

# Signs of hope in court

*How robust are procedures for Deaf people in British courts? Jessica Moore explores BSL legal interpreting*

TV dramas and courtroom flicks aside, most of us have little insight into what a trial involves. Imagine you were called to the stand or required to take jury service. How should you conduct yourself? How does the procedure work? It's a confusing situation for all – let alone for those who cannot hear what's going on around them or communicate in the language of the courtroom.

'Interpreting for Deaf people in court is different from spoken language interpreting,' says Julia Anderson, a British Sign Language (BSL)/English staff interpreter for Clarion. Working almost exclusively in court settings, she explains, 'We have to be opposite the Deaf person so we can see and be seen – normally standing next to the judge or witness box – whereas spoken language interpreters usually sit beside the person they're interpreting for. Because BSL interpreting is so physically and mentally tiring, we work in stints – so two of us switch roles every 20 minutes. While one is interpreting, the other monitors to make sure everything is going smoothly.'

The number of sign language interpreters (SLIs) in a courtroom can quickly tot up, too. 'If the case lasts longer than about five days, you really need three people, so that one gets a rest while the others are monitoring and interpreting.' If multiple Deaf people are involved, there may be up to four SLIs.

While there is a legal obligation to provide an interpreter for any court case involving a Deaf person, there are many challenges facing SLIs in this context. 'As a visual-spatial language, BSL has nuances that are very difficult to translate,' explains Anderson. 'For example, a Deaf witness describing an event

*"I know people who have been told to stop interpreting because they're distracting the court"*

might sign "the man walked to the door, took the key out of his left pocket, reached up to put it in a lock that was quite high, turned it clockwise and entered." We wouldn't say that in spoken language, but because sign language is gestural, the information is all there. Interpreters need to decide how much to unpack for the court.' Giving too much information can have a detrimental effect, she adds. 'If the interpretation sounds unnatural, it can seem suspicious. SLIs therefore have to match the way a hearing person would describe things.'

This can also be a stumbling block when interpreting in the other direction. 'Sometimes, something works perfectly well for hearing people, but there's no way to interpret it into sign language.' An example? 'We can't interpret "Did he hit you?" without leading the witness because we need to know whether they were hit with a closed fist or an open palm. We need to know roughly where in the body and from what direction.'

If questions aren't sufficiently specific it can cause problems for all parties, says Linda Watson-Thomson, a BSL/English interpreter with court experience. 'Many verbs in sign language are directional, so I could sign

"Did you stab Mr X in an upward movement between the shoulder blades?" and the answer could be "no", and that might be true, but it doesn't necessarily mean they didn't stab Mr X at all. So, if the interpreter doesn't insist that generic questions are rephrased in more detail, the Deaf person could, without lying in court, avoid questions that hearing people would have to answer,' she says. 'Then again, if the answer to "did you stab him like this?" is "no", but later it transpires the Deaf person did stab Mr X another way, it can make the defendant look like he's changing what he's saying or being deliberately evasive.'

The specific wording of an interpretation is crucial, too, says Frank Harrington, an SLI and Senior Lecturer in Deaf studies at the University of Central Lancashire (UCLan). 'If a Deaf person has been arrested and charged, the interpreter that was employed at the police station can't be employed in court because, at that point, they would be a police witness, effectively. Their interpretation will form the written statement. But sometimes the interpreter in court might use different words for the same signs – as a basic example, the difference between "I hit him" and "I slapped him". Those words could have a different impact. It's a difficult one, but it can be avoided if the police have interviewed with a camera, as what was signed in the police station can be checked against what was signed in court.'

The very construction of sign language can also pose problems, says Watson-Thomson. 'It includes something called "negation". If I were to ask a hearing person, "how windy was it yesterday?", they might say "it was a bit wild but not too bad". But in BSL, you



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might sign “hurricanes? tomadoes? violent wind?; not really. Strong gusts?; yes”. So in court, if you’re asked “how violent was the person?”, the jury would see the Deaf person waving their arms about looking extremely aggressive while actually saying “not like that, but like this”. That can impact on the feeling in the courtroom and, despite the interpretation, people watching can make judgements based on their inaccurate perception of the language.’

Another issue can be a simple lack of understanding. ‘If a Deaf person is involved in a case, the SLI must interpret absolutely everything that happens throughout,’ Watson-Thomson explains. ‘If there’s a loud bang outside that makes everyone look, I would interpret that. If somebody hiccups and people laugh, I would interpret that. But I know people who’ve been told to stop interpreting because they’re “distracting the court”. It would be great if there were better preparatory information.’

This call is echoed by Nil Paniguan JP, a magistrate in the South-West London jurisdiction. Speaking of a recent case involving a Deaf person, she recalls, ‘Nobody in the court knew how the process was going to work and nobody explained what was going to happen. We didn’t know about the potential problems of rephrasing and so on that could have come up. We should be warned,’ she believes, ‘because these things could influence the decision; they might change the way the magistrate or jurors think. I would welcome sentencing guidelines and training around this. If we understand why, for example, a Deaf person looks agitated when the interpretation is that there was nothing wrong, that would be really helpful.’

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Things are improving. A toolkit, ‘Planning to question someone who is Deaf’, was published on the Advocate’s Gateway in July 2014 ([www.theadvocatesgateway.org/images/11planningtoquestionsomeonewhoisdeaf100714.pdf](http://www.theadvocatesgateway.org/images/11planningtoquestionsomeonewhoisdeaf100714.pdf)), and the JUSTISIGNS project (<http://justisigns.com>) is researching the experience of Deaf individuals within legal systems around Europe. Robust guidelines will be written as a result, aimed at different groups, including Deaf people, legal professionals and SLIs themselves.

‘I wouldn’t want anyone who had just completed a general course to introduce themselves as a specialist court interpreter,’ Harrington says of the need for specialist training. ‘SLIs should be registered and have significant experience before working in court,’ agrees Watson-Thomson. ‘No interpreter worth their salt would put themselves in that position otherwise, because the consequences are too great.’

The Association of Sign Language Interpreters (ASLI), meanwhile, recommends that BSL/English interpreters gain at least five years’ post-qualification experience, observe proceedings, and shadow a practising specialist before working in high-risk domains.

### CHALLENGING SET UP

*Interpreters usually sit behind the client in court but sign language interpreters have to be opposite the Deaf person*

It has a list of approved mentors, available on its website ([www.asli.org.uk](http://www.asli.org.uk)), and there are web-based forums and regional meetings where members can seek recommendations for interpreters in the legal domain.

Meanwhile, SLIs already working in legal settings need to consider their continuing professional development (CPD). To help, Karen Newby, an ASLI Fellow, is leading a new legal working group within ASLI to produce best practice guidelines. ‘In the legal sector, there hasn’t been much guidance for SLIs in this country, but there is in other countries – for example, the USA,’ she notes.

‘In the UK, BSL interpreters reach a minimum safe-to-practise level of qualification and then the onus is on them to undertake CPD courses; there are no higher level qualifications or certification. In the States, qualified American Sign Language (ASL) interpreters can gain advanced certification in their chosen specialism.’ Comprehensive guidelines are available in the USA, which could be adapted for the UK – and some elements may be surprising. For example, while SLIs commonly use simultaneous interpreting, ‘contemporary research suggests that interpreting consecutively is the best way to preserve quality and integrity, which is vital in the legal domain,’ says Newby.

Despite all of this, experts agree that when BSL/English interpreting works well in the courtroom, it is a well-oiled machine. ‘My experience was fantastic,’ Paniguan enthuses. ‘It went remarkably smoothly with no problems at all, no disruption to the court, and very thorough interpreting.’ Ultimately, despite the courtroom being a challenging and daunting environment for any newcomer, ‘all parties seemed to be happy’.