

## **1. Royal College of Speech and Language Therapists**

2. The Royal College of Speech and Language Therapists (RCSLT) is the professional body for speech and language therapists (SLTs), students and support workers working in the UK.
3. The RCSLT has over 13,000 members, including nearly 95% of the SLTs working in the UK of which over 300 practice within Northern Ireland. We promote excellence in practice and influence health, education, social care and justice policies.
4. SLTs play a major role in working directly with children and adults, as well as supporting other professionals in working with speech, language and communication needs.
5. The RCSLT has previously contributed to 'Special measures an evaluation and review' and 'Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, using special measures and provision of pre-trial therapy'. Our key points relating to the terms of reference are outlined below.
- 6. Review the effectiveness of the current approach and services provided by the criminal justice agencies to victims and witnesses of crime.**
7. The RCSLT believes that any person with a communication difficulty or disability has a right to expect and receive specialist consideration during evidence gathering and in court proceedings to ensure a fair judicial process with the highest quality of submissible evidence.
8. Communication difficulty and disability have a great impact upon every process within the legal and judicial system. Victims and witnesses of crime who have a communication difficulty or disability will misunderstand questions that are posed to them and will have difficulty responding verbally.
9. Current practice in the judicial process is failing victims and witnesses of crime with speech language and communication difficulties. This includes the process from initial evidence gathering by investigating officers through to giving evidence in court and consideration and understanding by the judiciary of the implications and needs of those with communication difficulties.

**10. Identify the key issues impacting on the experiences of victims and witnesses of crime of the criminal justice system and any gaps in the services provided.**

11. Identification: The RCSLT believes that there is a significant gap in justice agency staff skills and knowledge in identifying people with speech, language and communication needs prior to interview and throughout the justice pathway.
12. Assessment: The RCSLT believes that any future guidance on assessment should identify a range of general factors to be explored via an assessment prior to interview. Subjective assessments are more likely to rely heavily on subjective officer perceptions of 'normal' behaviour. Where prevalence of speech, language and communication disabilities is high, there is a danger that subjective assessment will result in false norms which are unreasonably low.
13. It should be noted that in England where the intermediary scheme is currently in place, less than half of the intermediary referrals for adult witnesses were for learning disabilities<sup>1</sup> or mental health<sup>2</sup>. More importantly, over half of the cases were for communication problems including language delay, dyspraxia, hearing impairment and autistic spectrum disorder.
14. Although generic identification guidance is welcomed, the use of *standardised assessment tools* to support identification of victim/witness needs must be implemented. The RCSLT was involved in the working groups which submitted the report 'Making a difference for offenders with learning disability and/or specific learning and communication difficulties'. This report suggests a range of screening tools and training needs for justice sector staff which would also be applicable to supporting victims and witnesses.
15. *The RCSLT therefore supports the implementation of a standardised assessment tools to support identification of victim/witness communication needs.*
16. Training: Nearly one in ten children has a communication disability. This proportion increases dramatically in vulnerable groups. Most children with learning disabilities have some form of communication difficulty and at least 60% of young offenders have communication difficulties.<sup>3</sup> Young offenders themselves are also likely to be victims and witnesses.
17. A recent National Association of Probation Officers and Royal College of Speech and Language Therapists survey revealed that most of those on probation or parole

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<sup>1</sup> 43% of referrals from April 2009

<sup>2</sup> 7% of referrals from April 2009

<sup>3</sup> Bryan, Freer and Furlong (2007) *Language and communication difficulties in juvenile offenders*, IJDLC, 42, pp. 505-20.

supervision have low educational attainment, learning difficulties and problems either expressing themselves or understanding what is being said to them.

18. This means that police officers, solicitors, barristers and judges will encounter a significant proportion of victims, witnesses and defendants with communication difficulties. It is therefore crucial that justice sector staff have the skills to identify such people as early as possible.
19. The notion of a fair and equitable trial is of paramount importance and yet history has shown us that people with learning disabilities have been denied not only a fair and equitable trial but even the opportunity to participate.

A young man was bailed by magistrates to reappear to face charges brought against him. Two weeks later, he was arrested and sent to prison for failing to adhere to his bail conditions. His real "crime" was not being able to read or understand his bail conditions. Should we be imprisoning people for being illiterate or not having the capacity to understand what is required of them?

20. The RCSLT has developed an E-Learning Tool and Face to Face training package that will provide justice sector staff with the skills to identify individuals for special measures in a timely and consistent manner.
21. *The RCSLT therefore recommends that appropriate mandatory training in the identification of vulnerable people with communication difficulties is put in place.*
22. Communication: Research has shown that many vulnerable witnesses or victims may not be known to local services, or may not have had specific disabilities or difficulties identified either within or outside of an institutional environment. Police should be encouraged to raise suspicions or concerns of vulnerabilities/disabilities both with professionals who know the individual and with agencies that might effectively coordinate medical or therapeutic assessments and subsequent support.
23. Whilst therapeutic care may be delivered as part of special measures to support witnesses, it should be considered that therapeutic interventions may also be needed to support the long term well being of a witness or victim whose needs have not previously been identified. Police therefore also play a crucial role in identifying and referring vulnerable individuals who may benefit from therapeutic support in the longer term.
24. We believe that police must give consideration to obtaining medical or equivalent evidence from someone with professional knowledge of the witness in the appropriate discipline as this may be required in support of a special measures application.

25. *The RCSLT recommends that clear lines of responsibility are outlined for the passage of information between relevant agencies to ensure that health, education and social care agencies have a statutory responsibility for ensuring the transfer of relevant information to the justice agencies.*

**26. Identify and analyse alternative approaches and models of good practice in other jurisdictions in terms of policy interventions and programmes.**

27. The RCSLT believes that at all stages of the criminal justice process there are failings in the identification and support of victims and witnesses with communication difficulties and in the training of criminal justice staff in meeting their needs. Officers who misunderstand the language ability of an individual will use language and ask questions that the individual is unable to process.

**28. Consider what priorities and actions need to be taken to improve the services provided to victims and witnesses of crime.**

29. *RCSLT recommends and supports the use of registered intermediaries (and other special measures) to support all vulnerable people throughout the criminal justice system.*

30. *RCSLT recommends mandatory training for all justice agency staff and the judiciary in the identification and support of individuals with communication difficulties.*

31. *RCSLT recommends the implementation of a standardised assessment process including a screening tool sensitive to identifying communication difficulties.*

32. RCSLT recommended in the Northern Ireland special measures consultation that the definition of vulnerable witness is adjusted to include children under 17 years of age and adults whose evidence is likely to be affected by a mental disorder or impairment of intelligence and social functioning<sup>4</sup> or who have a physical disability *or speech language and communication disorder*. Communication difficulties are often referred to as “hidden disabilities” because they are not obvious in the same way as physical disabilities.

33. *RCSLT recommends that definitions should make it explicit that a physical disorder may include communication difficulties which may not be attributable to a mental, intellectual or physical disability.*

34. In regard to guidance in future strategies the RCSLT would like to see case study examples to enable the reader to place this in a contextual and /or real life framework.

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<sup>4</sup> This term is used in law in England and proposed in Scotland.

35. We believe that guidance could be strengthened further by evidencing current research such as the emerging benefits in the use of intermediaries, including assistance in identifying the needs of vulnerable witnesses.

James Watts, 57, a minibus driver, thought that he had found the perfect victims: four women, three of whom have cerebral palsy and a fourth who has brain injuries, women so disabled that they would never be able to tell anyone what had happened. They could never say because they couldn't talk. But, just to be on the safe side, he also threatened one of the women with a knife and warned another he would leave her behind on a day trip if she told anyone.

But talk they did – although not with words. One communicated by blinking “yes” and “no” answers to police. Another communicated by using a computer pointer controlled by a joystick on her wheelchair and pointed to symbols of body parts to describe what Watts had done to her.

She said that the assaults had taken place on several occasions on day trips away from the home. A policewoman asked: “Are there any other pictures of how you felt when he did that to you?”. The woman selected a symbol and the computer said the words, “I cried”. Watts was sentenced to 12½ years imprisonment.

36. *RCSLT recommends that guidance must contain contact details for local support services relevant to suspected or identified needs.*

37. Any guidance also needs to make clear the most suitable structures for local delivery, for example clear referral pathways following assessment of vulnerability. It is important to reference referral pathways to local SLT services and contact details for local speech and language therapy service managers.

38. Delivery of any guidance will require coordination of services between a wide range of public, third and private sector bodies.

39. Additional suggestions for documents and useful sources that could be included in the appendix can be found on our website at [www.rcslt.org/about/young\\_offenders\\_and\\_criminal\\_justice/intro](http://www.rcslt.org/about/young_offenders_and_criminal_justice/intro).