations where it is not possible to access an interpreter in person.
- Law Society public information videos and materials should be captioned and signed in both BSL and ISL. Deaf people should be involved in the development of the signed version.
- The Law Society and solicitors should undertake a Deaf Accessibility Audit of their facilities and practices. This should be undertaken in partnership with Deaf people.
- The Law Society should establish and facilitate a pooled funding mechanism which all solicitors contribute to and which they can use when they need to access an interpreter.

### **5.1.4 The Bar of Northern Ireland**

- All barristers should receive BSL/ISL Equality Training. This should be delivered by Deaf people.
- BSL/ISL Equality Training should be offered as part of continuous professional development. This should be delivered by Deaf people.
- Barristers should have the opportunity to obtain qualifications in sign language.
- The Bar of Northern Ireland should have a clear policy in place on how to book a sign language interpreter. All barristers should be made aware of this policy. Deaf people should be involved in the development of this policy.
- Only sign language interpreters who are fully qualified and officially registered with the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) should be used (equivalent for ISL interpreters being implemented in 2020).
- Video relay facilities should be used instead of pen and paper in situations where it is not possible to access an interpreter in person.
- Public information videos and materials developed by The Bar should be captioned and signed in both BSL and ISL. Deaf people should be involved in the development of a signed version.
- The Bar of Northern Ireland should undertake a Deaf Accessibility Audit of their facilities

and practices. This should be undertaken in partnership with Deaf people.

- Barristers should inform the Courts and Tribunals Service, and the relevant Judge's office of their clients' communication needs as early as possible.

### **5.1.5 Courts and Tribunals Service Northern Ireland**

- All staff and Tribunal Panel members should receive BSL/ISL Equality Training. This should be delivered by Deaf people.
- BSL/ISL Equality Training should be offered as part of continuous professional development. This should be delivered by Deaf people.
- Staff and Tribunal Panel Members should have the opportunity to obtain qualifications in sign language.
- The Courts Service should have a clear policy in place on how to book a sign language interpreter. This should be distributed to all relevant personnel. Deaf people should be involved in the development of the policy.
- There should be a common policy across all Tribunals on providing support to Deaf applicants including responsibility for paying interpreters.
- Only sign language interpreters who are fully qualified and officially registered with the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) should be used (equivalent for ISL interpreters being implemented in 2020).
- Interpreters should be booked for court and tribunal hearings as soon as possible to avoid delay.
- Video relay facilities should be used instead of pen and paper in situations where it is not possible to access an interpreter in person.
- Public information videos and materials should be captioned and signed in both BSL and ISL. Deaf people should be involved in the development of a signed version.
- Tribunal pre-hearings should be facilitated in cases where there is a Deaf person, where possible, so that communication arrangements (e.g. positioning of interpreter, seating and lighting for lipreading) can be clarified.

### **5.1.6 Members of the Judiciary Northern Ireland**

- All judiciary and lay magistrates should receive BSL/ISL Equality Training. This should be delivered by Deaf people.
- BSL/ISL Equality Training should be offered as part of ongoing Judicial Training. This should be delivered by Deaf people.
- Judiciary and lay magistrates should have the opportunity to obtain qualifications in sign language.
- Pre-hearings should be facilitated in cases where there is a Deaf person, where possible, so that communication arrangements (e.g. positioning of interpreter, seating and lighting for lipreading) can be clarified.

- Judges should consult directly with the Deaf person(s) to confirm communication arrangements as soon as they are made aware that there is a Deaf party in the proceedings.
- Deaf sign language users should be facilitated to fulfil their role as a member of the jury when called and provided with a sign language interpreter in all cases when requested.

### **5.1.7 Department of Justice**

- The Department of Justice should take action to facilitate the full participation of Deaf sign language users as a member of the jury by developing a legislative amendment or similar solution that enables a Deaf person who have a sign language interpreter in all cases when requested.
- The Registered Intermediary Scheme should be inclusive of Deaf people. Deaf people should be given the opportunity to train as a Registered Intermediary with the aim of supporting Deaf people during police interview and in court.
- Deaf people's needs should be mainstreamed into existing policy initiatives across the justice system. Deaf people should be involved in the development, design, implementation and monitoring of targeted or mainstreamed policy initiatives.
- Action should be taken to increase presence of Deaf people on public bodies within the remit of the Department of Justice.

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# Appendices

## **Appendix A: Information Sheet and Consent Form**

### **Information Sheet**

The School of Social Sciences, Education and Social Work at Queen's University Belfast is taking part in a study exploring access to justice for deaf people in Northern Ireland.

The two year pilot project has been funded by the Disability Research, Independent Living and Learning (DRILL) initiative and the Big Lottery. It is being led by the British Deaf Association with research input from myself at Queen's University Belfast, Professor Michael Schwartz from Syracuse University, US, and Dr Brent Elder, Rowan University, US.

As you work in a profession which plays a lead role in respect of justice in Northern Ireland, we would like to invite you to participate in this research study. Before you make a decision it is important for you to know why the evaluation is being done and what it will involve for you. If you agree to participate, we will ask you to sign the enclosed consent form and return it to us. Please note that this work has been approved by the Ethics Committee in the School of Social Sciences, Education and Social Work at Queen's University.

**Please take your time to read the following information carefully.**

### **Why are you doing this research?**

Article 13 United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) states that disabled people, including deaf people, have the right to effectively access justice. Deaf people access the justice system for various reasons. This includes as witnesses, jury members, defendants, utilising legal services in conveyancing, appeals to the benefits systems and engaging with tribunals.

The objectives of the study are to increase knowledge about deaf people's engagement with the legal system, facilitators and barriers, and the legal system's responses to these; to support the legal system in meeting their obligations under Article 13 of the UNCRPD by developing a training programme; and ultimately, to support deaf people to participate effectively in the legal system as direct and indirect participants.

### **What will involvement in the research mean for me?**

The research will explore perspectives and insight from legal professionals on deaf people's engagement with the legal system and how to better support their access to the justice system. To achieve this, we will be carrying out a number of focus groups and interviews

with representatives of legal professions across Northern Ireland. We would, therefore, like to invite you to take part in a focus group or interview which will cover some of these issues. The focus group/interview will take about forty five minutes to an hour to complete and, with your permission, will be audio-recorded.

### **Is participation in the focus group/interview voluntary?**

Your participation is entirely voluntary. You can refuse to participate or, if you agree initially, you can change your mind at any time up until the point of data anonymisation and decide not to take part anymore. You do not have to provide a reason why and your withdrawal will have no adverse affect at all on your employment.

### **Will my participation in the interview be kept confidential?**

All information which is collected from the focus group or interview will be kept **strictly confidential**. All data will be anonymised and no comment will be attributed to named individuals.

We will keep to the data protection guidelines at all times. All information relating to the evaluation will be stored electronically and will be kept locked by password access. Any non-electronic information will be kept in a locked office at all times. Information will be stored for a minimum of 5 years within Queen's University and then destroyed in line with the University's procedures. Access to information will be restricted to the research team.

### **What will happen to the output from the study?**

The information will be written up in a report and used to inform the development of an online resource for deaf people and legal professionals about their rights and obligations, and the development of a pilot training programme for deaf people and for legal professionals. It may also be published in a report available to the public and in academic journals.

### **How to contact us to find out more about the evaluation**

If you would like to find out more about the study (even if you decide not to take part), please contact Bronagh Byrne at the address below or email [b.byrne@qub.ac.uk](mailto:b.byrne@qub.ac.uk)

School of Social Sciences, Education and Social Work,  
Queen's University Belfast, 6 College Park, Belfast BT7 1LQ

## Consent Form

The School of Social Sciences, Education and Social Work at Queen's University Belfast is taking part in a study exploring deaf people's access to justice in Northern Ireland.

The objectives of the study are to increase knowledge about deaf people's engagement with the legal system, facilitators and barriers, and the legal system's responses to these; to support the legal system in meeting their obligations under Article 13 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD); and ultimately, to support deaf people to participate effectively in the legal system as direct and indirect participants.

- I have read the information sheet which explains what it means for me to be part of the research project.
- I understand that the letter is asking me to take part in a focus group or interview that will last approximately one hour and will be audio-recorded.
- I understand that the information provided by me in the focus group or interview will be kept strictly confidential.
- I understand that the names of individual staff will not be used in any publications arising from the focus group or interview.
- I understand that my participation is voluntary and that I am free to withdraw my consent up until the point of data anonymisation without adverse effect.
- I understand that this work will be published as a report and in academic journals, and may be included as part of conference presentations.

Please tick the appropriate box to indicate whether you give your consent:

I AGREE to take part in the interview.

I DO NOT AGREE to take part in the interview.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



## Appendix B: Summary of Elder and Schwartz (2018) Research Article for DAG



**drill**  
Disability Research on  
Independent Living & Learning



**COMMUNITY  
FUND**

### Summary of Research Article on Access to Justice by Brent Elder and Michael Schwartz

(Reference to full article: Brent C Elder, Michael A Schwartz; Effective Deaf Access to Justice, The Journal of Deaf Studies and Deaf Education, Volume 23, Issue 4, 1 October 2018, Pages 331–340)



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**DEAF ASSOCIATION  
NORTHERN IRELAND**

## Introduction

In 2018 Brent Elder and Michael Schwartz published an academic article called 'Effective Access to Justice'. The article describes the findings of their research project looking at access to justice for Deaf people in Northern Ireland in 2016. This is a summary of the article.

As part of their research project, Brent and Michael met with Deaf people across Northern Ireland. 8 Deaf people shared their stories.

Deaf people identified 3 main issues they faced in accessing justice.

These were:

- Barriers to accessing justice.
- Understanding of the term 'reasonable adjustment'.
- Awareness of Deaf culture.

### Issue 1 – Barriers to access

Deaf people reported they needed the assistance of a solicitor to help with financing a mortgage, handling a divorce, dealing with a car accident, or preparing a will.

Even though Deaf people need solicitors, many barriers can make it difficult for Deaf people to find and work with solicitors. The following example highlights the struggles Deaf people face in accessing the justice system in Northern Ireland.

#### What Deaf people said

One person said that she couldn't afford to pay an interpreter so she just had to go and cope as best she could with trying to read things. Her parents helped by speaking very slowly and read the information to her by speech and lip reading. She feels she missed out on at least 70% of what was said. This person said that speech and lip-reading was not her preferred form of communication. This made it difficult to work with the solicitor.

### Issue 2 – Understanding the term 'reasonable adjustment'

The stories showed that solicitors and Deaf people did not always agree on what was a 'reasonable adjustment'.

A 'reasonable adjustment' is when a change is made to a service to make it more accessible. Reasonable adjustments are about removing barriers. This comes from the Disability Discrimination Act (1995).

However not everyone agrees on what is 'reasonable'.

When Brent and Michael spoke to Deaf people in their research, they found that solicitors did not always provide the Deaf person with an interpreter. Instead solicitors sometimes argued that writing notes was a reasonable adjustment.

### Theme 3 – Awareness of Deaf Culture

#### What Deaf people said

One woman who told her story challenged the solicitors and said to them 'You have a duty to fund an interpreter as part of your reasonable adjustment'. The solicitor told her that they didn't have the money to do this. She tried to tell them about the DDA but the solicitor told the woman that this didn't mean anything and that they would write things down for her.

A man said that his preference was to communicate in sign language so he could fully express himself and feel comfortable. He said that this would make him feel equal to the solicitor. He did not feel that writing notes provided him with the same quality of service or discussion.

The people Brent and Michael spoke to felt that it was important that Deaf people and those working in the justice system, like police officers, solicitors, judges, received training on Deaf culture.

#### What Deaf people said

A deaf woman said she knew a solicitor who has a Level 6 BSL qualification. She said she would rather use a solicitor who knew sign language because this might mean they know about deaf people, Deaf culture, the Deaf community and would have a better understanding. She said this was really important to her.

### What do we need to do to change things?

There needs to be training on awareness of Deaf culture.

This training should be provided to those who work in the justice system such as police officers, solicitors, prison officers, and judges.

It is also important that training is provided for the Deaf community so that they are aware of their rights.

To help change things, Deaf people should be the leaders and work with the justice system to design policies and laws on communication access.

# The British Deaf Association

The BDA stands for **D**eaf **E**quality, **A**ccess and **F**reedom of choice

## Vision

Our vision is Deaf people fully participating and contributing as equal and valued citizens in wider society.

## Mission

Our Mission is to ensure a world in which the language, culture, community, diversity and heritage of Deaf people in the UK is respected and fully protected, ensuring that Deaf people can participate and contribute as equal and valued citizens in the wider society. This will be achieved through:

- Improving the quality of life by empowering Deaf individuals and groups;
- Enhancing freedom, equality and diversity;
- Protecting and promoting BSL and ISL.

## Values

The BDA is a Deaf people's organisation representing a diverse, vibrant and ever-changing community of Deaf people. Our activities, promotions, and partnerships with other organisations aim to empower our community towards full participation and contribution as equal and valued citizens in the wider society. We also aim to act as guardians of BSL and ISL.

- 1. Protecting our Deaf culture and Identity** – we value Deaf peoples' sense of Deaf culture and identity derived from belonging to a cultural and linguistic group, sharing similar beliefs and experiences with a sense of belonging.
- 2. Asserting our linguistic rights** – we value the use of BSL and ISL as a human right. As such, BSL and ISL must be preserved, protected and promoted because we also value the right of Deaf people to use their first or preferred language.
- 3. Fostering our community** – we value Deaf people with diverse perspectives, experiences and abilities. We are committed to equality and the elimination of all forms of discrimination with a special focus on those affecting Deaf people and their language.
- 4. Achieving equality in legal, civil and human rights** – we value universal human rights such as the right to receive education and access to information in sign language, and freedom from political restrictions on our opportunities to become full citizens.
- 5. Developing our alliance** – we value those who support us and are our allies because they share our vision and mission, and support our BSL and ISL community.

## About BDA

Founded in 1890, the British Deaf Association (BDA) is a national Deaf-led organisation that works directly with Deaf people who use British Sign Language (BSL) and Irish Sign Language (ISL). Our work concentrates on campaigning for equal rights on a national level and working at a local level empowering Deaf people to achieve access to their local public services. This is carried out through projects delivering individual and community advocacy. We also work to ensure BSL/ISL is included by public bodies by delivering a public commitment through signing the BSL and ISL Charter.

Our Board of Trustees are all Deaf (we use the capitalised 'D' to denote the fact that we have a separate language and culture), and, 80% of our staff are Deaf.

Many Deaf people who use BSL/ISL lack access to education, health services, employment and other public services. Our work is designed to empower Deaf people and to improve access to general information and public services. We seek to achieve this by working with Deaf people at the local level through setting up forums to lobby public bodies and supporting Deaf people individually.

This is in line with the overall BDA objectives, which are: **D**eaf **E**quality, **A**ccess and **F**reedom of choice

**For a list of signatories to our BSL and ISL Charter, FAQs, and other information, including what the BDA can do for your organisation, please look at our website: [www.bda.org.uk](http://www.bda.org.uk)**

# Notes





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**The BDA stands for Deaf Equality, Access and Freedom of Choice**

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