

The Neurodivergence in Criminal Justice Network: Connecting research, professionals and lived experience to improve criminal justice practice

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In 2021, the Criminal Justice Joint Inspectorate launched a call for evidence into ‘neurodiversity’ in the criminal justice system (CJS) and subsequently published their findings in June of the same year.¹ The report highlighted the scale of the challenges faced by neurodivergent people, who are both overrepresented in the prison population and experience poorer justice outcomes. This article discusses the emergence and work of the Neurodivergence in Criminal Justice Network (hereafter, NICJN), a group of researchers, practitioners and community members interested in addressing the challenges faced by neurodivergent individuals drawn into the CJS in England and Wales.

The article is divided into five parts. In part one, we provide some brief context for the terms ‘neurodiversity’ and ‘neurodivergence’ — which are often used interchangeably — and an overview of what we currently know about neurodivergence in the CJS. In part two, we discuss the network: its aims and purpose, rationale, early development, and current membership. In part three we turn to some of the activity the network has been involved in since its inception, and the diverse research areas that our members are engaged in across the CJS. In part four, we will briefly detail the network’s plans before finally, in part five, providing the Prison Service Journal’s readership with details on how to learn more about, join, and get involved with the network.

The overall aim of the article is to encourage awareness of the NICJN so that those who share its vision about improving the lives of and criminal justice outcomes for neurodivergent individuals can get involved.

Neurodivergence in the Criminal Justice System

Terminology

Neurodiversity and *neurodivergence* are terms that are often used interchangeably, and both form part of a ‘a lively and ongoing set of theories, debates, and research programmes’.² Neurodiversity is a term that refers to the inherent neurological variation in the human population (that is, all of us); while neurodivergence is used to refer to individuals who diverge from what has been constructed as ‘typical’ neurological development.³ Neurodivergence commonly describes differences in cognitive development related primarily to divergent ways of learning, communicating, regulating attention, executive function, social and sensory processing, and mood regulation. Neurodivergence is generally taken to include (though is certainly not limited to) autism, Attention Deficit and Hyperactivity Disorder (ADHD), Acquired Brain Injury (ABI), learning disabilities, Foetal Alcohol Spectrum Disorder (FASD), dyslexia and Developmental Language Disorder (DLD), among numerous others. These

1. Criminal Justice Joint Inspection. (2021). *Neurodiversity in the criminal justice system: A review of evidence*. Criminal Justice Joint Inspection.
2. Botha, M., Chapman, R., Giwa Onaiwu, M., Kapp, S. K., Stannard Ashley, A., & Walker, N. (2024). The neurodiversity concept was developed collectively: An overdue correction on the origins of neurodiversity theory. *Autism*, 28(6); see also Dwyer, P. (2022). The neurodiversity approach(es): What are they and what do they mean for researchers? *Human Development*, 66(2), 73-92.
3. See footnote 2: Botha et al. (2024); Chapman, R. (2019). *Neurodiversity Theory and Its Discontents: Autism, Schizophrenia, and the Social Model of Disability*. Bloomsbury; Singer, J. (2017). *Neurodiversity: The Birth of an Idea*.

neurodivergences can often (though certainly do not always) co-occur and intersect, resulting in presentations and experiences that are unique to each neurodivergent person. The neurodiversity paradigm has presented a welcome departure from a medical discourse that has produced and re-produced harmful and stigmatising narratives about neurodivergent people and highlights the inequalities they face in a neurotypical world.⁴

Neurodivergent challenges in the Criminal Justice System

Neurodivergent individuals can and do experience challenges in many aspects of their lives. For decades, this has been characterised in terms of disability, based on a medical model approach to cognitive difference. In more recent years, the emergence of neurodiversity as a concept and movement has shifted the focus to critiquing the disabling nature of socially constructed ways of being, avoidably affecting many areas of life including the CJS.

Education inequalities are particularly prevalent amongst neurodivergent children and young people, which disproportionately disadvantage them and facilitates the concept of the school to prison pipeline.⁵ For example, school exclusions and attendance at pupil referral units (PRU; a facility for children excluded from mainstream education) is a common experience amongst many neurodivergent pupils.⁶ Multiple school exclusions and attending a PRU are associated with obtaining criminal convictions at a lower age, which in itself is associated with becoming entrenched in the criminal justice system.⁷

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Kent and colleagues' study found that incarcerated neurodivergent people were more likely to be younger at first conviction than their neurotypical counterparts.⁸ Once they are drawn into the CJS, neurodivergent people face poorer justice outcomes in a system ill-equipped for their needs which extends their lifelong experience of discrimination and marginalisation.⁹ This is well demonstrated in two reports by User Voice, a charity which produces evidence through the lived experience voice to improve the lives of those who have offended. They found that neurodivergent people experience violence, abuse, and discrimination over the life course,¹⁰ and that these experiences are replicated within the CJS. For example, lived experience respondents described how they had been ridiculed and assaulted by both staff and other incarcerated people because of their differences being misunderstood.¹¹

Neurodivergent individuals can be drawn into the CJS as suspects, defendants, victims, or witnesses and generally face significant challenges due to the stressful, complex, and specialised nature of criminal proceedings. This is particularly acute for vulnerable persons, including those with physical and mental health issues. Due to the nature of neurodivergence and the manner in which the CJS operates, engagement can be particularly challenging for neurodivergent individuals. Evidence suggests that significant barriers to a positive and effective experience remain at all stages, including in policing, courts, prisons, and probation.¹² In 2021, the Government-commissioned

4. Botha, M. (2021). Academic, activist, or advocate? Angry, entangled, and emerging: A critical reflection on autism knowledge production. *Front. Psychol*, 12, 727542.
5. Kent, H., Kirby, A., Hogarth, L., Leckie, G., Cornish, R., & Williams, H. (2023). School to prison pipelines: Associations between school exclusion, neurodisability and age of first conviction in male prisoners. *Forensic Science International: Mind and Law*, 4, 100123.
6. Johnston, C., & Bradford, S. (2019). Alternative Spaces of Failure. Disabled 'Bad Boys' in Alternative Further Education Provision. *Disability & Society*, 34(9–10), 1548–72.
7. See footnote 5: Kent et al. (2023).
8. See footnote 5: Kent et al. (2023).
9. See footnote 1: Criminal Justice Joint Inspection (2021).
10. User Voice. (2023). *"Not naughty, stupid, or bad": The voices of neurodiverse service users in the Criminal Justice System*. User Voice.
11. User Voice. (2021). *Neuro...What? Neurodiversity in the Criminal Justice System*. User Voice.
12. See, for example, the work of NICJN members Chloe Holloway-George, Katie Maras, Clare Allely, Luke Vinter and Nicole Renehan.

Criminal Justice Joint Inspection concluded that neurodivergent people are over-represented and under-supported within the criminal justice system generally.¹³ For those convicted of offences, there had been little consideration of what neurodivergent individuals needed to successfully fulfil their sentence requirements and prevent them from reoffending.

What is the NICJN and what do its Members do?

With the above context in mind, the Neurodivergence in Criminal Justice Network exists to meaningfully contribute to the growing body of work being done — across practice, policy-making, and academic contexts — to identify and overcome the challenges neurodivergent people face when they are drawn into the criminal justice system. Ultimately, the network aims to move towards more neuro-inclusive criminal justice processes and practices, underpinned by evidence, awareness, knowledge and lived experience.

Rationale

Before detailing the purpose and activity of the network, we will briefly summarise the rationale behind the network's formation — something which directly informs its aims and scope (and consequently the work it does). The idea for a network dedicated to this topic was originally the result of the challenges experienced by the lead author, Tom Smith, in locating specialist knowledge for a book project.¹⁴ The scope of that project required identifying and accessing not only literature but expertise on neurodivergence and criminal justice. The lack of an accessible and simple method of doing so led to the conclusion that a network designed to facilitate this and similar projects in the future might prove helpful — not only to scholars, but to practitioners, policymakers, and those with lived experience. Particularly, a long-term observation regarding criminal justice practice is the difficulty in translating

specialised academic or experiential knowledge into everyday practice. Again, it was thought the network could assist in this process. After securing a small amount of funding, the network was designed (formed around a small core membership) and launched at an online event in July 2021. Since then, it has gradually developed into a larger and more active entity.

Purpose and scope

As a result of its origin, the NICJN has two key aims which might be succinctly summarised as 'exchange' and 'connection'. The first aim seeks to facilitate exchange between a variety of individuals and organisations with specialist knowledge of and experience in the subject of neurodivergence and the criminal justice system. The network seeks, in various ways, to aid dialogue and knowledge exchange between the different but related communities within (and beyond) its membership; and provide a platform for these communities to share their work, interests, activities and voice. The second aim is akin to acting as a 'switchboard' for anyone interested in this subject, by connecting the different communities, organisations and individuals mentioned.

As such, it aims to be a 'hub' for knowledge and expertise, promoting access to literature, information, and specialist knowledge — in short, to ensure anyone seeking information or insight can do so as easily as possible. More broadly, the network's aims — and therefore its scope and activity — are designed to contribute to goals shared by many interested in these topics (and beyond). The network would like to see research more effectively utilised for the benefit of criminal justice practice; to contribute to raising awareness and understanding of the issues in this area; to promote positive and inclusive reform at the coalface of practice as well as at the policy level; and to help advance knowledge through collaborative publication, presentation, evidence-gathering and bids for funding.

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13. See footnote 1: Criminal Justice Joint Inspection (2021).

14. Smith, T. (2024). *Autism and Criminal Justice: The Experience of Suspects, Defendants and Offenders in England and Wales*. Routledge.

Membership

The NICJN brings together key voices in relation to neurodivergence and the CJS, covering the processes of policing, courts, prisons, and probation primarily in England and Wales, but also from an increasing number of non-domestic members. Our domestic members come from across the breadth of the United Kingdom (England, Northern Ireland, Scotland and Wales), and our international members further afield come from European jurisdictions, the US, Australia, Canada, and New Zealand. Our membership includes researchers (from varied disciplines including forensic science, psychology, criminology, and law); clinical, legal, and other relevant practitioners; and community members who are neurodivergent or have a personal connection to neurodivergent individuals with lived experience of the criminal justice system. The lived experience voice is considered crucial to any discussion regarding this topic.

Our membership currently stands at more than 300 individuals and organisations. It includes a diverse community of academics — including undergraduate and postgraduate students and early career researchers, lawyers, psychologists, health practitioners, charities, NGOs, policymakers, and civil servants. Our membership also includes professionals interested in supporting victims and those who have offended across, for example, education, professional training, employment, counselling, and the domestic abuse sector. Our members hold a variety of roles across prisons, including the newly established position of Neurodiversity Support Managers (NSMs).¹⁵ The membership also includes probation practitioners who play a key role in supporting clients to successfully comply with sentencing requirements to prevent reoffending and/or recall to prison. This large membership brings unique contributions across these varied fields and roles offering an exciting

opportunity to come together to transform the CJS from beginning to end, and consequently the lives of neurodivergent people who encounter it.

The work of the NICJN

Launching the network

Since being established, the network has engaged in a variety of activities, ranging from provision of resources and information to interested stakeholders; facilitation of knowledge exchange; dissemination of research and professional development opportunities; and engaging with a variety of criminal justice organisations. As mentioned above, the network was officially launched with an online event in July 2021 and was complemented with a web presence on the University of the West of England website and social media platforms. The launch event, supported by a grant from the Higher Education Innovation Fund, aimed to both establish and discuss the purpose and scope of the network, and showcase research in the area, in this instance focused on autism and criminal justice. More than 100 individuals registered for the event, with presentations by scholars, practitioners, and community members discussing research, practice and lived experience — specifically, health professional and academic Iain Dickie; academics Dr Clare

Allely, Professor Penny Cooper, and Dr Michelle Mattison; and lived experience speakers Andrew Duncan, and Ian and Angela Cutler.

Iain Dickie's presentation focused on policing in the context of autism and argued that police officers need more comprehensive training around neurodiversity. He argued that whilst the existence of policies and procedures to support officers to engage with Autistic individuals is important, a deeper lack of awareness as to what autism is and how Autistic individuals can present can be very problematic in

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professionals
interested in
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and those who
have offended
across, for
example,
education,
professional
training,
employment,
counselling, and
the domestic
abuse sector.

15. Note, NSMs currently only operate in England and Wales.

practice. Iain also suggested that the interest that researchers have in this subject cannot necessarily be replicated amongst officers, and that the insight provided by academics can be challenging to effectively translate and apply in practice. Iain suggested that less broad, more specific training would both allow police to more effectively approach each unique interaction involving Autistic individuals; and be more engaging for officers, as they would be able to apply learning more easily in practice.

Professor Clare Allely stressed that 'spectrum' thinking about autism (embedded in the medical model) has led to misconceptions that people with autism all present with the same profiles. Allely argued that individuals with autism can have difficulties judging their own behaviour or that of others, and this can at times significantly impact their interactions with the CJS. Poor understanding of autism can lead to a lack of recognition of offending motives, not all of which are intentionally criminogenic, and potentially creates unfair treatment and justice outcomes. Allely called for a more individualised approach that takes account of unique profiles, and better training about autism presentations amongst judges and jurors.

Professor Penny Cooper and Dr Michelle Mattison talked about courtroom questioning of defendants and witnesses with autism, including the need for special measures and exploring research gaps, while Dr Luke Vinter talked about his research on working with individuals in prison settings who have autism. Challenges for people in prison with autism included the social environment and interactions with others, the routines, rules, and regimes of prison life, and the sensory environment. Finally, Andrew Duncan, and Iain and Angela Cutler spoke of their experiences as parents of Autistic (now adult) children who had been caught up in the CJS. Their experiences could not have been more different. Andrew's son was supported through the dedication and forward thinking of a Probation Officer, facilitated by building a working relationship with Andrew at the same time

as his son. Iain and Angela, however, explained that their experience (and that of others) was one of ostracization as the police aimed to keep Autistic people's families 'out of the way'. Their experiences and insights provided food for thought about how the CJS needs a cultural shift. This includes taking a more holistic approach and ensuring that the wider system (including social services and the NHS) are adequately resourced to ensure neurodivergent people are not disproportionately criminalised due to a lack of understanding and support.

Establishing the NICJN Advisory Group

Since the launch event, it has been a busy two years. The network has expanded its membership significantly and has now established an Advisory Group. The Advisory Group consists of members from academia, practice, and the lived experience community which meet to discuss research priorities and support the network's activities. The Advisory Group members specialise in diverse areas of neurodivergences, the CJS, and focus on specific aspects of practice. This includes education, courts, prisons, probation, and youth justice. Specialist areas include explosive and harmful behaviours by children towards parents;¹⁶ education inequalities

leading to criminalisation; domestic abuse perpetration; sexual offending; access to justice for neurodivergent individuals in courts; and legal professional practice for neurodivergent individuals.

The NICJN resource collection

As part of the network's founding and development, a publicly accessible and editable online resource collection was created. One of the key drivers behind the formation of the network was to make research and other robust information and insight as accessible as possible to scholars, professionals, policymakers, and those with lived experience. As such, the collection provides a single comprehensive and contemporary source of research,

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16. See Rutter, N. (2024). Explosive and harmful impulses: A subset of child and adolescent-to-parent violence and abuse. *Journal of Interpersonal Violence*, 39, 23-24.

literature, reports, and insights. The resource is divided into categories and sub-categories. While cognisant that neurodivergences and aspects of criminal justice can and do overlap and intersect, the resource is organised by type of neurodivergence and type of criminal justice process for ease of access. All entries include authors, titles, year and, where possible, a direct link to an open access source. The collection is primarily maintained and regularly updated by Tom and Nicole but is open to anyone to edit and add to. In line with the goal of being up to date and reflective of cutting-edge research, policy, and practice, the collection primarily focuses on sources from the last 5 years, though not exclusively.

NICJN newsletter and regular updates

Regular and specific network updates/notices were, and continue to be, disseminated to members by email to network members. The newsletter keeps its members up to date with new research and informs them about new resources that can both support professionals in practice and policy makers developing criminal justice services. Members are also kept up to date with upcoming events and conferences, providing links (where available) to these resources so they can be accessed at their convenience after the event. The network newsletter also shares calls for participants in new research studies. An exciting aspect of these calls is the proliferation of new research on neurodivergence in the CJS that is being embarked upon by PhD students and early career researchers, exploring under-studied and novel areas. Such calls often seek the voice of lived experience and 'on the ground' professionals. This offers hope that the new Neurodiversity Paradigm is being built and invested in by the next generation of researchers. Finally, the newsletter acts to connect different stakeholders to each other via open calls.

NICJN co-coordinators

Nicole joined the network in June 2021, and was invited to co-coordinate the network shortly after. In their role of network coordinators, both Tom and Nicole have engaged with a variety of stakeholders on a formal and informal basis. For example, Tom has presented at events and sessions for the Criminal Bar Association, Garden Court Chambers, and HM Inspectorate of Constabulary and Fire and Rescue Services as part of professional development training. Nicole has delivered presentations for trainee Probation Practitioners (connected to her role on the Academic Advisory Network for the Probation Institute) and presented at practice development days to Interventions Practitioners in Prisons and Probation. Tom and Nicole have together and separately provided informal feedback, insight and guidance to several organisations including on sentencing guidelines; neurodiversity pathways in probation; Out of Court Disposals; Prison Colleges; and have discussed how to develop research aligned with business priorities across HM Prisons and Probation Service (HMPPS) and the Ministry of Justice (MoJ).

The reputation of NICJN has grown in line with its membership and activity and has recently received a glowing endorsement via Russell Webster's Criminal Justice blog (which is distributed across its 6000 strong membership).¹⁷ The NICJN's work has been proactively promoted by HMPPS to encourage internal staff to join the network. A significant number of members now come from both HMPPS and the MoJ, creating a vital link between policymaking, practice, scholarship, and lived experience.

Research by NICJN members

Many of the network's members significantly contribute to knowledge about neurodivergence and

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makers developing
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services.

17. The blog post can be read at the following link: <https://www.russellwebster.com/resource-hub-for-neurodivergence-and-the-criminal-justice-system/> (retrieved 12 December 2024).

criminal justice through their original research and scholarly activity. Whilst there isn't space in this article to truly capture the breadth and depth of the individual work of network members, we can highlight some examples in areas of importance to the readership of the Prison Service Journal. Dr Colleen Berryessa has published numerous works on judicial decision-making and autism, producing a toolkit for judges sentencing Autistic individuals.¹⁸ In 2017, Professor Clare Allely published a major meta-analyses of jurors' and judges' evaluations of defendants with autism and the impact on sentencing decisions;¹⁹ the prevalence of acquired brain injury in prisons;²⁰ and FASD in the criminal justice system.²¹ Dr Anne-Marie Day has published several crucial works on neurodivergent children in custody, including a major empirical study on this topic in 2022.²² Dr Luke Vinter has written extensively about issues related to the imprisonment and rehabilitation of individuals with autism, including direct evidence on the experiences of men in UK prisons who have autism.²³ Dr Nicole Renehan is a leading scholar on intervention programmes for neurodivergent domestic abuse perpetrators, conducting a major Economic and Social Research Council funded project on this.²⁴

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facilitating scholarship which is informed by neurodivergent lived experience. The network endorses a key philosophy of global disability and neurodivergence rights movements, 'nothing about us, without us': that is, processes of identifying, understanding and addressing discrimination and disadvantage because of disability or difference should involve the participation and contribution of those experiencing it. For us, this philosophy means that research should, where possible, directly involve and engage with neurodivergent people who have experienced the CJS. The network therefore seeks to support this by facilitating researchers' interactions with communities with lived experience.

This can take a variety of forms, such as neurodivergent communities being invited to offer feedback, input, comment or engage in co-creation at design and publication stages of research projects. For example, an ongoing British Academy funded project being conducted by Dr Tom Smith, Dr Roxanna Dehaghani, and Chloe Macdonald used the network to obtain feedback and suggestions on research instruments (including question types and wording for interviews and surveys) before being deployed as part of the project. This contribution

was invaluable in ensuring that the research was not only relevant, robust, and ethical; but respected the stake neurodivergent individuals have in projects which relate to their experience and affect them.

Promoting lived experience-informed research

Alongside its role in promoting awareness of and access to research on neurodivergence and criminal justice, the network seeks to play an active role in

18. Berryessa, C. M. (2021). Defendants with autism spectrum disorder in criminal court: Judges' toolkit. *Drexel Law Review*, 13(4), 841-868.
19. Allely, C., & Cooper, P. (2017). Jurors' and judges' evaluation of defendants with autism and the impact on sentencing: a systematic Preferred Reporting Items for Systematic Reviews and Meta-analyses (PRISMA) review of autism spectrum disorder in the courtroom. *Journal of Law and Medicine*, 25(1), 105-123.
20. Allely, C. S. (2016). Prevalence and assessment of traumatic brain injury in prison inmates: A systematic PRISMA review. *Brain injury*, 30(10), 1161-1180.
21. Allely, C. S., & Gebbia, P. (2016). Studies Investigating Fetal Alcohol Spectrum Disorders in the Criminal Justice System: A systematic PRISMA review. *SOJ Psychol*, 3(1), 1-11.
22. Day, A. M. (2022). Disabling and criminalising systems? Understanding the experiences and challenges facing incarcerated, neurodivergent children in the education and youth justice systems in England. *Forensic Science International: Mind and Law*, 3, 100102.
23. Vinter, L. P., Dillon, G., & Winder, B. (2020). 'People don't like you when you're different': exploring the prison experiences of Autistic individuals. *Psychology, Crime & Law*, 29(3), 243-262.
24. Renehan, N., & Fitz-Gibbon, K. (2022). *Domestic Violence Perpetrator Programmes and Neurodiversity*. UKRI Economic and Social Research Council.

Future Activity, Goals and Vision

The network is currently embarking on their first (free) commissioned piece of work. This has been sourced by Clinks (via Russell Webster), a national charity dedicated to supporting voluntary organisations working with people in the CJS and their families. Contributors include network coordinators, Tom and Nicole, as well as Drs Nikki Rutter, Anne-Marie Day, Clare Allely, Luke Vinter, Jen Hough, Katie Maras, and early career researcher Kayleigh Atkins. Each have written a section based on their respective areas of expertise, including children, young people and youth justice, policing, courts, prisons, behavioural change interventions, and insights into the implementation of the MoJ Action Plan following the joint review into neurodiversity in the criminal justice system.²⁵ This is due to be published in 2025.

The network is also in the process of seeking partners to develop a conference bid to organise an international event on neurodivergence in the CJS. As stated above, neurodiversity as a paradigm is witnessing somewhat of a global explosion, yet this has not necessarily translated into better outcomes for neurodivergent people who encounter the CJS, nor the political will to fund truly neuro-inclusive

services. The result has been encouraging but unsystematic examples of good practice. Such innovations have largely evolved from individualised research, practice and lived experience expertise combined with the goodwill of a handful of practitioners who operate almost entirely unilaterally in an era of scarce resources. Often, adaptations come in the form of lower cost (though necessary) reasonable adjustments, but neglect core aspects of neurotypical and neurodivergent ways of relating,²⁶ and are implemented within non-neuro-inclusive environments and organisations that are pulling in opposite directions. The key conference theme would therefore revolve around building political will and cross-party agreement to build a sustainable and inclusive CJS suitable for all.

Joining the Network, Resources and Website

Anyone with an interest in neurodivergence in criminal justice is welcome to join the network. There is no cost to do so, and it can be done by joining the network JISC mailing list. The network website (in the footnote below) provides information about the network, as well as a link for the resource collection and contact details for the co-ordinators.²⁷

25. Ministry of Justice. (2022). *Action Plan - A Response to the Criminal Justice Joint Inspection: Neurodiversity in the Criminal Justice System*. Ministry of Justice; The Action Plan has been followed by updates in January 2023 and September 2023.

26. Milton, D. (2012). On the ontological status of autism: The 'double empathy problem'. *Disability & Society*, 27(6), 883–87.

27. The NICJN website and resource collection can be found here: <https://www.uwe.ac.uk/research/centres-and-groups/global-crime-justice-security/neurodivergence-in-criminal-justice> (retrieved 13 December 2024).