

# Outsourcing of language services in England and Wales

## Background

On 9 August 2010 the UK Ministry of Justice announced its intention to outsource the provision of language services across the justice sector to commercial intermediaries, under a framework agreement.

The National Agreement (NA)<sup>1</sup>, in existence since 1998, sets out best practice guidelines, and stipulates that only competent, reliable and security-vetted interpreters registered with one of the approved registers should be used in criminal proceedings, except in exceptional circumstances, which must be documented and justified. The MoJ intends to abandon the NA, incorporating some of its elements into commercial contracts and retaining others as “good practice guidance”.

The National Register of Public Service Interpreters (NRPSI), in existence since 1994, the preferred source of qualified and vetted interpreters under the NA, forms no part of the Ministry's plans under the new arrangements. In its place, commercial contracts will stipulate qualifications “as the alternative to membership of a specific register”<sup>2</sup>. This is clearly a retrograde step.

A similar exercise was carried out in 2009 in Scotland, as a result of which all Court interpreting was placed in the hands of one commercial agency. The result has been a mass exodus of professional interpreters, unwilling to work for the rates offered by the agency, leading to poorer quality of interpreting, delays, abandoned trials, and quite possibly miscarriages of justice. The expertise and corpus of knowledge and experience gathered over decades has been lost forever.

## Compliance with EU Directive

The MoJ claims that specific requirements in the framework agreement and contracts for commercial agencies to establish registers will fully meet the obligation in the draft EU Directive on interpretation and translation in criminal proceedings to endeavour to establish a register or registers of interpreters and translators. Nonetheless it is seriously contemplating the effective abolition of the existing National Register of Public Service Interpreters and leaving regulation to the whim of commercial intermediaries driven entirely by the profit motive.

## Views of the profession

Interpreters' representatives, including our member the Association of Police and Court Interpreters, are united in their opposition to the imposition of outsourcing of interpreting and translation services to the justice sector by way of contracts with commercial entities, whether singly or in any combination, on the grounds that:

- it is contrary to the interests of justice
- it does not comply with the draft EU directive in letter or spirit
- its consequences will place the UK in breach of the ECHR
- it runs counter to the provisions of the proposed EU Council Resolution on the implementation of the Directive
- it will lead to ineffective trials, an increase in the number of appeals, miscarriages of justice, and regular appearances of the UK in the ECJ
- it is naïve to expect the market to take care of regulation, discipline and linked issues
- it does not address issues of security, vetting and data protection
- it will not save money
- effective abolition of both the NRPSI and the NA will destroy the UK's beacon status within the EU and remove it from a model of best practice to the very bottom of the heap

- it will reverse the trend of increasing professionalisation of interpreters and turn the clock back twenty years

The profession recognizes the pressure brought to bear on Justice by the expansion of the EU, the rapid growth of immigration into the UK and practical issues in respect of sourcing interpreters and administering their claims. The answer is:

- a properly run and constituted independent regulatory body
- revision of the NA in consultation with interpreters' representative bodies, and mandatory observance of its provisions
- compulsory use of NRPSI-registered interpreters, with a full audit trail to allow monitoring of compliance and free availability of statistics
- meaningful dialogue with interpreters' representatives on enhanced quality, better value for money and raised expectations
- public service interpreting to be a recognised profession, with statutory protection of title

### **Conclusion**

It would be no exaggeration to say that the interpreting profession in the UK is in a state of crisis. Many very experienced interpreters, some with decades of experience, are now actively seeking alternative sources of income, which will inevitably lead to a decline in the quality of interpreting in the Criminal Justice System.

These proposed "reforms" are contrary to the interests of justice, contrary to both the letter and spirit of the draft EU Directive, and will end up providing the Courts in England and Wales with a lower quality of interpreting at a higher price, and are to be deplored.

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<sup>1</sup> National Agreement on Arrangements for the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings within the Criminal Justice System, as revised 2007

<sup>2</sup> Letter from Ministry of Justice, 9 August 2010