

Legal language and its impact on Litigants in Person

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Introduction

PSU has limited resources for research, but we aim to find out our clients' experiences of a particular issue by conducting 'Spot Surveys' with visiting clients. We have found that running these surveys twice in one year consolidates the findings.

This report summarises the findings from the 2017 survey on use of language in the court process.

Methodology

Between 24th July - 4th August and 6th – 17th November 2017, the PSU conducted a survey of clients, to gather information about the impact on litigants in person (LiPs) of the language used in legal proceedings.

We acknowledge that the sample does not represent a random selection of LiPs: volunteers ask clients to complete the surveys at random, but most LiPs visiting PSU offices suffer multiple disadvantages or are returning clients, and they will have self-selected to a degree.

303 clients responded to the survey from across the PSU network (142 over the summer collection and 161 in the autumn). Not all respondents answered all the questions and some questions allowed for multiple answers. Percentages are calculated by the number of respondents for each question, and figures have been rounded up or down.

This report does not give a detailed analysis by location.

"I found myself having to use google, to translate some of the terminology"

Survey Respondent

Summary of findings

- Just under a quarter (72/24%) of respondents said English was not their first language – which reflects the percentage among overall users of PSU services.
- Just over half of respondents (155/52%) were involved in legal proceedings for the first time when they completed the survey.

Court buildings:

- Just over half of respondents (52%) said that finding what they needed in the court building was very clear. Nearly a third (30%) said this was partially clear and 17.6% said it was not clear at all.
- The majority of suggestions for improvements to the court building included more signage and clearer signage, more court staff available, open counters, a reception area and the provision of an on-site cafe.

Letters, forms and websites:

- 127 respondents (43.4%) said that the language used in court letters and forms was very clear, while 112 (38%) said partially clear, and 54 (18.6%) said not clear at all.
- Almost half of respondents (137/48%) used guidance notes when completing their court forms. Of the 136 respondents who answered the following related question, 18 (13%) said they could not understand the notes enough to proceed with the court form.
- Almost a third (91/32.6%) of respondents used an online HMCTS website, leaving two thirds (187/67%) who did not. Of the 97 respondents who answered the following related question, 10 (10%) could not understand the content enough to proceed.
- 86 respondents (37%) said they used a .gov.uk website, while 179 (63%) did not. Of 107 respondents who then answered the following question, 7 (6.5%) could not understand the content enough to proceed.

Hearings:

- When asked about language in a court hearing, 88 (31% of total) respondents said the question was not applicable, and of the other 196, 69 (35% of relevant respondents) found the language used in their court hearing very clear, 90 (46% of relevant respondents) found the language partially clear, and 37 (19% of relevant respondents) found the language was not clear at all.
- When asked about a Judgment in their case, 111 (40% of total), said the question was not applicable, and of the remaining 167 respondents, 84 (50% of relevant respondents) said they understood the Judgment reached in their case, 61 (36.5% of relevant respondents) said they

partially understood the Judgment, and 22 (13% of relevant respondents) said they did not understand the Judgment.

Terms: Respondents were asked to mention terms which had caused them confusion, and were then asked about specific terms (See details in Appendix, Qstn 19)

- A range of legal terms from the common to uncommon were mentioned by respondents as causing confusion to them during their proceedings. A large number of respondents said ‘everything’, ‘many’ and ‘most’ terms caused them confusion.
- When asked to select the correct meaning of the term ‘file and serve to all parties’, 168 (60%) respondents identified the correct meaning, with 89 (32%) saying they didn’t know, and 23 (8%) selecting the wrong meaning.
- Respondents were given a range of 20 common legal terms and asked if they understood them when they first heard them, and then if they understood them at their current stage of proceedings: between 8% and 56% of respondents understood the various terms when they first read or heard them, and 12.4% to 58% understood them at their current stage of legal proceedings.
- In both questions, the vast majority of the terms were understood by fewer than half the respondents: at first, only one term (‘defendant’) was understood by over half the respondents, and at the current stage, only 4 were understood (‘defendant’, ‘magistrate’, ‘usher’, and ‘child arrangements order’).
- 36 respondents (14%) said they did not understand any of the 20 terms when they first read or heard them, and 24 (10%) did not understand any of the terms at their current stage of proceedings.
- The majority of respondents stated that simpler language and less use of jargon would make language used in courts easier to understand.
- Comparing the data between those who have been through legal proceedings before, and those who haven’t, shows a slight improvement in understanding when LiPs have been through proceedings before.

“Very complicated, and even more so because of the emotion involved”

Survey respondent

Interpretations and recommendations

- LiPs responding to this survey showed a range of experiences through the progress of court proceedings: 30-60% of people responding found most of the language to be very clear at some stages in proceedings, while between 8% and 19% appear to have been confused at most stages of proceedings, leaving 20-60% with partial understanding at different stages. **Recommendation: continue to review all legal material aimed at court-users, and simplify language.**
- Many respondents mentioned how useful a glossary of terms or leaflet about legal terms would be. These are available but LiPs don't appear to be making good use of them. **Recommendation: while language is reviewed and modernised, provide glossaries of terms with court letters, forms and in court buildings.**
- About half of our clients used Guidance notes to help with forms, with about a third using websites - indicating that support material is not used as much as it could be. Material on .GOV.UK is clearer to users than that on HMCTS sites (which supports the imminent migration of Formfinder to .Gov.uk). **Recommendations: promote use of support material to decrease the number of mistakes made by LiPs to save court time. Simplify guidance notes and incorporate them within court forms, to increase use by LiPs.**
- While clarity in court buildings prompted the most positive responses, 48% of respondents still wanted more help to find what they needed. **Recommendation: review and improve information in court buildings, and ensure there are friendly and knowledgeable people available to help court-users.**
- Over the course of proceedings, the language used in court hearings seems to be the least clear to respondents to this survey - although Judgments were understood by 50% of respondents who had experienced them. This may suggest that attention has been given to how Judgments are presented, but that professionals in hearings still use extensive legal language among themselves, leaving many LiPs confused. **Recommendations: review language used in hearings.**
- Progress through court proceedings, and previous experience of court proceedings do not seem to add significantly to the levels of understanding among LiPs responding to the survey. **Recommendation: promote legal education in the community as an important tool for people to better understand legal processes before facing proceedings.**

Appendix: Detailed responses to questions

Qstn 1: Is English your first language?

- 75.86% (229) said 'yes'
- 24.14% (72) said 'no'

Qstn 2 identified which PSU the client respondents had visited. Responses were contributed from PSUs in Birmingham, Bournemouth and Poole, Bristol, Cardiff, Chelmsford, Exeter, Leeds, Liverpool, London (CFC, RCJ and West London), Manchester, Newcastle, Nottingham, Preston and Sheffield.

Qstn 3: Is this the first time you have been involved in legal proceedings?

- 52.01% (155) said 'yes'
- 47.99% (145) said 'no'

Qstn 4: If no, how many times have you been involved in legal proceedings before?

- 25% (34) said '1'
- 23.75% (34) said '2'
- 30% (43) said '3-5'
- 11.46% (16) said '6-9'
- 9.79% (13) said '10+'

Qstn 5: When you first came into the court building, was it clear how to find what you needed?

- 52.08% (156) said 'very clear'
- 30.26% (90) said 'partially clear'
- 17.65% (53) said 'not clear at all'

Qstn 6: What improvements could be made within the court to make your experience in the court better?

47 responses to this question mentioned better and clearer signage and information
21 responses mentioned more staff/ better quality staff and provision of reception staff

5 responses suggested more resources for the PSU and a further two mentioned greater publication of the PSU would have been helpful.

9 responses suggested somewhere to get food and drink i.e an onsite café or vending machines

3 responses suggested more information ahead of attending court
2 responses mentioned multilingual services

29 respondents said 'none' and 4 Respondents said 'Don't know'

Other suggestions:

- 'Being able to contact [court] directly'
- 'My only problem was finding the building'
- 'Help to know which court I am in'
- 'A map of the court (if feasible)'
- 'Cool rooms, it was very hot'
- 'Colourful paintings/plants' 'Music in background'
- 'Cleaner' 'Security'

- 'All clear – receptionist helpful'
- 'I had to ask at reception – they helped'

- 'More CAFCASS officers available'
- 'Provide a solicitor'

- 'More rooms so I can wait separately from husband'
- 'Thought it was overcrowded'

- 'Instructions on how it works when you come in for a hearing'
- 'Not waiting so long for for hearings'
- 'Shorter time for results'

- 'Have all the court forms you need, accessible in a public space'
- 'Less form filling' 'The forms are too long'

- 'The reason for the order wasn't clearly explained and I felt I was[n't] given a chance to explain myself'
- 'Decisions to be correct and just'

- 'Hard to answer without knowing how the court/process unfolds'
- 'Happy with improvements'
- 'Everything is fine'
- 'More empathy'

Qstn 7: How clear did you find the language used in court letters and forms?

- 43.44% (127) said 'very clear'
- 37.98% (112) said 'partially clear'
- 18.57% (54) said 'not clear at all'

Qstn 8: Did you use any guidance notes when filling out your court form?

- 47.76% (137) said 'Yes'
- 52.24% (150) said 'no'

Qstn 9: If yes, did you understand them?

- 45.45% (62) said 'yes'
- 41.34% (56) said 'enough to proceed'
- 13.20% (18) said 'no'

Qstn 10: If you could not understand them, why not?

- 'They are not written in a good way for non-lawyers'
- 'Court language was used but this is not language people use on a daily basis'
- 'Lawyer language, instructions in small print'
- 'Too much legal information' 'Too lengthy and too much jargon'
- 'I have difficulty understanding legal terms'
- 'I found myself having to use google, to translate some of the terminology'

- 'Language used confusing' 'No clear English'
- 'It was not simple and clear enough'
- 'A bit ambiguous'

- 'My English is not good enough'
- 'Too complicated – foreign language'
- 'Just not certain I was getting it right'

Qstn 11: Have you used any online HMCTS websites, e.g form finder?

- 32.62% (91) said 'yes'
- 67.38 (187) said 'no'

Qstn 12: If yes, did you understand the content?

- 39.45% (37) said 'yes'
- 50.24% (50) said 'enough to proceed'
- 10.30% (10) said 'no'

Qstn 13: If you could not understand them, why not?

- 'My health condition overwhelms me and I cannot take steps as clearly as others might naturally assume I can'
- 'Wording, language' 'Find it hard to understand legal terms'
- 'Forms referred to other forms – nightmare!'
- 'Hard to navigate and find the correct forms and changing forms to the correct format to print. Also hard to find the correct website. No guidance on what forms are needed'
- 'Couldn't find witness statement for the family court'

Qstn 14: Have you used any .gov.uk websites, e.g. Help with Fees online?

- 37.11% (86) said 'yes'
- 62.89% (179) said 'no'

Qstn 15: If yes, did you understand the content?

- 56.99% (61) said 'yes'
- 36.46% (39) said 'enough to proceed'
- 6.55% (7) said 'no'

Qstn 16: If you could not understand them, why not?

- 'Language' 'Complex, difficult to follow'
- 'Some of the information appears to be outdated'
- 'I sent e-mails but they did not get through to the correct place'
- 'If you have any questions, it is not always easy to get answers without people to explain'

Qstn 17: How clear did you find the language used in the court hearing?

- 24.28% (69) said 'very clear'
- 31.50% (90) said 'partially clear'
- 12.83% (37) said 'not clear at all'
- 31.38% (88) said this question was not applicable

Qstn 18: If the court reached a Judgment in your case, did you understand it?

- 30.29% (84) said 'yes'
- 21.72% (61) said 'partially'
- 7.86% (22) said 'no'
- 40.12% (111) said this question was not applicable.

Qstn 19: What terms have you found confusing during your legal proceedings so far?

- 11 respondents said 'None'
- 5 respondent's said 'N/A'
- 5 Respondents said 'everything'
- 5 Respondents said 'most'
- 6 Respondents said 'form filling'
- 4 Respondents said the overall language used
- 4 Respondents said 'Litigant in Person' or 'LiP'

Other responses:

- 'From start to finish' 'Understanding the process as a whole' 'All proceedings'
- 'The whole thing because of paperwork' 'I just felt overwhelmed'
- 'Just generally the process is not clear' 'Several, but mainly problems with process'
- 'The terminology of words' 'Terminology'
- 'I often did not understand the terms used' 'Some of the legal terms used in court'
- 'Too many to pick out one in particular'
- 'I can't remember any specifically but there were a lot of them'
- 'Can't remember which terms, about 3/4 words were difficult'

- 'So many – protocol, particulars of claim'
- 'Many, for example - proceedings, directions, costs'
- 'Statute' 'Undertaking' 'Preliminary, Statute of limitation' 'habitually resident'

- 'Bundle' 'Forthwith' 'Correspondence' 'Mediation' 'PSU/CAB'
- 'Terms on Form A, page 1'
- 'Defendant/Claimant/Petitioner/Respondent' 'Respondent, CAFCASS'
- 'Represent. Respondent' 'Respondent. Judgement'
- 'Understanding the correct names to be used as Applicants and Respondents'
- 'Proceedings. File and Serve' 'Respondent, file and serve'
- 'Directions, order, allocation, small claims track'
- 'Ex Parte. FHDRA. Petitioner' 'Without prejudice, ex-parte, FHDRE' 'FHDRA. Interim hearing'
- 'Directions, arrangements orders, CAFCASS, MIAM, permission, without notice'
- 'Permission - and most terms on the divorce financial order'
- 'Section 2' 'Talking about CAFCASS report – section 7'
- 'Non molestation'
- 'Statements' 'Sequential statements' 'Position statement'
- 'Submission. Skeleton argument' 'Appeal grounds'
- 'Penal Notice'

- 'All were clear' 'Very few' 'Magistrates and CAFCASS were clear'

- 'Impute and/or infer. But it is for me to find out'
- 'What is required'
- 'What happens during the hearing'
- 'Non-molestation order – I am severely dyslexic and I had no idea what the letter was saying and why I was being brought to court, then the PSU explained it to me'
- 'Vary and liberty. I suggest it would be helpful to come back to the PSU after and talk through the order to explain what vary and liberty mean and what options might be, especially what the time frames are and receiving sealed order'
- 'Not clear what to send to the court and what to send to the other party'
- 'Witness statement – didn't know what to include'
- 'How to lay out the evidence in an application for an occupation order'
- 'Related to the act applied in my case'
- 'The court response letter'
- 'The explanation of the allegations'
- 'The statement to accompany my divorce'
- 'The paperwork in the court room – do not understand what to look for'
- 'The details within the orders and how they are enforced. Also some of the legal speak is hard to understand.'
- 'How to protect my children at the same time as not breaking the law'

- 'Some of the Judges' comments can be confusing'
- 'Needs to be very clear what the Judgement is'
- 'Quotes with sections'
- 'My notice of allocation was very unprofessional. The letter informing me of the court date arrived after the court date from the opposition's lawyer – it was only by chance that I checked my junk e mail and found it there'
- 'Did not receive the papers from the previous hearing'
- 'Strong English due to my deafness makes it confusing'

Qstn 20: What does 'file and serve to all parties' mean?

- 6.81% (19) said 'to write a statement and save it to a file'
- 59.95% (168) said 'to send the document to everyone involved in the case and to the court'
- 1.43% (4) said 'to put all of your documents into a folder in alphabetical order'
- 31.81% (89) said 'I don't know'

Qstn 21: Of these terms, which did you understand when you first heard or read them?

- Defendant **56.06% (147)**
- Magistrate **49.44% (130)**
- Representative **48.92% (128)**
- Usher **45.87% (121)**
- Child Arrangements Order **45.62% (120)**
- Directions **42.44% (111)**
- CAFCASS **33.88% (89)**
- Petitioner **20.66% (54)**
- Decree Absolute **20.51% (54)**
- Chronology **20.36% (53)**
- Position statement **18.65% (49)**
- Litigant in Person **16.58% (49)**
- Interim hearing **18.36% (48)**
- Civil Procedural Rules **17.92% (47)**
- Acknowledgement of Service **17.49% (46)**
- Particulars of claim **15.30% (40)**
- Alternative Dispute Resolution **13.33% (35)**
- Judgment in Default **12.53% (33)**
- Ex parte **10.93% (29)**

- Recitals **9.18% (24)**
- None of the above **13.91% (36)**

Qstn 22: Which do you understand now?

- Defendant **57.34% (143)**
- Child Arrangements Order **55.73% (139)**
- Magistrate **52.90% (132)**
- Usher **52.28% (131)**
- Directions **49.09% (122)**
- CAFCASS **48.83% (122)**
- Representative **47.75% (119)**
- Litigant in Person **38.01% (95)**
- Petitioner **29.31% (73)**
- Decree Absolute **28.12% (70)**
- Position statement **26.84% (67)**
- Interim hearing **25.70% (64)**
- Acknowledgement of Service **25.32% (63)**
- Particulars of claim **24.99% (62)**
- Chronology **24.51% (61)**
- Alternative Dispute Resolution **18.11% (59)**
- Civil Procedural Rules **21% (52)**
- Judgment in Default **16.08% (40)**
- Ex parte **15.22% (38)**
- Recitals **12.42% (31)**
- None of the above **9.71% (24)**

Qstn 23: What would make the language used in courts easier to understand?

- 25 responses mentioned the use of plain, normal English
- 22 responses mentioned the simplification of the language
- 13 responses said a person to explain things to you
- 12 responses said less jargon
- 11 responses suggested multilingual services
- 6 responses mentioned layman's terms
- 3 responses said a solicitor

Other responses:

- 'Use everyday words' 'More everyday language' 'Use everyday language!'
- 'More common language' 'Use more common terms' 'Use ordinary words where possible'
- 'Easier language to understand' 'clear and plain' 'basic'
- 'Some words are difficult to understand' 'Use local language - is easy to understand'
- 'Less confusing and long words, as people like me can't understand them'
- 'Own language' [for non-English speakers]

- 'Re-write in a common sense way' 'Break down the language – not so many long words'
- 'Change terms to more modern language'
- 'Remove Greek phrases/terminology' 'Get rid of abbreviations and the jargon'
- 'Language not used in law terms' 'Less legal terms or terms explained'
- 'Not use such complicated words and terms that only apply in court'
- 'Less legal terminology, less expectation on Litigants in Person to understand the terminology'

- 'Dictionary' 'Maybe a leaflet/glossary of terms' 'Black law dictionary'
- 'Translation document. i.e court language into simplified language'
- 'Accessible definitions attached to documents' 'Definitions next to the terms'
- 'Definitions at the end or explained specifically afterwards what they mean on the order'
- 'A list of the language which may confuse a Litigant in Person and the definition'
- 'Explanation in clear writing what terms mean' 'A description of what it means'
- 'Perhaps an introduction to legal terms throughout the education system'
- 'Give examples of sample forms filled in'

- 'Check understanding during court procedures'
- 'Questions should be direct and not phrased in a way to trick parties'
- 'Clearer explanations' 'Speaking slowly' 'Slow down' 'Explained slower'
- 'Judge was clear but ALL forms need looking at'
- 'Better microphones'

- 'If it was more formal that would help LiPs'
- 'The language is the language'
- 'Said that it's all fine because he comes to the PSU to explain wording'
- 'It's pretty clear'
- 'No - pretty straightforward'

Qstn 24: Is there anything else you would like to tell us about language used in courts?

- 'Simplify it – the courts are ours'
- 'Can't be understood by public' 'Unnecessarily complicated' 'Very formal' 'Less jargon'
- 'Hard' 'Too complicated' 'Too complicated language' 'It's too complicated' 'It's complicated'
- 'It's not clear enough' 'To be more clear' 'Make it simpler' 'Should be in plain English'
- 'Find things confusing with big words I don't normally hear'
- 'I would like to understand it, simpler language. Not just simpler on the computer, by other means too'
- 'Unless you're reasonably educated it must be a nightmare'

- 'Sometimes it is a little difficult'
- 'Very complicated, and even more so because of the emotion involved'
- 'Need to make it less frightening' 'Demeaning/ not accessible' 'Deceptive'
- 'Very difficult to translate for non-English people' 'I need Japanese language translator' 'Polish'

- 'You could give definition to terms'
- 'It would be great to be given a leaflet with the definitions of the words'
- 'Should be make clearer especially for people who have Basic English – 1. Introduce legal phrase books/leaflets in waiting rooms 2. Post out leaflets to people involved in cases before they attend court 3. Suggest they go online and familiarise with the vocabulary'

- 'Too much lawyer language'
- 'Legal terminology, especially if not represented' 'Simpler language for people without solicitors'
- 'It's very confusing, especially when there is no one representing you'
- 'Make it more understandable for people who aren't qualified in law'
- 'Partly the rules and the language used by the Judges, which only prosecutor and lawyers understand'
- 'I find the phrases used by solicitors to be unfair'
- 'I think it is deliberately complicated to make things hard'
- 'It's deliberate to push you to lawyers to boost their fees!' 'Keep lawyers in work'

- 'I would like Judges to give more information and help and support to LiPs, make sure I have understood the questions and explain things better'
- 'Lips should have more opportunity to answer open-ended questions and give fuller answers to questions and not be silenced by the Judge'
- 'If when something is said, the Litigant in Person is asked if they understand'
- 'Explain clearly – give chance to ask questions and be given clear polite answers. At court hearing, no explanation about who was in the room. The legal advisor was very abrupt and rude. I was accused of being late but had been there early. Other party did not turn up. Not clear if when filing and service if

all go via the court or direct. I thought I had applied for a prohibited steps order by ticking box on response form – became clear that I had to make a separate application - not clear on paperwork.’

- ‘Magistrates need to be less disrespectful and less pompous – they require people to be subservient and do not allow us to speak or question – so why is it called a hearing?’
- ‘Not yet been to court’
- ‘I wasn’t told about the HMCTS or .gov.uk websites’
- ‘Just a visit to the PSU for help in form filling’ ‘Glad PSU are there to help’
- ‘Thank you to PSU. Without them I would not have been able to do the forms’
- ‘It’s ok in comparison with other countries’

A comparison between those who had never been through legal proceedings before and those who had:

Qstn 8: Did you use any guidance notes when filling out your court form?

	Have been through legal proceedings before	Have not been through legal proceedings before
Yes	42.50%	52.70%
No	57.50%	47.30%

Qstn 9: If yes, did you understand them?

	Have been through legal proceedings before	Have not been through legal proceedings before
Yes	56.25%	44.74%
Enough to proceed	28.13%	42.11%
No	15.63%	13.16%

Qstn 17: How clear did you find the language used in the court hearing?

	Have been through legal proceedings before	Have not been through legal proceedings before
Very clear	39.34%	18.06%
Partially clear	30.38%	29.17%
Not clear at all	17.72%	13.89%

Qstn 18: If the court reached a Judgment in your case, did you understand it?

	Have been through legal proceedings before	Have not been through legal proceedings before
Yes	50%	36.36%
Partially	36.66%	48.48%
No	13.33%	15.15%

