



House of Commons
Justice Committee

Interpreting and translation services and the Applied Language Solutions contract

Sixth Report of Session 2012–13

Embargoed advance copy. Not to be published in full, or in part, before 00.01hrs on Wednesday 6 February 2013

Embargoed advance copy: Not to be published in full, or in part,
before 00.01hrs on Wednesday 6 February 2013



House of Commons
Justice Committee

Interpreting and translation services and the Applied Language Solutions contract

Sixth Report of Session 2012–13

*Volume I: Report, together with formal
minutes, oral and written evidence*

*Additional written evidence is contained in
Volume II, available on the Committee website
at www.parliament.uk/justicecom*

*Ordered by the House of Commons
to be printed 22 January 2013*

HC 645

Published on 6 February 2013
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

The Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

Current membership

Rt Hon Sir Alan Beith (*Liberal Democrat, Berwick-upon-Tweed*) (Chair)
Steve Brine (*Conservative, Winchester*)
Mr Robert Buckland (*Conservative, South Swindon*)
Jeremy Corbyn (*Labour, Islington North*)
Nick de Bois (*Conservative, Enfield North*)
Rehman Chishti (*Conservative, Gillingham and Rainham*)
Rt Hon Elfyn Llwyd (*Plaid Cymru, Dwyfor Meirionnydd*)
Andy McDonald (*Labour, Middlesbrough*)
Seema Malhotra (*Labour/Co-operative, Feltham and Heston*)
Robert Neill (*Conservative, Bromley and Chislehurst*)
Yasmin Qureshi (*Labour, Bolton South East*)
Graham Stringer (*Labour, Blackley and Broughton*)

The following Members were also members of the Committee during the Parliament:

Christopher Evans (*Labour/Co-operative, Islwyn*); Mrs Helen Grant (*Conservative, Maidstone and The Weald*); Ben Gummer (*Conservative, Ipswich*); Mrs Siân C James (*Labour, Swansea East*); Jessica Lee (*Conservative, Erewash*); Claire Perry (*Conservative, Devizes*); Mrs Linda Riordan (*Labour/Co-operative, Halifax*), Anna Soubry (*Conservative, Broxtowe*); Elizabeth Truss (*Conservative, South West Norfolk*) and Karl Turner (*Labour, Kingston upon Hull East*).

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/justicecttee. A list of Reports of the Committee in the present Parliament is at the back of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume. Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee are Nick Walker (Clerk), Sarah Petit (Second Clerk), Gemma Buckland (Senior Committee Specialist), Helen Kinghorn (Committee Legal Specialist), Ana Ferreira (Senior Committee Assistant), Miguel Boo Fraga (Committee Assistant), Holly Knowles (Committee Support Assistant), George Margereson (Sandwich student), and Nick Davies (Committee Media Officer).

Contacts

Correspondence should be addressed to the Clerk of the Justice Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 8196 and the email address is justicecom@parliament.uk

Contents

Report	<i>Page</i>
Summary	3
1 Introduction	5
Background to the Committee's inquiry	5
Interference with witnesses	7
The NAO report and the Public Accounts Committee inquiry	8
The Public Accounts Committee's recommendations	9
2 Changing arrangements for the provision of interpreter services	10
The previous arrangements	10
Problems with the previous arrangements	11
3 The new arrangements	14
The procurement process	14
MoJ consultation with stakeholders	14
Concerns about the procurement process	15
The use of the competitive dialogue process	15
Consultation with the interpreter community	15
Due diligence	19
The resulting new arrangements	20
4 Early operational problems and their impact	22
Early operational problems	22
Case studies	22
Underperformance against key indicators	23
Assessing the quality of provision	23
The impact on court and tribunal proceedings	24
The right to a fair trial	26
5 Explanatory factors for poor performance	27
Ordinary 'teething problems'?	27
Poor preparation for implementation	27
Rushed implementation across the court and tribunal system	27
Difficulties in scaling up delivery	29
Limited management information to aid planning	29
Contractual compliance	30
The interpreter boycott	32
The tier-based system	33
The impact of the tiered system	34
Specialist skills and rare languages	36
An untested system	38
The assessment system	39
Standardised pay and conditions	41
The online portal	45

6	Steps taken to rectify under-performance	48
	Initial steps taken to rectify under-performance	48
	Restricting the volume of work	48
	Enhanced oversight by the Ministry of Justice	48
	Investment by Capita	49
	The extent to which remedial action has been effective	49
	Improved fulfilment rates	50
	Variation in performance	51
	Recruitment of interpreters to the supplier list	51
	Local availability	52
	Reduced levels of complaints	52
	An improved complaints process	53
	Migrating work back to ALS	54
	Inaction in imposing penalties	54
	The cost of remedial action and implications for cost savings	55
7	Future priorities	58
	Further recruitment of interpreters	58
	The absence of assessments	59
	Developing career progression	59
	Completing monitoring checks	60
	Enduring concerns about quality standards	61
	Regaining the confidence of the judiciary, magistracy and legal professionals	61
	Regaining the confidence of professional interpreters	64
	The European Directive	67
	Annex: e-consultation	69
	Conclusions and recommendations	78
	Formal Minutes	86
	Witnesses	87
	List of printed written evidence	87
	List of additional written evidence	88
	List of Reports from the Committee during the current Parliament	90

Embargoed advance copy: Not to be published in full, or in part, before 00.01hrs on Wednesday 6 February 2013

Summary

In August 2011, the Ministry of Justice signed a four year Framework Agreement for language services with Applied Language Solutions (ALS, now Capita Translation and Interpreting). From 30th January 2012 when ALS subsequently began delivering interpreting and translation services to HM Courts and Tribunals Service it faced immediate operational difficulties. ALS and more recently Capita have been unable to recruit qualified and experienced interpreters in sufficient numbers, leading to an inadequate volume and quality of interpreting services being available to courts and tribunals. This has resulted in numerous hearings being adjourned or severely delayed and, in criminal cases, unnecessary remands into custody, with potential implications for the interests of justice.

Professional interpreters have largely boycotted the new arrangements; this has contributed to the difficulties in levels of fulfilment but does not entirely explain them. There was significant concern revealed in the consultation process that quality standards could be diminished by the imposition of a tiered system to enable a wider pool of interpreters, and by the introduction of lower levels of pay. This suggests to us that the Ministry of Justice was determined to pursue the new arrangements in the face of evidence that there would be some reduction in the quality of language services to the courts.

The Ministry of Justice has steadfastly defended its decision to procure language services from ALS, and has remained publicly confident that the operating model set out in the Framework Agreement can provide the service that the justice sector requires. Nevertheless our evidence strongly suggests that the Ministry of Justice did not have a sufficient understanding of the complexities of court interpreting work and failed to properly anticipate or address the clear potential for problems with ALS' capacity to deliver on its promises. In our view the evidence shows that ALS failed to deliver on many aspects of the Agreement and did not implement appropriate safeguards to ensure that the interpreters it provided were of sufficient standard. In particular, ALS clearly needed significantly more resources than it had at its disposal to deliver the service levels required. It also paid lip service to the regulatory duties accepted under the Framework Agreement, and did not have the capacity to cope with complaints or to implement basic vetting procedures. For the organisations that represent professional interpreters the operational difficulties confirmed their concerns about the new arrangements and the company chosen to operate them.

Performance has undoubtedly improved markedly but this has taken a long time to achieve and Capita is not yet being asked to supply interpreters to meet the full demand of HMCTS. The Ministry of Justice has had to monitor ALS very closely to secure the level of improvement necessary to make the Agreement workable, and continues to do so. The judiciary, magistracy and legal professionals were concerned about the quality of interpreting services that Capita were providing, but noted some improvement. The most important priority is for the MoJ and Capita to prove that the Framework Agreement is capable of attracting, retaining and deploying an adequate number of qualified and competent interpreters to meet the requirements of the courts and other justice agencies. We are concerned that existing safeguards of quality may not be fit for purpose, and

consider it likely that without an independent review and subsequent revision of the tiering system, the confidence of important stakeholders, including the judiciary, magistracy and legal professionals, will continue to be undermined. The existing arrangements may not be financially sustainable as Capita is propping up the continuation of the Agreement, which mean that the Department's savings, originally projected to be £15million, are effectively being secured at the company's expense.

The new Minister told us that she had initiated discussions with representatives of the professional interpreter community and we will monitor the outcome of these. Making progress will also require the professional interpreter community to work flexibly with the Department in seeking to find an acceptable way to restore their services to the justice sector. Concrete safeguards will need to be negotiated and we consider that there is a strong case for a review of the rates of remuneration, particularly for highly qualified interpreters.

Our efforts to obtain a full picture of the current effectiveness of interpreting services were hampered by the absence of any substantiation from frontline staff. In the course of our inquiry it became apparent that HMCTS had issued an edict to its staff instructing them not to participate in our online consultation, established to invite direct observations of ALS performance, an approach which we had found productive in previous inquiries. We consider that the actions of the Ministry in this case were unhelpful and contrasted with the approach they took in our previous inquiries. We consider that their actions may have constituted a contempt of the House, but as we have sufficient evidence from other sources to make a reliable judgement, we have not asked the House to take further action on this matter, although we gave serious consideration to doing so.

In this Report recommendations are set out in bold text and conclusions are set out in bold italic text.

Embargoed advance copy: Not to be published in full, or in part, before 00.01hrs on Wednesday 20th July 2012

1 Introduction

Background to the Committee's inquiry

1. Interpreters are used by the Ministry of Justice and its agencies throughout proceedings in courts and tribunals, and in prisons and probation. The Law Society suggested that they are particularly important in the areas of crime and immigration.¹ In criminal justice, the area in which we received most evidence, they are used for non-English speaking victims, witnesses and defendants. They are used at all stages in the process during: arrest, interview and charge; official prison visits; solicitors taking instructions; court hearings; trials; sentencing; the creation of probation reports; and post-trial proceedings, such as those related to proceeds of crime. Interpreter services cover a variety of different services including face-to-face and telephone interpreting, written translation, and language services for the deaf and deaf/blind. Interpreting means converting spoken language to another language, or in the case of deaf or deafened people, sign language to spoken language and vice versa. Translation means converting a written text in one language to another written language.²

2. The reliance on interpreters in cases involving non-English speaking parties, defendants, victims and witnesses is considerable. John Fassenfelt, Chair of the Magistrates' Association, explained their value to magistrates: "[...] translators are officers of the court. They are extremely important to the court, and we must have trust and confidence in those translators [...] [we] also rely on the interpreter's skill, experience and knowledge".³

3. In August 2011, the Ministry of Justice (MoJ) signed a four year Framework Agreement for language services with Applied Language Solutions (ALS, now Capita Translation and Interpreting, (Capita TI)). Under that agreement a 'call-off contract' enables a range of justice sector bodies to enter into individual contracts with ALS each time an interpreter or linguist is supplied. ALS began operating a five year contract with the MoJ under the Framework Agreement on 30th January 2012. Those bodies already making use of the services of ALS are Her Majesty's Courts and Tribunals Service, parts of the Crown Prosecution Service and Her Majesty's Prison Service.

4. When ALS began implementing the Framework Agreement it faced immediate operational difficulties including a lack of registered interpreters, resulting in an inability to deal with the volume of demand. Where interpreters were available they were frequently without qualifications or under-qualified. There was also a lack of transparent or properly functioning processes for recruitment, vetting and complaints. At that time we received a significant volume of correspondence from concerned stakeholders.⁴ Following an oral evidence hearing with Peter Handcock, Chief Executive of HM Courts and Tribunals Service (HMCTS), related to our *Budget and Structure of the Ministry of Justice* inquiry on

1 Ev 48

2 Ev w25 [Note: references to 'Ev wXX' are references to written evidence in the volume of additional written evidence published on the Committee's website]

3 Q 39

4 Not published

6th March 2012, we wrote to Mr Handcock with further questions. In his response on 31 May he explained steps had been taken which had led to a “significant improvement in performance” since the first few weeks of the full implementation of the contract. He said while HMCTS were still “working through issues”, he was “confident that the Framework Agreement can provide the service that the justice sector requires and the efficiencies forecast”.⁵ Nevertheless, significant concerns about the operation of the Framework Agreement continued to be raised with us.

5. In view of these concerns, in July 2012, we launched an inquiry on the provision of interpreting and translation services since Applied Language Solutions (ALS) began operating as the MoJ’s sole contractor. Specifically, the inquiry asked for evidence on the following six areas:

- i. The rationale for changing arrangements for the provision of interpreter services
- ii. The nature and appropriateness of the procurement process
- iii. The experience of courts and prisons in receiving interpreting services that meet their needs
- iv. The nature and effectiveness of the complaints process
- v. The steps that have been taken to rectify under-performance and the extent to which they have been effective
- vi. The appropriateness of arrangements for monitoring the management of the contract, including the quality and cost-effectiveness of the service delivered.

6. We received written evidence from the Ministry of Justice, Capita, organisations representing professional interpreters, individual interpreters—most of whom had chosen not to provide services on behalf of ALS but a small number of whom had—and other stakeholders, including the Magistrates Association, Law Society, and individual barristers and solicitors. We did not receive written evidence from Gavin Wheeldon—CEO of ALS at the time the contract was secured—specifically in relation to this inquiry but we did receive evidence from ALS in our inquiry on the budget and structure of the Department, noted above.⁶ We also took oral evidence from: Madeleine Lee, Director of the Professional Interpreters’ Alliance; Nick Rosenthal, Chair of the Institute for Translation and Interpreting; Ted Sangster, Chair of the National Register of Public Service Interpreters; John Fassensfelt, Chair of the Magistrates’ Association; Richard Atkinson, Chair of the Criminal Law Committee of the Law Society; Gavin Wheeldon, former CEO of ALS; Andy Parker, Joint Chief Operating Officer, and Sunna van Loo, Public Services Director, Capita Ltd; Peter Handcock CBE, Chief Executive of HMCTS; Ann Beasley, Director General Finance and Corporate Services, Ministry of Justice; and Helen Grant MP, Parliamentary Under-Secretary of State for Justice.

5 Ev 83

6 Justice Committee, Second Report of Session 2012–13, *The budget and structure of the Ministry of Justice*, HC 97-II

Interference with witnesses

7. In the course of our inquiry it was alleged that HMCTS had actively discouraged its staff from submitting formal written evidence. As a result, we established a three week online consultation to invite observations, anonymously if necessary, from people who had direct experience of the provision of interpreting and translation services by ALS during the period September and October 2012. We hoped that this would provide a forum for those who might have been reticent to provide formal written evidence, including court and tribunal service staff. The Ministry of Justice initially refused to provide our secretariat with regional contact details to enable the consultation to be publicised to HMCTS staff. It then became apparent that HMCTS had issued an edict instructing their staff not to participate. We also heard from the chair of a magistrates' court bench who had been dissuaded by HMCTS from sending data on the performance of interpreters to support his evidence.⁷

8. We wrote to the Secretary of State, Chris Grayling MP, requesting an explanation and Helen Grant MP, Parliamentary Under-Secretary of State for Justice, who investigated the matter on his behalf, explained:

“We took this decision as the Department was already giving its evidence to the Committee in written and oral form [...] The Civil Service Management Code and the Osmotherly Rules say that officials should not take part in research projects or surveys designed to establish their personal views on Government policies. In the second half of October, we became aware of some interpreters contacting courts directly with the details of the forum, accompanied by a press release from an interpreters organisation which disagreed with the MoJ's evidence at the Public Accounts Committee. In light of these emails, we decided to email HMCTS Cluster Managers to give them some guidance on how to respond to these specific emails. [...] In my view, this email was an entirely appropriate response to the contact from interpreter groups that staff received and did not interfere with the collection of evidence by the Committee.”⁸

The email she referred to stated: “You may be contacted by interpreters inviting/encouraging you to join a forum where anecdotal information about this service is being gathered. As the Department has already provided consolidated evidence to the Committee you are requested to refrain from participating, [...]”⁹

9. In respect of alleged interference with testimony submitted by Mr Beeke, a member of the magistracy, she explained that, as the respondent had wished to include a copy of a local spreadsheet of issues with Capita-ALS which was not possible to verify against ALS' own data on complaints, it would have been “suggested” to him that such spreadsheets should not be submitted as evidence.¹⁰

10. We consider that the actions of the Ministry in respect both of court staff and of the magistrate may have constituted a contempt. We find the approach of the Department on

7 Ev w80

8 Ev 58

9 Ev 59

10 Ev 58

this matter extremely unhelpful, particularly in the light of the very successful use by this Committee of online consultation with their staff in previous reports, such as our reports on the role of the prison officer and the role of the probation service. The Department has not previously resisted the use of a process which gives the Committee a broader understanding of the experience of staff, and which is not in any way designed to challenge the ultimate responsibility of Ministers for the policies of the Department.

11. It is not for the Ministry of Justice to judge whether steps they took in relation to the inquiry did or did not interfere with our collection of evidence. That is a matter for us and for the House of Commons. Any act which obstructs or impedes the House in discharging its functions may be treated as a contempt of the House.

12. In considering this matter we have been mindful of the fact that the House exercises its jurisdiction in cases of contempt sparingly and only when essential to prevent substantial interference with the performance of its functions. In this case it appears that our efforts to obtain a full picture of the current effectiveness of interpreting services in courts were hampered by the absence of any substantiation from frontline staff. However we consider that we have sufficient evidence from other sources to make a reliable judgment. We have relied on evidence from other important stakeholders, including the Senior Presiding Judge, the Magistrates' Association, and the Law Society, along with the testimony of professional interpreters who were observing court proceedings. We have therefore not asked the House to take further action on this matter although we gave serious consideration to doing so. We expect the Ministry of Justice and its agencies to have proper regard to the rights of Parliament and those who give evidence to Committees of the House, and, as our predecessor Committee demonstrated in 2004, we will not hesitate to refer alleged infringements to the House when necessary.¹¹

The NAO report and the Public Accounts Committee inquiry

13. On 10th September 2012 the National Audit Office published a memorandum *The Ministry of Justice's language services contract* which detailed the results of its investigation into the Framework Agreement, commissioned in April 2012 by the Public Accounts Committee. The conclusions and recommendations are listed in the box below. The Public Accounts Committee held its own inquiry into the issue and held hearings on 15th and 29th October 2012. The Committee published its report on 6th December 2012.¹²

¹¹ In 2004 the Constitutional Affairs Committee referred a matter to the Standard and Privileges Committee after a CAF/CASS board member, Ms. Judy Weleminsky, was asked by the Lord Chancellor to resign for failing "to behave in a corporate manner." This occurred after she had submitted written evidence to the Constitutional Affairs Committee on her own behalf, much of it critical of the management of CAF/CASS. The Lord Chancellor subsequently apologised to Ms. Weleminsky. See Standards and Privileges Committee, Fifth Report of Session 2003–04, *Protection of a Witness*, HC 447.

¹² Public Accounts Committee, Twenty first Report of Session 2012–13, *The Ministry of Justice's language service contract*, HC 620

The Public Accounts Committee's recommendations

1. The Ministry lacked management information on the previous use of interpreters and therefore did not have a clear understanding of its requirements under the new system. The Ministry did not know how much it was spending on interpreters, or how many interpreters it required or in what languages. As a result, the system it selected was driven by bidders' proposals rather than its actual requirements. The Ministry should ensure that it understands the services it needs to procure thoroughly and its cost before commencing future procurement projects.

2. The Ministry did not conduct thorough due diligence checks on Applied Language Solutions (ALS) before signing the Framework Agreement. For example, it commissioned a credit rating report, which suggested that ALS should not be awarded a contract valued at more than £1million. The Ministry did not act on its findings and although it consulted with stakeholders, including interpreters, it did not take their concerns into consideration. The Ministry should collect all available information on a bid and bidder, and consider the full data set at an appropriate level of seniority, before making final decisions on future contracts.

3. Despite very poor performance, the Ministry only penalised the supplier £2,200 and failed to penalise it at all for the first 4 months, when performance was at its worst. Risible levels of penalties and low expectations of performance allow private companies to get away with over promising and under delivering. The Ministry should draft and implement future contracts so as to minimise transitional problems, for example through piloting and rolling-out new systems gradually and incentivising contractors to meet contractual requirements from the outset; for example, through robust use of the penalties available.

4. The Ministry estimated that it would need access to 1,200 interpreters to meet its requirements; however, the contract went live when the supplier had only 280 interpreters ready to work under the terms of the contract. The Ministry believed that many more interpreters were available to work, in line with contractual obligations, than was actually the case due to over-optimistic assurances from Capita-ALS and confusion over definitions of what important terms such as 'registered' actually meant. When implementing future contracts, the Ministry should not rely solely on contractors' assurances that they are ready and able to deliver the service but should conduct its own thorough testing and have a detailed transition plan to ensure that the service will be delivered before going live.

5. The Ministry was unable to confirm that all interpreters working under the contract had the required qualifications, experience and enhanced CRB checks. Capita was unable to assess and mark all interpreters as required by the Framework Agreement and could not be certain that all interpreters had the required experience. The Ministry did not have sufficiently robust processes in place to ensure that Capita-ALS had checked and recorded qualifications, evidence of experience and enhanced CRB checks. The Ministry should ensure that Capita-ALS now has procedures in place to guarantee that only interpreters with the correct skills, experience and character work under the contract, including agreeing and putting in place an alternative to the assessment regime. It should test the effectiveness of these procedures through a programme of audits and spot checks on individual interpreters.

6. Capita-ALS is still unable to provide sufficient numbers of interpreters to meet all of the Ministry's language requirements. By October 2012, the Ministry was still using the contingency plans to source some interpreters. The Ministry is responsible for all aspects of the efficient administration of the courts and must work with Capita-ALS to develop a more creative approach to recruiting interpreters across all required languages and geographical locations.

7. The Ministry was unable to provide information on the additional costs to the department of the delaying of trials because of the failure to provide interpreters. There has been an extra cost both to the courts and to prisons caused by the postponement of judicial proceedings. In the future, the Ministry must undertake comprehensive cost and benefit analysis of its new policies.

Data source: Public Accounts Committee, Twenty first Report of Session 2012–13, The Ministry of Justice's language service contract, HC 620

2 Changing arrangements for the provision of interpreter services

The previous arrangements

14. The Framework Agreement replaced a range of arrangements for the provision of language services in the justice sector. The main model was for registered public service interpreters—freelance, self-employed individuals—to be called directly by courts, police forces and other criminal justice agencies. Interpreters were identified primarily using the National Register of Professional Service Interpreters (NRPSI)—which required registrants to hold a Diploma in Public Service Interpreting in law, health or local government and made them subject to a code of professional conduct—and they were expected to have Criminal Records Bureau (CRB) disclosures. Access to the National Register required payment of a licence fee.¹³

15. In some courts which chose not to use the National Register local arrangements applied; some interpreters worked without staff knowing whether they had appropriate qualifications and CRB disclosures. Specialist agencies, panel arrangements with a central booking team and adhoc local arrangements were used by the then Tribunal Service. Although interpreters were paid locally, a fee structure was set through a national agreement discussed below. Thus similar services were being booked, provided and paid for in different ways.

16. The various arrangements were governed by the *National agreement on arrangements for the use of interpreters, translators, and language service professionals in investigations and proceedings within the criminal justice system*, established in 1997. The Agreement represented the culmination of the recommendations of a series of reviews of civil and criminal justice. The Runciman Royal Commission on Criminal Justice, established after the death of Mrs Iqbal Begum was related to inaccurate court interpreting, recommended in 1993 that only trained and qualified interpreters be used in court.¹⁴ In response NRPSI was set up along with a qualifying exam, the Diploma in Public Service Interpreting (DPSI). Lord Woolf's 1996 review of the civil justice system *Access to Justice* recognised a need for a "highly qualified interpreting profession that was both accountable and sustainable in order to support public services and in particular the courts".¹⁵ Later, in 1998 the Trials Issues Group¹⁶ recommended the exclusive use of NRPSI interpreters when selecting face-to-face interpreters for criminal investigations as well as court proceedings.¹⁷

¹³ This has now been replaced with a registration fee for interpreters.

¹⁴ <http://www.official-documents.gov.uk/document/cm22/2263/2263.pdf>; In the case of Iqbal Begum {R. v. Iqbal Begum; Court of Appeal: 22 April 1985 {1991} 93 Cr.App. R. 96} found that the Appellant's trial had been a nullity in that the interpreter engaged by the defence had been far from competent in the Appellant's languages and accordingly that her purported plea of "Guilty" to her husband's murder had not been a proper one. The conviction was quashed and with the concurrence of the Crown she pleaded "Guilty" to manslaughter and was sentenced in a manner which resulted in her immediate release. She subsequently committed suicide. See Ev w110

¹⁵ Ev 42

¹⁶ Membership of the Group included: Association of Chief Police Officers; Bar Council; Crown Prosecution Service; Court Service; HM Customs and Excise; Home Office; Judiciary; Justices' Clerks' Society; Law Society; Lord Chancellor's Department; Magistrates' Association; Victim Support; and the National Probation Service.

¹⁷ <http://www.cps.gov.uk/publications/docs/interpret.pdf>

The Chartered Institute of Linguists (CIOL) developed other accredited qualifications, mapped against independent and international standards, including a Diploma in Translating and a Certificate in Bilingual Skills.

17. The Agreement was an evolving document. It was revised in 2002 after a further appraisal of the arrangements conducted as part of Lord Justice Auld's wider review of criminal courts in 2001 proposed "a review of the levels of payment to interpreters with a view to encouraging more and the best qualified to undertake this work and to establishing a national scale of pay". It was revised again in 2007 and 2011.¹⁸ The National Agreement required: every interpreter working in courts and police stations to be registered with one of the recommended registers i.e. NRPSI, CIOL, the Institute of Translation and Interpreting (ITI) and the Association of Police and Court Interpreters (ACPI); spoken language interpreters to be registered with the NRPSI; a determined effort to be made to obtain a registered interpreter; and specified alternative arrangements that should be used only if no registered interpreter could be found, and delay or rescheduling was not possible.¹⁹ Where an interpreter was drawn from sources recommended in the National Agreement they were subject to a code of conduct and to disciplinary procedures.²⁰ There were parallel developments in interpreting arrangements for UK Border Agency and immigration tribunals.²¹

Problems with the previous arrangements

18. The MoJ described the rationale for change as stemming from fundamental "shortcomings, inconsistency and inefficiency" in the previous arrangements, leaving the Department and its agencies potentially exposed to "unacceptable risks".²² For example, security and quality checks were inconsistent, complaints were not dealt with in a timely or efficient manner, and the booking and payment systems were time-consuming to administer for court staff.

19. An internal audit report in January 2010 criticised some aspects of the then Courts and Tribunals Services' handling of interpreter bookings. Specifically, these services sometimes used interpreters from sources other than the NRPSI; had weak control systems; and lacked accurate financial and management information.²³ Ms Beasley, Director General of Finance and Corporate Services at the Ministry of Justice, explained: "[...] each court and tribunal was booking its own interpreters. They had quite often paper copies of a list that was out of date. There was no proper complaints procedure. There was no ability to influence. If an interpreter had not performed well in one court, there was no system that ensured that they didn't then operate in different courts".²⁴ In July 2011, the MoJ

¹⁸ <http://webarchive.nationalarchives.gov.uk/> and <http://www.criminal-courts-review.org.uk/auldconts.htm>

¹⁹ Office for Criminal Justice Reform, *National Agreement on Arrangements for the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings within the Criminal Justice System*, 2007

²⁰ NRPSI, CIOL, ACPI and ITI all have codes of professional conduct and transparent, published procedures, including for appeals. See Ev 120.

²¹ Ev 48

²² Ev 30

²³ *Ibid.*

²⁴ Q 213

reportedly told stakeholders that there had been “concerns that NRPSI registration does not necessarily guarantee quality. The evidence is anecdotal, but consistent enough to warrant actions.”²⁵

20. Representatives of interpreters and the National Register acknowledged that there were some concerns with the previous system amongst practitioners. In particular, these related to the lack of an independent intermediary for commissioning interpreters, and the adequacy of control and disciplinary procedures within the profession.²⁶ For example, the Society of Office Metropolitan Interpreters UK Ltd (SOMI), which represents metropolitan police interpreters, told us it had concerns regarding quality standards but had wished to retain existing qualifications and independent regulation.²⁷ Legal interpreters also sought a properly regulated profession, with corresponding professional standards and safeguards.²⁸ According to Ms Madeleine Lee of the Professional Interpreters’ Alliance (PIA) and Mr Nick Rosenthal of ITI, similar problems continue to exist in the current system.²⁹ Notwithstanding these problems, CIOL felt that it was “unfortunate” that the MoJ “took heed of a small group of vociferous interpreters who, for their own reasons, were critical of standards bodies at the time.”³⁰

21. Ms Lee believed that problems arose from the National Agreement being only a guidance document, and the existence of a range of routes for commissioning interpreters. As a result there were people working for courts and tribunals who were not registered with the NRPSI, and who were not professionally qualified or experienced.³¹ The profession is not statutorily regulated. Anyone who can speak two languages may offer their services as an interpreter.³²

22. Another problem with the old system was lack of timeliness and inefficiency in the complaints and disciplinary processes related to the National Register. Mr Sangster, Chair of the National Register of Public Service Interpreters, explained how these processes worked:

“a complaint was made to the national register and was put to a screening body made up of lay and interpreter members to identify whether there was a case to be investigated. If there was such a case, it was passed to the disciplinary committee, which sought evidence from all parties and undertook a hearing that all parties were able to attend. A view was then taken as to the validity or otherwise of the complaint and, if it was found to be valid, what penalty was appropriate. Those penalties went from warnings through to suspension and dismissal.”³³

25 Ev w20

26 Ev w51; Q 7 [Mr Sangster]

27 Ev w39

28 Q 1

29 Qq 1, 5

30 Ev w51

31 Q 1

32 Ev w5

33 Q 9 [Mr Sangster]

He admitted that there were administrative inefficiencies in these processes at the time but noted that due process had to be followed in investigating complaints and that this inevitably took time; he also did not believe that immediate suspension by a voluntary regulator while an investigation was conducted was appropriate.³⁴

23. The NAO agreed with the MoJ that there were “strong reasons” for changing the old system, citing systematic inefficiencies and poor controls and shortages of interpreters in some languages.³⁵ On the other hand, according to the Chair of the Magistrates’ Association, Mr Fassenfelt, magistrates considered that the previous arrangement delivered a reasonable service; their only concerns centred on monitoring of interpreters’ skills, experiences and knowledge.³⁶ A magistrate from the Suffolk Bench told us that he had been unable to recall a single occasion in the previous 12 years of the bench not being provided with an interpreter.³⁷ Mr Atkinson, Chair of the Criminal Law Committee of the Law Society, was similarly positive: from his perspective legal practitioners had found that the existing system worked smoothly.³⁸ He noted, however, a particular problem with delays in what he described as “multi-handed cases” i.e. cases in which a number of defendants and witnesses who spoke the same language were being interviewed, creating an unusually high demand for one particular language.³⁹ The European Legal Interpreters and Translators Association (EULITA) stated that it regarded the high standards of interpreting in England and Wales, and the National Register and Diploma underpinning it, as beacons of good practice for other countries in the European Union.⁴⁰

24. Notwithstanding clear administrative inefficiencies within the variety of previous arrangements for the provision of interpreting services to the courts, we conclude that there do not appear to have been any fundamental problems with the quality of services, where they were properly sourced i.e. through arrangements that were underpinned by the National Register of Public Service Interpreters, with interpreters qualified in the Diploma in Public Service Interpreting, and under the terms set out by the National Agreement.

34 See also Ev w124

35 The National Audit Office, *The Ministry of Justice’s language services contract*, September 2012

36 Q 39

37 Ev w17

38 Q 40

39 Q 43

40 Ev w01

3 The new arrangements

The procurement process

25. Under the previous Government, in early 2010, the MoJ joined forces with the Association of Chief Police Officers and the Crown Prosecution Service to develop a new approach to language services in the justice system; at an early stage it was decided that outsourcing the management of such services to a private company would be considered as an option.⁴¹ In September 2010, Crispin Blunt MP, Parliamentary Under Secretary of State for Justice, announced to the House the Government's decision that interpreting and language services were to be procured using a "competitive dialogue approach", whereby the MoJ set objectives and explored with potential providers how they would meet them over several stages of dialogue, eliminating bidders at each stage.⁴²

MoJ consultation with stakeholders

26. The final round of the procurement process left only ALS in the running for the contract. During this final stage, when substantive plans were already formed, the MoJ invited stakeholders to comment.⁴³ The consultation, announced in a letter on 30 March 2011, included: a summary of the plans; proposed quality standards which would apply to interpreters and translators; a proposed code of conduct; management information and key performance indicators; and a draft impact assessment.⁴⁴

27. The MoJ received 140 responses from individual interpreters and their various representative groups, service users and the judiciary. Concerns included: the company operating as a regulator and supplier, creating a conflict of interest; the appropriateness of the tiered structure in relation to existing standards, and perceived limited scope to use tier 3 interpreters in the courts; the introduction of assessment centres, which were seen as costly and unnecessary given existing recognition of appropriate qualifications and professional registers; the dilution of qualification requirements, for example, the inclusion of a degree in the target language; and the implications of the changes for future training arrangements.⁴⁵ Some respondents from the interpreter community also suggested that they would refuse to be re-assessed and that potential changes to the pay structure—on which they were not consulted due to commercial sensitivities—meant that many interpreters might be unable or unwilling to continue working in the justice sector.

28. The responses reportedly led to some refinements in the model, including to the qualification requirements.⁴⁶ When we asked the Ministry of Justice for more detail on these refinements it was clear that they were not extensive: we were told that there had

41 The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 1.8

42 HC Deb, 15 September 2010, cols 46WS–47WS; see also Ev 30

43 In February 2011, PIA had sent to the MoJ a pre-action for Judicial Review letter which they believe is the only reason that any consultation took place. See Ev 109.

44 Ev 127

45 Ev w53, Ev 38

46 Ev w53

been additions to the list of interpreter membership organisations recognised and modifications to the applicable standards for deaf interpreters.⁴⁷ The various elements of the Framework Agreement and their impact on the provision of interpreting services to the courts and tribunals and on the interpreting community, and hence on the problems that materialised when the Agreement was implemented, are discussed in more detail later in chapter 5.

Concerns about the procurement process

29. Three other themes raised by respondents to the consultation related to the procurement process itself. These were: the use of the competitive dialogue process; the consultation exercise; and the appropriateness of ALS as the MoJ's choice of contractor.⁴⁸

The use of the competitive dialogue process

30. The Association of Translation Companies (ATC), a professional organisation representing the interests of commercial companies offering language services, told us that a number of its members, including Applied Language Solutions, were involved in the competitive dialogue process. Some of these members had informed the Association that they had decided to withdraw from the process as they viewed the specifications to have been flawed.⁴⁹ Another company, Cintra Ltd, was of the view that the tender process was well designed in its early stages.⁵⁰ The only other bidder that remained in the competition alongside ALS up to the final stage, thebigword, told us that they felt there was less clarity and transparency in the process than they had experienced in similar exercises. For example, the qualification criteria for each stage were not fully defined from the outset.⁵¹

Consultation with the interpreter community

31. Organisations representing professional interpreters felt that there was insufficient consultation with them, both regarding the decision to procure a new model of provision following the early stages of the review process, and in the development of the model proposed in the draft Framework Agreement. Had they been consulted at an earlier stage, interpreters and their professional organisations say they would have liked to have worked with the MoJ to address collectively the issues that had been identified, and the concerns, whether justified or not. They say that they would like to have worked towards a revision of the existing system, based on the existing National Agreement, Register and associated professional qualifications, rather than having a new system imposed on them.⁵²

32. In particular, the Professional Interpreters for Justice Campaign—comprising eight membership organisations, together representing over 2320 registered and qualified

47 Ev 69

48 Ev 53, The name of the contractor was not publicly announced during the consultation exercise but rumours had been circulating amongst the interpreter community that it was ALS.

49 Ev w93

50 Ev w108

51 Ev w115

52 Q 13, Ev 120

interpreters, and other non-membership stakeholders—expressed regret that the MoJ did not attempt to remedy perceived shortcomings with NRPSI registration as a mechanism for quality assurance by providing support or funding to improve the existing system and ensure that the National Agreement was properly enforced.⁵³ For example, the MoJ did not look at outsourcing the functions of booking and payroll systems while continuing to use approved lists, including the NRPSI, to provide assessed and vetted interpreters.⁵⁴ Ms Lee felt it was important that any new arrangements built on “decades of policy development, from the Runciman report onwards, through the Auld report and the various incarnations of the National Agreement.”⁵⁵ Witnesses believed that such an approach could have resulted in: stricter implementation of the National Agreement; greater incentive for interpreters to become properly registered; and the ability of organisations to share information about disciplinary hearings.⁵⁶ They felt that membership of a professional organisation with stringent membership requirements would represent a better guarantee of quality than a new assessment.

33. Partially in response to the concerns, the National Register, which was previously part of the Chartered Institute of Linguists, was established as an independent body in April 2011; the register is now freely accessible online.⁵⁷ Other options earlier proposed by the profession, but rejected by the MoJ, included regional not-for-profit units and a partnership approach to working with local language service providers, for example, by building on existing models of best practice such as those used by the Metropolitan and Cambridgeshire police with centralised booking coordinators working with local providers.⁵⁸ Mr Handcock explained that justice sector work represented approximately 10% of a £1bn market; he dismissed the possibility that the MoJ could itself have set up a centralised system as it would have required “substantial investment”.⁵⁹

34. Some witnesses strongly condemned the Ministry of Justice’s approach to consultation with professional interpreters. Ms Lee described the MoJ’s conduct as a “failure to listen”; she detailed the various ways in which representatives of professional bodies had sought to communicate to the Department their concerns:

First, the Ministry was warned from about 2009 onwards. It chose to disregard those views. We continued to warn it in the run-up to the contract going live that it was not going to work, and it did not take us seriously.⁶⁰

35. Mr Rosenthal stated:

53 Ev 109, Ev 120

54 Ev 38

55 Q 12 [Ms Lee], Q 16 [Mr Rosenthal]

56 Ev 120

57 Qq 13–15. See Ev 120. Prior to 2011, NRPSI was funded by subscription fees from end users (police forces, HMCTS, local government organisations, NHS Trusts) as well as by interpreters’ registration fees (around £90). When the NRPSI became independent of the CIOL in April 2011, access to the register was made free of charge for users, whereas interpreters now have to pay a £130 registration fee to fund the NRPSI’s running costs.

58 Ev w36, Ev 83, Ev w70, Ev w115, Ev w124

59 Qq 186–187

60 Qq 19–20

“[...] there is every sign that all consultation with the profession was what one colleague has referred to as "nonsultation" [...] I represent an institute with 3,000 members. We are probably one of the largest organisations. You would think that, if it was seriously engaging with the profession, it would be talking with us. We became very concerned in the summer of 2011. Interpreters and translators are fairly shy, retiring, slightly conservative individuals by nature. We took a decision as a professional body that it was right for us to come out to bat for the profession, and we wrote to the Prime Minister and several other Government Ministers in September 2011 [...] We did receive replies from Government Ministers. It is because we were concerned by the failure to listen at civil service level that we felt it appropriate to raise the issue with those MPs who were responsible for overseeing it, just to voice our concerns, because they might not be aware of some of the issues that were going on.”⁶¹

36. Mr Sangster, Chair of the NRPSI, told the Committee that he had previously dealt with other Government departments and he was “amazed and dismayed” by the MoJ’s behaviour with respect to his organisation’s concerns about the Framework Agreement and suggested it was either “arrogant or incompetent” to treat stakeholders with such “disdain”.⁶²

37. In November 2011, the Minister for the Cabinet Office, Rt Hon Francis Maude MP, announced a presumption against the use of the competitive dialogue procedure except where its use could be justified. Subsequent Cabinet Office guidance states:

The competitive dialogue procedure is designed to be used for particularly complex contracts. Too often, however, public procurers have relied on it as a means of engaging in dialogue with suppliers, instead of engaging in thorough pre-market engagement to understand the market and supplier offerings prior to going to market.⁶³

38. The professional interpreter community stressed to us that court and legal interpreters require specific skills that are not required in interpreting in other fields.⁶⁴ For example, one respondent to the e-consultation said:

“We need to understand how long it takes to learn a foreign language to a certain standard, in order to be able to interpret from and into it within a specific sector. First of all it takes decades to learn the language itself and later you need to obtain a specific set of skills that are required in order to interpret. You need to be able to translate legal terminology within seconds during a court session and sometimes it is very difficult even for the best interpreters out there. You need to take into account that it is a job that requires due diligence, great listening and verbal skills, ability to

61 Q 21

62 Q 22

63 http://procurement.cabinetoffice.gov.uk/files/checklist_-_presumption_against_competitive_dialogue.pdf

64 Ev w5

transfer a vast amount of information that is encrypted in a different language within a short time frame.”⁶⁵

A legal interpreter trainer of over 20 years said:

“A seemingly straightforward matter such as bailing a defendant Only experienced, trained and qualified interpreters have the skills to manage [...] complex communicative situations [...]. Agencies who send untrained so-called “interpreters” to jobs in the belief that the particular procedure in question is “straightforward” or “not complicated” do not understand the science of language nor the ethics of situations in which interpreters find themselves, which can be as unpredictable as the people for whom they interpret. A seemingly “straightforward” matter such as bailing a defendant to appear in court at a future date may be simple procedurally, but difficult linguistically. Defendants may have a regional accent or dialect which is difficult to understand, may use slang or an idiom with which the interpreter is unfamiliar and which requires clarification, may have speech impairment, have mental health problems, or be distressed; s/he may thus speak in a confused way such as not finishing sentences, or speak very rapidly and incoherently. Added to this is the difficulty of understanding the institutional language of the court or the police station; despite their specialised language study, interpreters remain outsiders to the system and must clarify such institutional language for themselves before they can interpret it.”⁶⁶

39. For this reason professional interpreters and NRPSI had been seeking, and continue to seek, statutory protection of title for legal interpreters and translators, as is the case in some other EU states.⁶⁷ Interpreters did not believe that the MoJ sufficiently understood the practice of court interpreting or the high calibre of skills required. In their view this resulted in a flawed procurement process which then failed to judge the quality of language services it sourced.⁶⁸

40. It appears there may be some substance to these assertions. In supplementary evidence submitted in early October the MoJ explained that it was now using what it described as “end-to-end process maps of the interpreter process in each jurisdiction” to inform its work to resolve the remaining implementation issues.⁶⁹ Mr Handcock of HMCTS rejected a suggestion that the recent emergence of these planning tools perhaps indicated that they did not have sufficient understanding of the complexities of court interpreting work at the time of the procurement process. He stated:

“I don’t think that’s true. We understood it was a complex process and what set us out along the road of changing the system was the complexity that we were dealing with, with a very uneven system, different parts of the system with different practices. One of our key objectives at the beginning of the process was to have a much more

⁶⁵ Tomasap, respondent on online forum, see Annex

⁶⁶ Ev w25

⁶⁷ Q 7 [Mr Sangster]

⁶⁸ Ev 109, Q 17

⁶⁹ Ev 53

consistent and straightforward system [...] we understood perfectly well that we had overly complex arrangements in place.”⁷⁰

We were not convinced by this argument: understanding the complexity of the work and understanding the complexity of arrangements are two very different things.

41. Mr Hancock described the MoJ’s stakeholder engagement with the interpreter community as “extensive”.⁷¹ Martin Jones, senior reporting officer for the project, summarised his recollection of the nature of engagement with stakeholders when he appeared before the Public Accounts Committee on 15th October:

“a series of regional workshops were held, and we certainly listened then [...] In terms of ongoing discussions with the interpreters’ organisations, the last meeting that I had with an interpreters’ organisation was in November/December 2011. That conversation was ongoing over time; there was never a point at which I said, “I don’t want to listen to you anymore.” I was continuing to listen, but ultimately, I think we probably got to a point where the information from the majority of interpreters’ organisations was just, “Don’t do this contract”, but the Ministry had obviously been through a competitive dialogue process and we believed that it was the right thing to be doing.”⁷²

42. The NAO concluded that while the MoJ engaged with a range of stakeholders, including the interpreter community throughout 2011, it “did not give sufficient weight to the concerns and dissatisfaction that many interpreters expressed, even though having sufficient numbers of skilled interpreters was essential to the new arrangements’ success”.⁷³

43. Our evidence strongly suggests that the Ministry of Justice did not have a sufficient understanding of the complexities of court interpreting work prior to initiating the procurement of a new service. The competitive dialogue process failed to produce a working model that would enable skilled professional interpreters to continue to service courts and tribunals. The consultation that was undertaken was limited because by the final stage of the competitive dialogue process the nature of the new arrangements had been largely determined and the important concerns that were raised by the interpreter community, and others, even if they were heard, were unheeded.

Due diligence

44. The NAO agreed with the MoJ that “on paper” ALS’ bid was the strongest; it achieved the highest score on non-cost criteria (i.e. service, innovation, quality, supply and sustainability) and was the cheapest.⁷⁴ On the other hand, while the NAO found that the MoJ ran a fair and competitive process, it concluded that the MoJ was not thorough enough in its due diligence—a standard process that allows prospective customers to check

70 Q 184

71 Q 185

72 HC (2012–13) 620

73 The National Audit Office, *The Ministry of Justice’s language services contract*, September 2012, para 1.13

74 *Ibid*, para 1.11

on a company's credentials and claims—on ALS' successful bid.⁷⁵ Even though the MoJ had identified many of the risks of working with the company, in the NAO's view it did not do enough to mitigate those risks, and in some cases give them sufficient weight. Some examples included: a failure to heed a financial report commissioned by the Department that concluded that the company was only suitable for contracts up to £1m; a failure to seek independent advice on ALS' proposals for the tiered model of qualifications and the new assessments; and a failure to consider sufficiently the impact of interpreters' strong dislike of ALS and their concerns about the new arrangements.⁷⁶

45. Our evidence supported this. We heard that interpreters had repeatedly expressed their concern that ALS' turnover and accounts suggested that it was not sufficiently financially secure to handle a contract of that magnitude.⁷⁷ For example, Dr Zuzana Windle told us that, in her capacity as then Director of the Professional Interpreters Alliance, she had sent to the procurement department documentation that she believed provided a clear indication that ALS "was not suitable for a contract of this nature".⁷⁸ This included a dossier of reported problems with ALS' contract with four North West police forces and credit ratings and official records relating to Mr Wheeldon's other companies. Dr Windle also drew our attention to the fact that in the early stages of the implementation of the North West police contract ALS had been subject to successful judicial review for underperformance which led to the contract's temporary suspension.

46. *There was clear potential for problems with ALS' capacity to deliver on its promises which were not adequately anticipated or dealt with either by the Department or by the contractor itself. We share the National Audit Office's concerns over the weakness of the Department's due diligence and risk mitigation procedures. This is a cause for concern at a time when the same Department is likely to be responsible for a large complex centralised commissioning programme for implementing the "Rehabilitation Revolution". In response to one of the recommendations of our report The budget and structure of the Ministry of Justice—which expressed similar concerns and called for an independent review of the Department's capability in commissioning services—we were told that a strategic approach was being taken to building the requisite skills.*⁷⁹ We hope that lessons have been learned from this experience, and, given the amount of outsourcing the Department is to be engaged in, we seek further assurances of the Department's capacity in this area and repeat our call for an independent review before any further major projects commence.

The resulting new arrangements

47. According to Capita Plc—which acquired ALS for £7.5m in December 2011—the Framework Agreement offered the MoJ the following elements:

⁷⁵ The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 1.13

⁷⁶ *Ibid.*

⁷⁷ Ev w20, Ev 83

⁷⁸ Ev w118, Ev w123.

⁷⁹ HC (2012–13) 97-I

- i. Standardised approach to establishing the skill level of interpreters by way of a tier based system.
- ii. Standardised interpreter pay and conditions for all interpreters working as part of the Framework Agreement.
- iii. Creation of an online portal through which bookings are made, administered, invoiced and through which payments to interpreters are made.
- iv. Implementation of a robust complaint procedure ensuring any complaints raised by the MoJ are dealt with quickly and effectively, including the removal of interpreters from the supplier base who were deemed to be of insufficient quality which was not possible under the previous arrangements.
- v. Availability of management information on a nationwide basis which was not previously available.⁸⁰

48. Mr Andy Parker, Joint Chief Operating Officer of Capita Plc, described how this worked in practice:

We provide a booking portal. We give a service where we have a central complaints service. We ensure all the vetting is done. We ensure all the interpreters are correctly tiered and correctly qualified. We liaise with the court and then we provide a booking service for the courts on our IT. The courts make the request, either by telephone to our call centre or directly on to the portal, and then the interpreters have the ability to take those jobs without intervention by looking at our portal. If a job isn't fulfilled by the portal, we would phone up a variety of interpreters based on their relevant skill sets. But on the basis that they don't actually work for us we're not really controlling who does what; we're just making the job available.⁸¹

49. Financial and time savings were to be achieved as a result of: operational efficiencies through centralised booking; technology-driven job allocation; less administration and more detailed management information.⁸² The MoJ estimated that its agencies and police forces could save £18 million a year in payments to interpreters alone, with further efficiency savings as a result of reduced administration.⁸³ The original aim of the review had been to reduce costs by 10% i.e. £6 million.⁸⁴ Ms Beasley was clear that one of the MoJ's key drivers in proceeding with the Framework Agreement was financial: "we wanted to reduce the cost and we wanted to implement fee regimes that were actually operating elsewhere within the language service market because it would save us money."⁸⁵ In the next two chapters we examine how these new arrangements were implemented and have subsequently been operating and consider the extent to which the objectives of the procurement exercise were achieved.

80 EV 52

81 Q 147

82 Ev 30

83 The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 1.12

84 Ev 83

85 Q 206

4 Early operational problems and their impact

Early operational problems

50. When ALS began operating nationally under the Framework Agreement it faced immediate operational difficulties in its provision of services to HM Courts and Tribunals Service, including a lack of registered interpreters, resulting in poor quality of interpreting services and difficulties in responding to demand, and the adequacy and transparency of the complaints process and the systems underpinning the online portal. We sought evidence on prisons' experience of using the services of ALS but our witnesses reported no problems or difficulties of any significance.⁸⁶ Some examples are described in the box below.

Case studies

In the case of R v Rajvinder Kaur at Winchester Crown Court an unqualified man, Mr Lone, stood in for his wife as an interpreter during a murder trial.⁸⁷

An interpreter working for ALS told us:

"I have been told by the company that if I agree to interpret for counsel/probation/ anyone else outside of the courtroom, it is 'in my own time' and I will not be paid for it! How can the system function?! Time down in the cells with a defendant to explain after the decision what the next steps are, appeal etc or outside the courtroom by probation officers is not factored in, and interpreters are expected to try and persuade the court clerk to sign them off at a different time from when the case finishes."⁸⁸

Another respondent to the online forum said:

Even the easiest legal terms were totally misinterpreted. The oath was interpreted as "the proof I will give" – "give evidence" is the simplest of the legal terms used in Court; and astonishingly, the Police's caution (defendant's recorded interview was read out in Court) was interpreted as "you should not say anything. When legal terms such as "burden of proof is reversed", "evidence by way of rebuttal", or even simpler terms as "contemporary notes" were being discussed, Capita's worker just kept an worrying silence.⁸⁹

A defence solicitor explained to us:

[My] client could speak little, if any English and after an hour wait for an Interpreter (which the Police told the Court Clerk they had contacted) nobody had attended. I was unable to adequately explain the situation to the client and therefore unable to provide any alternative address to the Court. Clearly on a Saturday there was no chance of trying to obtain alternative accommodation which is usually arranged through the Probation Service. Therefore the client had to be remanded in custody until the Monday when through the "Russian" Interpreter who attended he was able to secure bail having put forward an alternative address. It was clear that had he had an Interpreter and being furnished with that information bail could and should have been granted on the Saturday.⁹⁰

Data Source: Justice Committee e-Consultation

⁸⁶ Ev 30

⁸⁷ Ev w9

⁸⁸ Elsy, interpreter working for ALS, respondent on online forum, see Annex

⁸⁹ Hirolo1926, self identified as other, respondent on online forum, see Annex

⁹⁰ Robin123, a Defence Solicitor from the North of England, respondent on online forum, see Annex

Underperformance against key indicators

51. Our evidence suggested that ALS' poor performance could be demonstrated by a range of indicators. In the first week the level of fulfilment against HMCTS' requirement for interpreters ran at a mere 40%, against a performance target of 98%; the fulfilment rate in the first month was 65%.⁹¹ Over two thousand complaints were received in the first quarter of operation, comprising 13% of assignments that ALS fulfilled.⁹² Fulfilment figures simply represent an indicator of the level of supply against demand, not quality.⁹³ According to the NAO, no quality associated KPIs were included in the Framework Agreement as the assumption was that after checks and assessments only interpreters of the right quality would be supplied to jobs.

Assessing the quality of provision

52. The majority of the evidence we received about the performance of interpreters booked through ALS related to courts rather than tribunals, and in particular to criminal justice cases. For example, the Law Society explained that it had not received significant concerns from a wide spectrum of the profession but was aware of "significant problems in criminal courts".⁹⁴ The evidence we did receive regarding tribunals, including from the Senior Presiding Judge, indicated that performance in tribunals may be less consistent than in courts.⁹⁵ While we received limited evidence specifically related to problems regarding the translation element of the contract, Professional Interpreters for Justice believed that the concerns expressed about the quality of face-to-face interpreting were equally valid to the quality of translation services provided by ALS to the justice sector.⁹⁶

The experience of professional interpreters

53. As Professional Interpreters for Justice noted, it is difficult for the public to assess an interpreter's performance as they would not have a mastery of both languages. By definition it is unlikely that a defendant, witness, or victim who is being interpreted for will realise that they are not being given accurate translations, although in some cases it has been obvious to them and to magistrates, for example.⁹⁷ Since February 2012, interpreter members have been attending courts across the UK as a means of professional development, and, at the same time they have monitored the attendance and performance of ALS workers and compiled dossiers of evidence on underperformance. One interpreter, Yelena McCafferty, established a website, www.linguistlounge.org, to enable court observers and court users, including solicitors, to submit evidence of ALS' performance. The site received high volumes of complaints regarding a failure on behalf of ALS to provide interpreters and the supply of unqualified, inexperienced and incompetent

91 Ev 52

92 Ministry of Justice, *Statistics on the use of language services in courts and tribunals, Initial bulletin, 30 January 2012 to 30 April 2012*, May 2012

93 Q 33

94 Ev 48

95 Ev 108

96 Ev 109

97 Q 47

interpreters; by August 2012 it had gathered 137 such reports and 178 newspaper reports.⁹⁸ She also documented instances gathered from interpreters of: trials being halted and delayed as a result of failure to supply interpreters; verdicts being mistranslated; evidence being distorted; and bail conditions misinterpreted or omitted.⁹⁹

The experience of the magistracy and legal professionals

54. A few months after the implementation of the Framework Agreement the Magistrates' Association requested feedback from its members on their experiences of how the new service was working in practice within the magistrates' court system. Approximately one-third of areas responded and, according to the Association, these represented a wide geographical spread across England and Wales and between rural areas and cities. A small minority (10%) of respondents thought the service had improved with the new arrangements; they found the system more flexible now and thought it had facilitated the availability of a greater range of languages. The nature of experiences of the vast majority of those who provided feedback, and individual magistrates who provided evidence to us directly, was comparable to the incidents that had been collated by professional interpreters. According to the Law Society and individual barristers and solicitors, legal professionals—who rely on ALS interpreting services to interact with their client and to ensure that their client understands the proceedings of the court and the implications of decisions regarding their plea and bail, for example—had experienced similar problems.¹⁰⁰

The impact on court and tribunal proceedings

55. There are a number of areas which the majority of respondents to the Magistrates Association survey and individual magistrates' courts had found problematic with the ALS contract. Some problems primarily related to organisational issues. For example, interpreters had been unable to stay for the whole duration of court proceedings or had failed to arrive at the right time; moreover some interpreters were directed to the wrong court house.¹⁰¹ Another key problem for magistrates' courts, particularly those more distant from large urban areas, has been the location of interpreters, predominantly those with oversubscribed or with less common language skills; the implementation of the contract with ALS has meant that interpreters have had to be brought in from further afield, at the cost of travel expenses and court time, despite the presence of local interpreters who had been used prior to the ALS contract.¹⁰² ALS had also allocated translators who did not speak the required language, or with the wrong language or dialect skills; there are examples of a Kurdish interpreter being sent for a Bengali client and a Portuguese speaker being provided for a Spanish client.¹⁰³

98 Ev w17

99 *Ibid.*

100 Ev 48

101 Ev 47, Ev w17

102 Ev 47

103 Ev 48; Apollo, respondent to online consultation, see Annex

56. Another problem was that interpreters were reported as frequently having performed inadequately in their role. Evidence from solicitors and magistrates suggested that some interpreters did not have sufficient language skills, either in the required language or English, necessary to ensure the full understanding of the defendant.¹⁰⁴ In some cases magistrates had been forced to rely on their own language skills, and to use online translation tools.¹⁰⁵

57. There also appears to have been a lack of knowledge of court etiquette and process, for example, interpreters not informing the court if they were going to be late, not dressing appropriately, or failing to whisper.¹⁰⁶ There have also been cases in which the interpreter has failed to accurately translate everything that has been said to the client and what the client has said to the court. Some interpreters have been unaware that they are required to give precise translations and unaware that they are required to swear an oath to court. Under such circumstances solicitors reported that their clients had been unable to comprehend the decisions and proceedings of the court and had been unable to adequately instruct their advocate as to their desired direction.¹⁰⁷ Mr Jeremy Lynn, a barrister, told us that he had found interpreters unable to cope with the language in court, words which he described as the “everyday fare of a criminal court” like, for example, indictment, joint enterprise, conspiracy, which “leave this new breed of interpreter floundering”.¹⁰⁸ He also expressed concerns about the behaviour of interpreters in court.

58. Mr Fassenfelt raised two consequences of requests for interpreters being unfulfilled that most concerned him. First, an individual may be remanded in custody as a consequence of no interpreter being available and, secondly, a trial may collapse, inconveniencing witnesses and, if the defendant was previously remanded in custody, putting them back there.¹⁰⁹ We heard from a magistrate from South East Suffolk who had personally observed the emotional distress of defendants when he had been unable to communicate with them the reasons for adjournments or remands in custody for lack of information.¹¹⁰ Mr Atkinson gave examples of delays to a crown court trial and of a defendant with no previous convictions being remanded in custody on three consecutive occasions for lack of an interpreter then being granted unconditional bail.¹¹¹ We received evidence of many other examples of repeated adjournments.¹¹²

59. We have referred above to the Ministry’s efforts to prevent us receiving first hand testimony from court and tribunal staff on the standards of interpreting services. It is clear to us from the evidence we have been able to collect that the quality and effectiveness of court and tribunal interpreting services was seriously hampered by ALS’ performance.

104 Ev 48, Ev 47

105 Ev w17

106 See Ev w44, Ev w72, Ev w81, Ev w83, Ev 47

107 Ev 48

108 Ev w1

109 Q 46

110 Ev w17

111 Q 46

112 See Ev w13, Ev w17, Ev 109, Ev w66, Ev w72, Ev w81, Ev w119

The right to a fair trial

60. The ability to understand criminal proceedings and the prosecution's case is vital to preparing a defence and receiving a fair trial. The scope for damage as a result of poor quality interpreting is very significant; at worst inaccuracies in interpreting could lead to miscarriages of justice, for example, wrongful conviction.¹¹³ There was some disquiet amongst many witnesses, from the interpreting sector in particular, that the operational problems and reduction in quality of interpreters under the new tiering system had impacted on court proceedings to such an extent to deny defendants a fair trial.¹¹⁴

61. We asked Mr Atkinson of the Law Society for his views on the potential for the current quality of interpreting to result in miscarriages of justice or in undermining the right to fair trial. He suggested that the extent would be difficult to ascertain. While he was confident that miscarriages of justice would occur infrequently, he nevertheless felt that it was possible. In his experience more commonly cases had been stopped and restarted. Furthermore he explained that fair trial provision within European jurisprudence looks at the whole duration of the process. He stated: "If one is looking not at the total outcome but at each of those processes, clearly it is impacting. People are being remanded in custody. Perhaps the greatest indictment of the present failures is that people are spending time in custody for no reason other than the lack of an interpreter. Although that would not come into the category of someone being denied a fair trial at the end of the day, when looking at the trial process, I would be very happy to say they had been denied a fair trial process."¹¹⁵ We also sought the views of the Senior Presiding Judge, Lord Justice Goldring, on this matter, but he raised no significant concerns.¹¹⁶

62. Collapsed cases come under two categories: 'cracked' trials, where a case is concluded without a court hearing; and 'ineffective' trials, when a hearing is cancelled on the day it was scheduled to go ahead and has to be delayed to a later date. The trend for ineffective trials as a result of non-attendance of interpreters is rising. Between 2006 and 2011 the percentages of ineffective trials that were attributed to this were below 1% in magistrates' courts and 0.5% in crown courts. In 2011, 327 trials in magistrates' courts and 17 in crown courts were deemed ineffective for this reason. In the first six months of 2012, during which time ALS was in operation for five months, there were 345 such trials in magistrate courts and 17 in crown courts, representing 2% and 0.6% of ineffective cases respectively.¹¹⁷

63. We are seriously concerned about the increase in ineffective trials as a result of non-attendance of interpreters, particularly in magistrates courts. We will monitor the quarterly statistics on ineffective trials for the remainder of the year to see whether this is an ongoing trend.

¹¹³ Ev 38

¹¹⁴ See Ev w9, Ev w31, Ev w39, Ev w41

¹¹⁵ Q 54

¹¹⁶ Ev 108

¹¹⁷ Compiled from Ministry of Justice, *Court statistics (quarterly)*, relating to Q 1 and Q 2 in 2012

5 Explanatory factors for poor performance

64. Our witnesses described numerous factors that they suggested explained the poor performance described in the previous Chapter, ranging from typical teething problems, to the ineptitude of the Department and the provider it had selected, or the reticence of interpreters to accept the new terms, through to illustrations of the Framework Agreement as profoundly flawed. All of these certainly have some element of truth, and in many areas their impact is intertwined. In this chapter we consider the interplay between these factors as we discuss the nature of the Framework Agreement and how it has been operating in practice.

Ordinary ‘teething problems’?

65. Mr Wheeldon explained that the MoJ was aware that it could expect initial operational problems in scaling up provision:

“We knew it was going to be hard work and we knew—it was something we were open about—that in the first couple of months there would be problems. We saw that with the northwest police forces and we knew it would happen again in this scenario. I don’t think we expected it to the level it ended up at by any means, but we knew that going into it there would be issues and that was something we openly discussed.”¹¹⁸

66. Mr Handcock agreed. He said: “When you implement a contract of this kind and you are making a fundamental change in the way that you deliver a service into any business, you always need to anticipate that it won’t go as smoothly as you planned.”¹¹⁹

Poor preparation for implementation

67. Our evidence strongly indicates that many of the problems encountered were not adequately anticipated and that scant regard was paid to cautionary advice given to the Department regarding the shortcomings of the Framework Agreement and the potential capacity of the provider during the consultation process.

Rushed implementation across the court and tribunal system

68. The contract was initially to be rolled-out regionally over six to nine months. The MoJ later decided on a national roll-out and ALS’ model of delivery was piloted in North West courts and tribunals in December 2011 at the Department’s behest before full implementation on 30 January 2012. In relation to the decision to shift to national roll-out the NAO observed that the pilot in the North-West was unlikely to have been indicative of ALS’ capacity to go operational nationwide. For example, the pilot took place over a six

118 Q 73

119 Q 202

week period, including Christmas and New Year: a relatively quiet time for courts and tribunals. This was also a geographical area in which ALS had an established pool of interpreters. In addition, there was no formal evaluation by the MoJ of the arrangements tested. The NAO concluded that the MoJ under-estimated risks when it switched from a regional to national roll-out. The NAO went so far as to say there was “nothing to indicate that a single, national implementation would be successful”.¹²⁰

69. We questioned witnesses from the Department about the rationale for the pilot. Ms Beasley explained the decision:

Part of the thinking behind [the regional roll-out] was that we had originally planned to roll out in conjunction with other criminal justice agencies, such as the police and CPS, at the same time. But, when we came to it, it was only the Courts and Tribunals Service that was rolling out, so we anticipated that the roll-out would be less complex... We had undertaken a pilot in the northwest. Bear in mind that we had been working with a number of freelance interpreters for a long time and what we were introducing, if you like, was an outsourced booking process. Previously, that bit was done in-house and we had used freelance interpreters in-house; what we were then moving to was a booking process that was run by ALS. We tested that in the northwest pilot and the results of that were very good.¹²¹

70. When questioned about the nature of the evaluation, Ms Beasley further explained that, as the pilot was to test the new arrangements for the booking process, rather than the capacity of ALS to deliver what it had promised in terms of a wider pool of interpreters, monitoring was limited:

“My understanding is that the results of the ability to fulfil bookings were monitored and in the northwest pilot they achieved the 98% service level that is in the contract. There was feedback on the usability of the booking portal, and the feedback on that was that it was very good. There were very few complaints. The bits that were kind of new in the model, which was essentially the booking process, had been tested in the northwest pilot, so we didn’t see at that point any reason to delay rolling it out further, which would deliver us significant savings.”¹²²

71. On the other hand Mr Handcock explained that he was conscious of the difficulty for interpreters in moving to new terms and conditions and acknowledged that “perhaps” the pilot should also have involved some “load-testing” of ALS’ capacity.¹²³ Mr Handcock also admitted: “there were a number of questions that we might very easily have asked that we didn’t, and had we asked those questions I suspect we would have taken a rather different course on implementation.”¹²⁴

72. *The decision to opt for a regional roll-out was done partly to prevent regional boycotts, suggesting that the MoJ were all too aware of the scale of serious resistance from*

¹²⁰ The National Audit Office, *The Ministry of Justice’s language services contract*, September 2012, paras 2.4–2.6

¹²¹ Q 196

¹²² Q 199

¹²³ Qq 199, 207

¹²⁴ Q 193

amongst the interpreter community. The MoJ was, at best, naïve to view the new arrangements simply as an “outsourced booking process”. Interpreters had repeatedly raised significant concerns about the new terms and conditions under which they were expected to work.

Difficulties in scaling up delivery

73. Capita-ALS also attributed some of the early problems to difficulties in immediate scaling up of delivery.¹²⁵ Mr Wheeldon told us that, of private sector providers, ALS had the most experience of delivering interpreting services to the justice sector; experience was necessarily limited as a result of the nature of the previous arrangements.¹²⁶ It should be noted that most of ALS’ expertise was in translation services rather than interpreting.

74. The NAO believed that the MoJ allowed the contract to become fully operational before it was ready; it found that ALS was held to implementation at the end of January 2012 although it had not by that time registered and assessed sufficient interpreters in line with contractual obligations.¹²⁷ Mr Handcock told us that he believed that at the point of roll-out there were more than sufficient interpreters registered to provide the national service.¹²⁸ This assumption was based on the number of interpreters that had registered through ALS’ booking portal. In the event, a number of those registered “chose not to work under the framework”.¹²⁹ Mr Handcock did acknowledge to us that the MoJ “should have been more cautious” than it was about levels of registered interpreters.¹³⁰

Limited management information to aid planning

75. On the other hand, the NAO also established that ALS did not have the volume of interpreters ready to work that was specified in the tender. According to Capita-ALS in February there were only 770 interpreters, comprising 52% at tier 1, 26% at tier 2 and 22% at tier 3.¹³¹ This represented a dramatic decrease in the pool of professional interpreters that were available under the previous system through the National Register.¹³² Mr Wheeldon explained ALS’ lack of preparedness on limitations in the management information available. He explained that limited information was available, for example, concerning the demand for interpreting in the justice system by language and geographical area—something that the new arrangements themselves were intended to address—to enable ALS to plan as thoroughly as Mr Wheeldon would have wished.¹³³ For example, he recalled that the information provided by the MoJ concerned only some parts of the

¹²⁵ Ev 52

¹²⁶ Q 68

¹²⁷ The National Audit Office, *The Ministry of Justice’s language services contract*, September 2012, paras 2.7–2.11; Under condition 1.5 of the Framework Agreement Capita –ALS is required to have access to sufficient numbers of interpreters to provide 24 hour cover, 365 days a year.

¹²⁸ Qq 199–200

¹²⁹ Qq 200–201. See also Ev 83

¹³⁰ Q 201

¹³¹ Ev 57

¹³² Ev 83

¹³³ Qq 69–71

system, primarily tribunals.¹³⁴ Assumptions about the number of interpreters required to service the contract— and the appropriate level of remuneration which we discuss later in this chapter— were therefore based on ALS’ existing work with the police and covering first appearances in courts in the North-West, as well as contracts with the NHS and local government, and fee levels in Scottish courts which were 30-40% lower.¹³⁵

76. Other witnesses were critical of the Ministry of Justice for not properly seeking to ensure that ALS was furnished with adequate evidence to inform its planning for implementation. For example, after Mr Wheeldon’s testimony Mateusz Kiecz drew our attention to freedom of information requests that he had made in January 2012 to a number of magistrates and crown courts in the Yorkshire area which yielded information on the volume of requests for interpreters and the five most frequently and five least frequently used languages in each court.¹³⁶ CIOL told us that no attempt had been made to seek data from the National Register and described the assumptions about the number of interpreters required as a “finger in the wind” estimate.¹³⁷

77. The NAO also expressed concerns about the lack of robust data held by the Department regarding the number of interpreters required and what languages were required to properly inform the procurement exercise.¹³⁸ We heard that the need for better information had first been drawn to the attention of the Department over 20 years earlier; both the Runciman Commission and Lord Justice Auld reports recommended an audit trail be kept on the use of, and cost of, interpreters and translators by the courts.¹³⁹ The Ministry of Justice submitted to us further evidence that explained that some information was made available in the form of snapshot data from a sample of courts captured over a period of a week. In addition, the specific requirements of justice sector agencies were discussed during the competitive dialogue process.¹⁴⁰

78. In the past the Ministry of Justice failed to act on the recommendations of two important reports that an audit trail be kept on the volume of use of, and cost of, interpreters and translators by the courts. The process of reviewing arrangements for the provision of interpreting services had been in motion for quite some time before the Department began outsourcing the management of this work. The Department should have planned for the need for better information and taken steps to get it at an early stage in this process.

Contractual compliance

79. Individual witnesses alleged—with varying degrees of force—that in securing the contract ALS had either misled the Government or acted incompetently.¹⁴¹ Our evidence

134 Q 69

135 Qq 64–69, 115

136 Ev w123

137 Ev w124

138 The National Audit Office, *The Ministry of Justice’s language services contract*, September 2012, para 1.6

139 Ev 120

140 Ev 69

141 Ev w4, Ev w20, Ev w31, Ev w15

suggests that ALS failed to provide full and accurate information to the Department about the level of interpreters available and that the Department failed to carry out satisfactory checks. ALS' memorandum submitted to our inquiry on the budget and structure of the Ministry of Justice in April 2012 indicated that the company had 2,500 "experienced and qualified linguists [...] actively working" in the system."¹⁴² The numbers given to us by Capita noted above highlight that this was plainly not the case. Neither is this fully explained by the NAO's revelation that there were differences in understanding between ALS and the MoJ regarding what constituted registration.¹⁴³

80. On the other hand, it is evident that some professional interpreters had registered with ALS despite having no intention of accepting work, and others had deliberately registered spoof identities, including a pet rabbit; this exposed the fact that ALS were automatically inviting all those who had registered on the supplier database to accept work, despite the company not having sought verification of their identities or credentials.¹⁴⁴ This continued to be the case until recently: the MoJ estimated that 50 interpreters who had not verified their credentials remained on the supplier list in October; it was agreed with Capita that they were to be removed by the end of November.¹⁴⁵

81. There were also allegations of data theft from the NRPSI; it is claimed that ALS used these data to falsely register interpreters on its own list.¹⁴⁶ Around 80 cases of data theft were referred to the Information Commissioner's Office (ICO) for investigation. The ICO concluded that Data Protection Act compliance by ALS was unlikely, and the Commissioner required ALS to take certain steps to demonstrate that it was bringing its processing of personal data into compliance with its obligations under the DPA.¹⁴⁷

82. The NAO found other contractual obligations, some serious, with which ALS were not complying, and that it had not alerted the MoJ to these. These included: server capacity being insufficient to meet demand; a large backlog in assessment and marking after Middlesex University, which designed and was administering assessments, pulled out as a result of difficulties in working with ALS; and many instances where there was no record of qualifications or enhanced CRB disclosures being checked. In addition there was, and remains, no way to assess for interpreting in many languages; ALS' agreement with Middlesex University was only to make assessments available for 32 languages, a small fraction of the requirements of the justice sector.

83. The quality of interpreters that were being provided exposed major problems either with the Framework Agreement itself or with the quality assurance arrangements that underpinned it. We discuss these matters in more detail as we explore how the Framework Agreement operated in practice and the impact that its implementation had on those interpreters that had been providing language services to the courts and tribunals under the old arrangements.

142 HC (2012–13) 97-II

143 The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 2.20

144 Ev 109, Ev w36, Ev 83, Ev w83

145 Ev 69

146 Ev 109

147 *Ibid.*

The interpreter boycott

84. As the MoJ were forewarned during the procurement process, professionally qualified registered public service interpreters who previously served the courts and tribunals previously largely boycotted the new arrangements.¹⁴⁸ In May 2012, NAO assessed that only 13% of NRPSI-registered interpreters (301 people) had agreed to work with Capita-ALS; this equated to 20% of ALS interpreters being fully qualified professionals.

85. Capita-ALS described the early operational problems as partially relating to a low level of awareness among stakeholders and a lack of pre-engagement with them, as well as a resistance to the new service.¹⁴⁹ Mr Wheeldon believed that the low number of interpreters agreeing to work with the new arrangements was the fundamental issue that hindered implementation.¹⁵⁰ He admitted that he was aware of interpreters' concerns about the framework agreement, but told us that resistance was higher than expected.¹⁵¹ Some effort had been made to engage with professional interpreters. ALS had approached professional interpreter bodies and the National Register in an effort to ease the transition to the new arrangements but Mr Wheeldon found that they were reluctant to engage, with the exception of NRPSI and ACPI.¹⁵² Working groups were also held with interpreters that were not members of any of the professional bodies.¹⁵³ When it was put to Mr Handcock that low participation rates could have been anticipated he remarked: "No plan ever survives engagement with the enemy, does it? That is the way that these things always work."¹⁵⁴

86. Professional Interpreters for Justice characterised the boycott of the new arrangements: "[I]t is not an industrial dispute driven by unions or organisations; instead independent self-employed freelancers are demonstrating the power of market forces because they are under no obligation to work for unsustainable pay rates or unacceptable terms."¹⁵⁵ Involvis Ltd, on behalf of the Association of Police and Court Interpreters and the Society for Public Service Interpreting, conducted an online survey of interpreters in August. Nine hundred and sixty five interpreters responded, 85% of whom were registered with NRPSI and 11% were registered with ALS. According to the survey, 95.7% of NRPSI members refused to register with ALS. The most common reasons for this were: lower standards of professional interpreting; low hourly attendance rates; lack of quality assurance; and a poor assessment process.¹⁵⁶ We discuss these issues in more detail later in this chapter.

87. Mr Wheeldon made some serious counter-allegations. He drew to our attention what he described as a "serious problem" with intimidation of interpreters who had agreed to

148 Ev 30

149 Ev 52

150 Q 98

151 Qq 63, 74. See also Q 85: A similar scenario occurred when ALS gained the contract for police forces in the North-West but resistance diminished relatively quickly.

152 Q 74

153 Q 75

154 Q 203

155 Ev 109

156 Ev w68

work for ALS, including assaults, spitting and verbal harassment.¹⁵⁷ In subsequent evidence Capita TI documented such instances, some of which had been referred to the police, and explained that although the level of intimidation—which included abusive text messages—had now reduced, there continued to be occasional cases.¹⁵⁸ Ms Lee considered that unqualified or inexperienced interpreters might find it daunting to be observed and monitored by a qualified, experienced, registered professional interpreter, but fully rejected allegations of organised intimidation.¹⁵⁹

88. *The professional interpreter boycott undoubtedly contributed to ALS’ difficulties in coping with demand but we do not believe it entirely explains them. The Ministry of Justice and its contractor appear to have buried their heads in the sand. Many of the concerns that interpreters raised regarding the nature of the new operating model were realised during implementation, were utterly predictable, and should have been properly considered from the outset.*

The tier-based system

89. ALS’ tender offered to the MoJ an increased pool of “qualified interpreters” by introducing a tier-based system which provided a standardised skill level structure for the categorisation of interpreters and for the subsequent allocation of jobs. The level of qualifications and experience required for each tier is set out in the table below.

Table 1 Criteria for working through the Applied Language Solutions justice framework

	Qualifications	Experience	References	Assessment Centre
Tier 1	<p>At least one of:</p> <ul style="list-style-type: none"> Diploma in Public Service interpreting (DPSI) (English law option) Certificate in Community Interpreting (CCI, the forerunner to DPSI) Metropolitan Police test with DPSI (Health or Local government options) or Hons. degree or higher in interpreting NRPSI registration membership of Association of Police and Court interpreters membership of the Institute of Translation and Interpreting (Police Court Interpreter level). 	At least 100 hours public sector interpreting	References	Pass at tier 1 standard

¹⁵⁷ Qq 99–102

¹⁵⁸ Ev 59

¹⁵⁹ Ev 120

Tier 2	<p>At least one of:</p> <ul style="list-style-type: none"> the 'Partial DPSI' (English Law option), comprising all parts of the DPSI except written translation from English certain English and language-related degrees and diplomas. <p>Plus:</p> <ul style="list-style-type: none"> any degree exposure to criminal Justice work In the UK or abroad. 	At least 100 hours public sector interpreting experience	References	Pass at tier 2 standard
Tier 3	<ul style="list-style-type: none"> Demonstrable experience In the public sector with an appropriate linguistic background Formalised basic interpreter training 	100 hours public sector interpreting experience desirable	References	Pass at tier 3 standard

Data Source: National Audit Office analysis of the Ministry's framework agreement

The impact of the tiered system

90. We encountered fundamental objections to the tiering system, which many of our witnesses believed had resulted in a significant lowering of the standards required of such work.¹⁶⁰ Ms Lee, among others, explained the impact of the introduction of the tiered system:

- The highest level, tier 1, effectively mimics the previous minimum standards, which, under the National Agreement, represented only the first step on a continuous professional development ladder.
- The default setting for HMCTS bookings is now tier 2 interpreters who previously would not have qualified to work in criminal justice interpreting. Tier 2 includes those who are not qualified in written translation—which may be required in the course of interpreting work in this sector—and those who have degrees or language related diplomas which are not recognised interpreting qualifications and which do not constitute training in interpreting legal terminology¹⁶¹; this may include those who have failed the written translation part of the DPSI.¹⁶²
- No formal interpreting qualifications are required to operate at the lowest level, tier 3, and neither is it necessary to have built up significant experience of public sector interpreting.

¹⁶⁰ Q 24

¹⁶¹ Ev 120

¹⁶² Ev w9

91. Individual interpreters and other stakeholder organisations asserted that the implementation of this system has devalued the profession. For example, the International Association of Conference Interpreters stated:

“Interpreting is a profession which, like any other, requires proficiency in specific skills, acquired through training. Oral or sign language interpretation should not be confused with written translation. Since the profession is not legally recognised in the way that doctors, lawyers or architects are, anyone who speaks two languages may offer their services as an ‘interpreter’. The difference in results according to the level of proficiency is, however, enormous.”¹⁶³

The University Council of Modern Languages, representing higher education training establishments, did not consider that a tiered system of interpreting provision guarantees the level of quality and rigour the justice system demands.¹⁶⁴

92. As mentioned above, we received evidence of many cases in which it appeared that interpreters with limited knowledge of legal proceedings were appearing in court, suggesting that they had little or no experience of interpreting in the justice sector. Mr Wheeldon stated that the initial intention was that tier 3 interpreters would be used for community work for the police. However, he acknowledged that in practice, interpreters in some rare languages would be assessed as tier 3 but would be assigned tier 1 court work, because there is no tier 1 level professional qualification for many rare languages.¹⁶⁵ He further explained that he saw it as end users’ responsibility to determine the tier of interpreter that was most appropriate to the task.¹⁶⁶ The third tier also provided an entry level to the justice sector to new interpreters who wished to become more qualified.¹⁶⁷

93. Mr Handcock clarified that from MoJ’s perspective:

“The contract requires an interpreter to be provided from tier 1 or tier 2. Those are highly qualified interpreters and it is very important that interpreters are properly qualified. There is a lower level of qualification required for tier 3, but there are still conditions attached to being in tier 3. There are occasions, particularly with rare languages or in difficult circumstances when the pool of interpreters is very small, when it might be necessary to use someone from tier 3, still qualified but qualified to a rather lower level. Whenever that happens, the court is asked if it is content to have a tier 3 interpreter, so ultimately it’s a decision for the judge. It is always a decision for the judge, actually, whether the interpreting service being provided is adequate, and I am quite satisfied that it is.”¹⁶⁸

94. We asked Capita and MoJ the extent to which tier 3 interpreters were being used, and how often they were rejected by the judiciary. Mr Handcock said that it could be assumed that as the proportion of cases in which tier 3 is offered is only 2% of the total court

¹⁶³ Ev w5, see also Ev w4

¹⁶⁴ Ev w90

¹⁶⁵ *Ibid.*

¹⁶⁶ Q 84

¹⁶⁷ Q 83

¹⁶⁸ Q 226

volume, the judge rejects the use of such interpreters in a very small number of cases, but the MoJ does not keep a record of these instances.¹⁶⁹ Nevertheless, tier 3 interpreters represented 22% of Capita-ALS' supplier list in February.

95. Another potential indicator of deterioration in quality is the number of interpreters that are able to offer services in two languages. We were told that very few people master a second language sufficiently to pass the DPSI; when including multiple languages the pool of NRPSI interpreters only increases by 17%.¹⁷⁰ Yet, according to Capita 48% of tier 1 interpreters, 47% of tier 2 interpreters and 54% of tier 3 interpreters were qualified to interpret in more than one language.¹⁷¹

96. Mr Atkinson of the Law Society gave compelling testimony of the importance of properly qualified interpreters operating in courts and the potential difficulties inherent in operating a tiered system:

It is very difficult to anticipate properly what is going to happen in a courtroom. You can make a good guess that, most of the time, this is what will happen, but frequently that changes. You can go along for what might be considered a routine procedural hearing and find that the prosecution say, "We have evidence that your client has breached his bail conditions, we want to bring that to the attention of the court, and we will be seeking a remand in custody", or "Additional information has come to light that makes this case more serious. We've reviewed the evidence, and we're changing the charges", and/or, "We want to review his bail." Those are technical issues that need proper translation to the defendant. Sometimes technical aspects of the evidence are mentioned at hearings that are not the trial. It is very important that the client understands exactly what is going on. I do not think you can adequately and safely—I emphasise the word "safely"—try to distinguish in advance at what level the interpreter should be. They should be fully qualified and able to do the job in all circumstances.¹⁷²

In a similar vein, we heard from solicitor Matthew Scott who described the idea that court interpreters did not need competency in written translation as "fundamentally misconceived" as interpreters may be called upon to translate at any stage in proceedings, for example, a witness statement or a document forming part of exhibits.¹⁷³

Specialist skills and rare languages

97. On the other hand, we heard that there are some instances when the use of an interpreter from a lower tier, including tier 3, might be justified. Sense explained that for deafblind participants in the justice process, who use a range of communication methods, and for whom there is a shortage of registered interpreters, unregulated but appropriately skilled interpreters were sometimes more suited to their individual needs.¹⁷⁴

¹⁶⁹ Q 227

¹⁷⁰ Ev 83

¹⁷¹ Ev 64

¹⁷² Q 48

¹⁷³ Ev w9

¹⁷⁴ Ev w74

Notwithstanding this point, Sense was concerned that the varying nature of interpreting needs of deafblind people was not sufficiently understood by ALS.¹⁷⁵ The Association of Sign Language Interpreters took the opposite view, believing that use of the register of sign language interpreters was imperative.¹⁷⁶

98. Under the Framework Agreement there is a KPI to have 95% of all languages catered for within a 25 mile radius, providing an indicator of ALS' progress in increasing the pool of available interpreters, particularly for less common languages. Interpreters considered that the undertaking in the Agreement was unrealistic, and had raised this with the MoJ during the consultation.¹⁷⁷ For example, Ms Lee described the target as a fantasy sold to the MoJ and Mr Rosenthal of the Institute for Translation and Interpreting attributed it to a failure on the part of MoJ to understand the difficulties of fulfilling requirements for interpreters, even in core languages in some parts of the country.¹⁷⁸ One professional interpreter, Mr Marc Starr, suggested that the scarcity of interpreters was related to the infrequent and unpredictable nature of requirements for particular languages in particular localities at particular times.¹⁷⁹ He did not believe that widening the pool would make any material difference to this:

“I do not believe that the idea that an interpreter can be available anywhere for any language at any time, within an hour, is reasonable, feasible or realistic in the first place. [...] while the ideal remains that the person closest to a job will be available, there is no way either the public service can ever expect to know when they require an interpreter, or for the interpreter to know when they will be required [...] to get any language available to any location without affecting quality is simply naïve and unworkable.”¹⁸⁰

The courts regularly require languages that are difficult to source properly. According to the MoJ there were fewer than ten interpreters on the National Register for each of a total of 68 languages or dialects.¹⁸¹ For some of these languages there may be only three or four qualified interpreters in the country and they may need to travel to where the relevant trials are, just as judges and barristers do, in some instances.¹⁸²

99. We heard from Mr Wheeldon that the target seemed “feasible”, with the assumption made that 95% of requests would be for common languages. He attributed ALS' failure to meet this target to a combination of higher levels of short-notice bookings and a wider range of languages than expected in the absence of accurate management information.¹⁸³

¹⁷⁵ Ev w74

¹⁷⁶ Ev w70

¹⁷⁷ Ev 83

¹⁷⁸ Q 38

¹⁷⁹ Ev w95

¹⁸⁰ *Ibid.*

¹⁸¹ Ev 53

¹⁸² Ev w32, Ev 83

¹⁸³ Q 132

100. *The interpreter community drew the Ministry of Justice's attention to the wildly unrealistic distance key performance indicator during the consultation process but this was disregarded. The number of languages required, the uneven distribution of interpreters and their language combinations across the country, the irregular schedule of courts and police services, last-minute contracting, and varying language needs, all inevitably make it necessary for interpreters to travel long distances. We are concerned that this is a further factor that deters professional interpreters from working under the Framework Agreement as travel expenses have been reduced. If Capita TI is absorbing higher travel costs than ALS first estimated there may be implications for future cost savings.*

An untested system

101. The NAO considered that the tiering of jobs and new assessments were unproven, and therefore risky and was critical of the MoJ for not taking any independent advice on the proposed tiering of interpreters during the procurement process.¹⁸⁴ Ms Lee made reference to the fact that the tiering system had been rejected by the independent consultant engaged by ALS during the tendering process, but that this was not communicated accurately to the MoJ who were led to believe he had supported it.¹⁸⁵ We sought clarification on this point from Mr Townsley who told us:

“My brief for the consultancy visit was to inspect and comment on ALS plans for the screening of interpreters and their interpreting skills. During this visit, I was asked for my evaluation of their plans for a three tier system for interpreters. I made it clear to Mr David Joseph [then Head of Linguist Relations at ALS] that I did not think the three tier system was appropriate or functional. I gave my reasons for this view. I was told by him that a tiered system for interpreters was required by the MoJ and that it was non-negotiable. Having understood that, I then suggested, in that case, that the least worst option would be a two tier system based on a pass in oral AND written components of the Diploma in Public Service Interpreting (DPSI), or a pass in the oral components of the DPSI exam only. Regarding the proposed tier 3, I made it clear that, in my opinion, it was a nonsense and should not be instituted.”¹⁸⁶

102. *ALS did not make it clear to the MoJ that the three tier system for interpreters had not been supported by the independent expert it had consulted. The Department has sanctioned, untested, a tiering system that imposes major changes to professional occupational standards and has significant potential to undermine the progress that has been made in professional development and resulting improvements in the quality of interpreting services provided in the justice sector. It would be disastrous if the Department continued to permit the courts to be starved of highly qualified interpreters. Just as the Department had concerns that membership of the National Register did not guarantee quality, we fear that a diminution of quality is an inevitable product of implementing a new system which does not accurately evaluate the skill levels of professional interpreters.*

184 The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, paras 1.13 and 3.6

185 Ev w31

186 Ev w127

103. *Being able to communicate in a given language does not make someone an interpreter. The National Agreement, the National Register and qualifications that underpinned it were put in place to safeguard the right to a fair trial. The level of concern that arose during the consultation process regarding the potential diminution of quality standards by imposing the tiered system, diluting qualification requirements and imposing lower levels of pay suggest that the Ministry of Justice was determined to pursue the implementation of the Framework Agreement in the face of evidence that it would reduce the quality of language services available to the courts.*

104. *We are astonished that the pilot was not used to test the tiering system and assess whether interpreters meeting the new standards could perform adequately in court. We are particularly concerned at the decision of the Ministry of Justice not to seek to build on safeguards developed under the previous system whereby interpreters other than those registered by NRPSI were to be used only in exceptional circumstances. We support the National Audit Office's proposal that the tiered system should be independently evaluated.*

105. **The use of tier 3 interpreters in courts and tribunals should be reserved for those cases in which it is absolutely unavoidable, such as in rare languages for which there is no relevant professional qualification, or to meet the specific needs of a deafblind person who requires a particular mix of skills in an interpreter. Alongside fulfilment rates, the MoJ should monitor the level of use of particular tiers of interpreters by HMCTS and ensure that any instances of inappropriate use of tier 3 interpreters can be properly investigated and managed.**

The assessment system

106. The Agreement required all interpreters to undertake online and test-centre based assessments to establish their level, or tier, of competence in their language or dialect. In summer 2011, Middlesex University was approached by ALS to design this assessment system.¹⁸⁷ Brooke Townsley, who, on behalf of the university, designed what he described as a quality assessment, explained:

“It was not designed or intended to replace or invalidate the full professional qualifications that interpreters already held. It was designed to be supplementary to those and to confirm that the levels of competency indicated by those qualifications were still valid.”¹⁸⁸

107. In respect of assessments in particular it was clear to us that ALS should have been more candid with the Department about the limitations on its capacity to begin delivering services at the end of January. Mr Wheeldon told us:

“My understanding is that, up until probably the [17th] February date, we were still going to be working with Middlesex University. I know they were having problems with capacity and getting the number of assessments through, and we had some

¹⁸⁷ Ev w127. The agreement made was between Middlesex University and ALS. Mr Townsley was tasked by the University with carrying out the technical side of this work; he was not acting as a consultant to ALS at this stage.

¹⁸⁸ Ev w122

issues with that. They had concerns about their own ability to deliver the numbers that we required [...] I've never seen any email, letter or anything from Mr Townsley or Middlesex University that would suggest anything but a good relationship up until the end of January.”¹⁸⁹

Mr Parker echoed the view that the problems with Middlesex were related to their capacity to deliver the marking of assessments on schedule.¹⁹⁰

108. The NAO found that ALS did not notify the MoJ about the fact that Middlesex University and ALS had formally suspended the agreement for the administration of assessments on 3rd January, several weeks before the contract went live.¹⁹¹ Mr Hancock reiterated to us that MoJ was not aware of the fact that ALS' agreement for the delivery of the assessment process had been terminated prior to contract launch on 30 January.¹⁹² Capita refuted this; they explained that they had first informed the MoJ via a telephone conversation, the date of which was not recorded, but suggested that the issue was evident in risk logs, relating to mid-January, which had been shared and discussed with the Department.¹⁹³ We were subsequently told that the MoJ had become aware that there was a delay in marking assessments from Middlesex University in mid-January but understood that ALS was in the process of discussion with other institutions to pick up the work; the MoJ was not aware of the date of termination until the NAO's investigation.¹⁹⁴

109. The assessment was also a factor in professional interpreters boycotting the new arrangements as they felt that their proficiency was already proven through the level of skills and experience required to achieve professional qualifications and to register with membership organisations. This frustration was exacerbated by the fact that they were initially expected to pay for their own (re)assessment.

110. Our evidence indicated that a considerable volume of interpreters on the supplier database have not been assessed to ensure that they could perform adequately at the tier to which they were assigned; it is not clear how many of them have provided services under the Framework Agreement. We heard from an interpreter who had registered with ALS and had been both assigned as tier 1 and offered a high volume of work despite: having refused to undertake an assessment; awaiting the results of her DPSI; and not uploading a valid CRB check or copies of qualifications or references. When she subsequently felt unable to accept work due to her lack of experience she drew this to the attention of ALS but the work offers continued.¹⁹⁵ In addition, we heard that interpreters who had been assessed to be operating sufficiently at a particular tier were offered assignments at higher tiers.¹⁹⁶

189 Qq 104–107

190 Qq 175–179

191 The agreement was officially terminated on 17 February 2012.

192 Q 194

193 Ev 64

194 Ev 69

195 Ev w15

196 Ev 109

Standardised pay and conditions

111. Under the draft Framework Agreement, fees for interpreters were reduced and restructured according to tier. Rates no longer include travel time and are now paid hourly; they are: £22 for tier 1 interpreters; £20 for tier 2 interpreters; and £16 for those operating at tier 3, with higher rates paid for weekends and bank holidays.¹⁹⁷

112. Previous rates of pay for court interpreters had been under the control of the Department to some extent as they were negotiated through the National Agreement which continues to operate in some areas of the justice sector not yet signed up to the Framework Agreement. Interpreters were paid a fee of £85 for up to three hours work, including travel time, plus £7.50 per quarter hour thereafter. Higher amounts could be earned by working anti-social hours—as continues to be the case—and by undertaking other interpreting work which was not governed by the Agreement.¹⁹⁸ Despite allegations that previous rates of pay were too high—for example by the previous Parliamentary Under Secretary of State, Crispin Blunt MP, who cited six-figure salaries—an ITI survey in 2011 found that the average annual income of an interpreter was £15,000, although for some rarer languages it could be up to £35,000.¹⁹⁹ We heard from several individual interpreters who had earned far more modest annual incomes than these.²⁰⁰ Expenditure on interpreting increased slightly after the A8 countries joined the EU in 2004 but had been generally stable since 2008.²⁰¹ The relative stability of costs may be explained by the fact that there had been no increase in interpreter pay under the Agreement since 2007.²⁰² Most recently costs had fallen: the total spent by the Court Service on interpreters fell by 13% from £49.2m in 2009–2010 to £47.2m in 2010–2011.²⁰³

113. Dr Francis Beresford estimated that under the new contract there had been reductions in pay of 28–73% for court work and 33–43% for tribunal work, depending on the length of the assignment and the amount of travel.²⁰⁴ Ms Lee of the Professional Interpreters' Alliance, supplied us with a sample comparison of the post and pre-rates for a typical case which indicated that fees had been restructured to such an extent that interpreters working through ALS were being paid less than the minimum wage.²⁰⁵

197 The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 1.13; Mileage rates were increased to 40p per mile and interpreters were offered a £5 incentive for bookings accepted through the portal; Law Gazette online, *Interpreter problems 'unacceptable' says Ministry*, 24 February 2012

198 Ev w28

199 Ev 83, Ev w44

200 See Ev w34

201 Ev 83

202 HC Deb, 10 October 2011, c155

203 Ev w9

204 Ev 107

205 Ev 120

Table 2 Comparison of rates of pay to court interpreters. Applied Language Solutions (ALS) and National Agreement (NA)

Distance: 29 miles return Travel time: 2 hrs	ALS	ALS	ALS	NA rates 3 hrs min
Total hours (attendance + travel time)	3	4	5	5
	10am–11am	10am–12am	10am–1pm	10am–1pm
Attendance fee:	£20.00	£40.00	£60.00	£85.00
Travel time: 2 hrs	£0.00	£0.00	£0.00	£30.00
Mileage: ALS 40ppm after first 20m = 9 miles NA 25ppm = 29 miles	£3.60	£3.60	£3.60	£7.25
Parking expenses				£9.00
Public transport				
Total payment	£23.60	£43.60	£63.60	£131.25
Parking (2 hrs minimum) [1]	-£5.00	-£5.00	-£9.00	-£9.00
Fuel cost [2]	-£5.28	-£5.28	-£5.28	-£5.28
Total travel expenses	-£10.28	-£10.28	-£14.28	-£14.28
Income net of travel expenses	£13.32	£33.32	£49.32	£116.97
Gross income / hour *	£4.44	£8.33	£9.86	£23.39

Data Source: *Professional Interpreters For Justice*, see Ev 71

* Gross hourly rates for self-employed interpreters liable to pay Income Tax and National Insurance, who have no pensions, holiday of sick pay and no job security.

[1] Nearby car park: Bell St. <http://www.lrparking.com/tariffs>

[2] Fuel calculator: <http://www.fuel-economy.co.uk/calc.shtml> Approx. Journey Cost on 22/9/12: £5.28 (29 miles, estimated MPG 35, Fuel Cost: 140.15 pence/Litre)

– According to the AA, the cost of running a petrol car costing up to £14,000 is 45.91p per mile; for petrol cars costing between £14,000 and £17,000 this rises to 59.83p (assumed annual mileage of 10,000) (2012 figures).

114. NAO modelling estimated the reduction in interpreter pay under the new arrangements as initially 20% dropping to 8% after Capita-ALS altered the terms.²⁰⁶ Dr Francis Beresford and Ms Lee submitted evidence alleging that there were errors in this modelling. According to Dr Beresford the rates used by NAO did not include travel time, travel expenses or parking which were previously routinely paid but excluded under the new Framework Agreement, in addition they were based on police rather than court work.²⁰⁷

²⁰⁶ The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 1.13

²⁰⁷ Ev 107

115. Gabrielle Cohen, Assistant Auditor General, subsequently explained that the NAO's modelling was based on the only available data, those which had been used by the MoJ in procurement. While these data were not as comprehensive as the NAO would have wanted, they did provide a range of possible work scenarios for interpreters, based on, for example, the number of interpreter bookings taken, the length of appointments, and travelling time and distance. She further stated: "We believe that the infinite variability in the different pay levels experienced under different scenarios sufficiently explains the difference between the results obtained from our model and that produced by Professional Interpreters for Justice".²⁰⁸

116. One of the primary means by which ALS sought to achieve the savings it promised was through this reduction in rates of pay to interpreters. Mr Rosenthal was robust in his response to this approach:

In looking at paperwork around this contract, it appears that, during the tender phase, ALS claimed it could make savings of roughly one third, based on management efficiencies. Given that actually it has simply used a cudgel to knock down rates of pay within a monopoly situation that it has been handed from £30 an hour to £20 an hour, I would gently suggest that it has achieved savings of one third by sledgehammering its suppliers.²⁰⁹

Others echoed this sentiment, describing the new terms as "frankly insulting" and "unacceptable", particularly as they had invested significant resources in getting the necessary qualifications and regulation.²¹⁰

117. Mr Handcock considered that quality—in the sense of the provision of sufficient tier 1 and 2 interpreters—and pay rates are matters for Capita.²¹¹ Nevertheless these were sanctioned by the MoJ as they had been agreed between the Department and ALS in formulating the Framework Agreement and, as we noted above, this was done in the full understanding on the part of the MoJ of how the bulk of the savings were to be achieved.

118. According to the NAO, the MoJ did not verify ALS' claims regarding what would amount to an appropriate reduction in pay rates. We sought further clarification from the Department on this matter. In response to stakeholders' concerns about rates of pay raised in the April 2011 consultation on the Framework Agreement, the Ministry of Justice explained that it tested bidders in the competitive tendering process to ensure that rates of pay would be sufficient to ensure they would attract and retain suitably qualified linguists.²¹² This "test" comprised questioning bidders about market rates, and verifying them using a pay comparison website.²¹³ As we noted above Mr Wheeldon told us that rates were based on: the work that ALS had been doing for the police in the North West;

208 Ev w124

209 Q 28

210 See Ev w13, Ev 109

211 Q 192

212 Ev 53

213 Ev 69

their work in other sectors; and rates in the Scottish system which he said were 30-40% lower.

119. Conversely, we were told that as the nature of police and court work differs, the former could yield higher incomes than the latter within the same rates.²¹⁴ For example, in the majority of police cases work does not last more than two hours, and it can wait for an interpreter, unlike courts; this meant that in the North West ALS could 'sequence' jobs relatively easily and do so with a relatively small pool of interpreters. The difficulty of applying the principle of back-to-back assignments to courts is that interpreters are required to be in situ for significantly longer than the actual interpreting time in the court room, due to both the unpredictability of court scheduling and the requirements of legal professionals who need assistance outside the court room. For example, a crown court case may require an interpreter to keep a full day to be kept free waiting for the case to be heard.²¹⁵ We discuss further in the following section how these changes in remuneration impact on fulfilment rates.

120. In addition, if no travel time is paid and the minimum time for a single job is one hour, two police jobs would give a significantly higher hourly rate of pay to interpreters than a one hour magistrates' court job which may require additional time to be spent with defendants and legal professional outside the court. We were also told that under the North-West police contracts rates paid to qualified interpreters operating at tier 1 had actually been raised from those initially offered to between £30 and £35 per hour.²¹⁶

121. Being booked by the hour may also act as a disincentive for interpreters to complete jobs that take longer than planned.²¹⁷ This may account for the reports we received of interpreters leaving courts in the midst of proceedings to attend other jobs or after the hour assigned.²¹⁸ This also causes inconvenience to courts. The Senior Presiding Judge noted that as interpreters are booked and paid for only from the moment that the case is listed, they no longer arrive early to assist in pre-conference hearing conferences so these discussions delay proceedings.²¹⁹ ***It is unreasonable to expect interpreters to be available for as long as they may be required and not paying for the full time actually required.***

122. There is a question over whether pay has actually been standardised in practice. Some individual witnesses, including interpreters and a solicitor, alleged that Capita-ALS was fulfilling some jobs by paying higher fees to interpreters through negotiation.²²⁰

123. ***We conclude that under any scenario the levels of remuneration available to interpreters servicing the justice sector have significantly reduced. This in part explains why NRPSI interpreters have refused to work under the new arrangements and this in turn impacts on the ability of the contractor to fulfil jobs at a rate which meets demand.***

²¹⁴ Ev 83

²¹⁵ Ev w44

²¹⁶ Ev 83

²¹⁷ See online consultation report for examples.

²¹⁸ Ev w44

²¹⁹ Ev 108

²²⁰ Ev w13, Ev 109, Ev w36, Ev w44

The 2001 Auld report recommended a review of the level of payments to interpreters with a view to encouraging more of the best qualified interpreters to undertake work and to establish a national scale of pay. The same interpreters now feel that they have been forced to leave the market.

124. *The bulk of the savings accrued in contracting ALS to provide interpreting services appear to stem not from the resolution of administrative issues which were causing inefficiencies, and were a key factor motivating the change, but from a reduction in interpreter pay. In devising the new pay structure the Ministry of Justice and ALS failed to appreciate the differences between court work and police work that would result in court interpreters being unable to achieve a sustainable level of income. We recommend that the MoJ audit the true amounts that are being expended on interpreter pay and travel by Capita TI to establish whether the contractor is providing a level of remuneration that is unsustainable and may already be having a deleterious effect on the quality of interpreters that will be available to the justice sector in future. In order to ensure that the best qualified interpreters are available to courts and tribunals it may be necessary for Capita to further increase the rate of pay for the highest qualified at tier 1.*

The online portal

125. The service provided by ALS centres on an online portal with automated systems for: interpreter registration and credentials; bookings and cancellations by justice sector customers; publicising work to interpreters of the appropriate tier; interpreter acceptance and cancellation of bookings via text; payments and their verification; and complaints.

Backlog in complaints

126. The high volume of complaints received during early implementation caused a severe backlog, highlighting inadequacies in the complaints system, which did not have sufficient back-office systems, including staff and server capacity, to cope with data submitted to the online portal.²²¹ This inability to handle the level of complaints resulted in unacceptable delays in their resolution. One magistrate described his complaints as having been “fobbed off for months”.²²²

Failure of basic vetting procedures

127. We heard that there were similar failures in basic vetting procedures, including systems for recording their verification.²²³ The intention of the Framework Agreement was to implement a higher level of security checks than under the previous arrangements; interpreters were expected to have an enhanced criminal records bureau disclosure.²²⁴ For example, between January and July 20% of applications for vetting by the police were

²²¹ The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 3.5

²²² Ev w17

²²³ Q 94

²²⁴ Ev 30

turned down.²²⁵ In addition, freedom of information (FOI) requests to Warwickshire Police on the number of applications for vetting by ALS for interpreters indicated that levels of security checks were substantially lower than the number of interpreters purportedly available to work.²²⁶ We heard examples from interpreters registered with ALS, and from those who had created spoof identities, of unverified credentials qualifications, references, personal details, and security checks.²²⁷

128. *ALS and Capita paid lip service to the regulatory duties accepted under the Framework Agreement. The inability to cope with complaints and the failure of basic vetting procedures are key examples of ALS' lack of capacity to deliver on its promises to the Ministry of Justice.*

Perverse incentives within the system

129. The rates of pay, removal of the three hour minimum booking, the loss of cancellation fees, and the payment of travel expenses only for journeys longer than an hour, together have created a disincentive for interpreters to take court jobs near to where they live, or to accept work at anything other than short-notice, to reduce the risk that they will turn up only for the job to be cancelled.²²⁸ Two responses to our online forum illustrated these tensions:

I should stress that it only makes financial sense for me to accept bookings for assignments I have to travel to over 100 miles. It does not make sense to accept even longer bookings (i.e. trials) as if they do not last as long as they were supposed to, interpreters are not paid any cancellation fees (but have to make themselves available for the whole length of the trial/refuse other work due to that commitment). We spend most of our time driving/travelling to the venues which must affect our performance.²²⁹

Capita often ask me to work a long distance from home and at short notice but I never accept. Travel means such assignments take up an entire day and Capita are unable to offer me what I earn from a day on other projects. They would get closer if they guaranteed more than an hour's pay for long distance assignments, paid travel costs and travel time in full, and paid for accommodation when they want an interpreter to travel several hundred miles and appear at 10am. A change here appears essential since Capita stated in evidence to the Justice Committee they will never meet the KPI committing them to find an interpreter within 25 miles of the client for 95% of assignments.²³⁰

130. This is exacerbated by a problem intrinsic to the automated system that all available jobs are texted to relevant interpreters. This provides an incentive to book multiple

225 Ev 83

226 Ev 109, 83

227 See Ev w9, Ev w20, Ev 109, Ev w36, Ev w82, Ev w83, Ev 53

228 See online consultation report, Ev w34, Ev w39, Ev 83

229 Dmn, respondent to online consultation, see Annex

230 Babelfish, respondent to online consultation, see Annex

assignments and to cancel work at late notice having chosen the one likely to yield the most pay, for example, a job that is further away as above, or that is guaranteed, unlike, for example, a whole day booking for a crown court case that may be adjourned.²³¹ The system itself thus increases the likelihood that jobs will not be fulfilled. The indirect nature of booking arrangements also makes it harder for the same interpreter to be booked throughout proceedings resulting in a loss of continuity for the other participants in the case and a loss of interpreter knowledge about the entirety of the case which would presumably aid interpreting.²³²

231 Ev 83, Ev w44, Ev w82

232 Ev 108

6 Steps taken to rectify under-performance

131. The MoJ, ALS and Capita have taken a number of steps to rectify the underperformance of translation services; these have involved measures taken internally by ALS and Capita and joint steps taken with the MoJ to reduce demand whilst problems are resolved and to enhance the oversight of the contract.

Initial steps taken to rectify under-performance

Restricting the volume of work

132. When operational problems first emerged HMCTS quickly reverted large parts of its business to old arrangements and went back to booking interpreters directly. Mr Hancock explained:

[W]e had a contingency plan; we hadn't disbanded the teams of people that had been doing the work inhouse. We tracked where they had gone, where they had been redeployed, so that we could reassemble them very quickly. So we still had the capacity across Courts and Tribunals to revert bookings. It became obvious, really about midway through the first week of contract, that it was problematic. We were getting feedback very quickly that bookings weren't being fulfilled in the right numbers. So we immediately took back all of our short notice bookings; in effect, we took back about 20% of the work. We did that because we were then catching the failures, if you like, so we were wicketkeeping the ALS system for a while, and to a small extent we are still doing that. So within about 10 days of contract problems we were on the problem and we had our own teams of people picking up the slack.²³³

Enhanced oversight by the Ministry of Justice

133. The MoJ procurement directorate is responsible for oversight of the contract. A recovery team was established which has been closely engaged with ALS and Capita in attempting to resolve outstanding problems.²³⁴ Project board meetings have been held regularly to monitor the execution of the Framework Agreement. In the interim the procurement directorate receives updates from Capita TI including: i) a daily email with booking request fulfilments and commentary on language where performance has failed; and ii) a weekly summary report detailing: venues where performance was below 90 per cent; the top five problem languages; top three areas of complaint; performance against complaints; and the actions that have been taken to rectify the problems detailed. Following the NAO report, the MoJ also began monitoring the number of interpreters available to ALS as well as their vetting and skills. The MoJ threatened to rescind the contract on 22 February 2012 and began to penalise Capita-ALS in the following May. The level of penalties applied is discussed further below.

²³³ Q 203

²³⁴ Q 192

Investment by Capita

134. When problems first surfaced, Capita enabled ALS to draw upon Capita's wider resources and skills to enhance and strengthen its service delivery. In September, Capita estimated that they had invested in excess of £3.5 million to rectify the service inadequacies—which had not been foreseen at the time of the acquisition—by establishing a team of experts to support process implementation and to provide management information. Investment in staffing included the provision of 75 FTE additional staff to work with bookings and improved handling of calls and complaints. Capita also stated that it had: absorbed costs in relation to increased interpreter payments, bonuses and incentives and travel costs which were adjusted after implementation; invested in the IT system; and rectified inadequate processes and procedures.²³⁵ By the end of October, the amount invested had increased to £5.4m.²³⁶

135. Capita stated that it “do[es] not believe ALS would have achieved the service delivery improvement without Capita's operational expertise and financial backing.”²³⁷ Capita replaced all of the ALS senior management team as it felt that those involved had insufficient experience and capability to deliver the service, or handle and address the issues being faced by service users and the Ministry in its capacity as the commissioning public authority. They were not satisfied with ALS management's attitude to business process adherence, implementation planning, audit management, and service delivery. Mr Wheeldon told us he saw it “slightly differently”. He said: “[t]he route we may have taken with the Ministry of Justice would have been different had we not been part of Capita. The way we rolled it out and various other things would have been different, so it would be impossible to say, had we been on our own, what it would have looked like.”²³⁸

136. *ALS clearly needed significantly more resources than it had at its disposal to deliver the service levels that it promised under the Framework Agreement. The Ministry of Justice was only saved from its failure to conduct proper due diligence, or to take account of the views of consultees, and from the likelihood of subsequently being forced to terminate the contract, by the fact that Capita bought ALS and has been willing to invest heavily in the infrastructure required to salvage an operating model under the Framework Agreement.*

The extent to which remedial action has been effective

137. According to the MoJ, its work with Capita-ALS to rectify initial problems with performance and to develop a robust complaints process now meant that it was “of the view that the approach we have taken in outsourcing the booking of interpreters is one that works, and can provide savings to the public”.²³⁹ In asserting that the project was succeeding, Helen Grant MP pointed to the improvements and investment that Capita-ALS had made, and the joint work that the Department and Capita had made in relation to

235 Ev 52

236 Ev 64

237 Ev 52

238 Q 109

239 Ev 30

the portal, the use of it and the information that could be usefully taken off it, and cited higher fulfilment rates which were 3% short of the KPI at the time she gave evidence.²⁴⁰ Both the Senior Presiding Judge and the Magistrates Association noted recent improvements in performance, which the former described as “substantial”. But they had some outstanding concerns, and some witnesses from the interpreter community questioned the extent to which contract compliance had actually been improved by the joint work of Capita and the MoJ.

Improved fulfilment rates

138. Between 30 January and 31 August 2012, there were 72,043 ‘completed requests’ for language services. 8,222 (11.4%) of these were recorded as being cancelled by the customer i.e. HMCTS or NOMS. 11% of the remainder of ‘completed requests’ were not fulfilled by ALS, equating to an 89% fulfilment rate over the duration of the contract up to 31 August. By early November the rate was reported to be 95%.²⁴¹

139. We heard that there were some anomalies in these data which suggest that they are likely to represent a significant over-estimate of true fulfilment rates and therefore must be treated with some caution. As discussed above, the old arrangements continued to be in place in part throughout our inquiry. For example, the Involvis survey found that in August almost 80% of NRPSI members who responded were continuing to receive direct calls from courts wishing to book an interpreter. The NAO estimated that use of the old arrangements accounted for approximately one-fifth of interpreting work in courts and tribunals, and this was supported by Mr Handcock who told us this related to short-notice bookings.²⁴² When we sought verification of the volume of total requirements that ALS were providing at the time of our hearing with Capita in early November, Ms van Loo explained that in September and October they were “quite close” to receiving requests for 100% of the available court work and 85% to 90% of tribunals’ demand.²⁴³

140. In addition, we heard that cancellations by the customer might include cases where in reality ALS was unable to fulfil the request, for example, if a court rang ALS when somebody attended court too late for them to be of use, or with skills in the wrong language, and HMCTS or NOMS subsequently cancelled the requirement. The NAO established that complaints and material failures were in some cases being logged as customer cancellations.²⁴⁴ We were assured by Capita and the MoJ that this anomaly was a training issue which had been subsequently rectified.²⁴⁵

141. It has been difficult to ascertain what percentage of the total bookings and requirements for the courts service ALS has been operating in each month since the MoJ partially reverted back to the old booking systems. **Performance figures clearly do not**

240 Q 216

241 Q 125

242 Q 212; The National Audit Office, *The Ministry of Justice’s language services contract*, September 2012, para 3.10

243 Qq 124–125

244 The National Audit Office, *The Ministry of Justice’s language services contract*, September 2012, para 3.2. See also Q 32

245 Q 133–134 [Ms van Loo]

reflect the company's fulfilment against 100% of the requirements of HMCTS and they should be altered, retrospectively and in the future, to indicate this.

142. *The level of customer cancellations seems rather high. We recommend that Capita TI reissues guidance to staff regarding the logging of customer cancellations. We also recommend that the MoJ undertakes an audit of fulfilment data with a focus on the reasons for customer cancellations, and uses their findings to seek to reduce the level of these by its agencies' stakeholders.*

Variation in performance

143. The Senior Presiding Judge told us that he believed that ALS' performance in tribunals was more variable than in courts.²⁴⁶ MoJ and Capita acknowledged that there continues to be variance in performance across regions and jurisdictions.²⁴⁷ For example, the lowest rates of fulfilment for courts and tribunals are in the South West and Wales.²⁴⁸ We heard that as data on such variations have emerged, so more targeted recruitment of interpreters has been possible.²⁴⁹ Operational performance within other justice sector agencies appears to have been more positive. For example, the service level within NOMS had been very high, with fulfilment rates often reaching 100%.²⁵⁰ NOMS were reportedly very satisfied with this service; only three complaints had been made up to the end of August.²⁵¹ Ms Beasley told us that she understood that those police forces using the contract were also satisfied. The intention is that more police forces and the CPS would use the contract in future.²⁵² In addition, the new arrangements are not yet available to solicitors who require an interpreter for meetings with clients outside police stations and courts.²⁵³ *We are encouraged that the feedback to MoJ suggests that participants within agencies of the justice system other than courts and tribunals are satisfied with ALS' performance under the contract.*

Recruitment of interpreters to the supplier list

144. On 25th September there were 1135 interpreters on Capita's supplier list, 932 of whom undertook work in August.²⁵⁴ There had been an overall increase in the number of interpreters used by ALS since February but a decline since the period March to May 2012 when there were over 1000. This is likely to have occurred as checks, for example, on CRB status, and qualifications and experience, have resulted in suspension from the list in the absence of a full audit trial to verify them.²⁵⁵ Capita also reported to us a decline in the use

246 Ev 108

247 Q 129 [Ms van Loo]

248 Ev 64

249 Q 129 [Ms van Loo]

250 Q 233

251 Ev 69

252 Q 233

253 Ev 48

254 By early November the total number on the database had increased to 1167.

255 Ev 30

of lower tiered interpreters: 170 tier 3 interpreters supplied services for ALS in February and only 60 in August, equating to a 65% reduction. There was a 44% and a 49% increase in the numbers of tier 1 and tier 2 interpreters respectively.²⁵⁶

Local availability

145. In August 2012, Capita-ALS' performance levels against the distance indicator remained low, at 34%.²⁵⁷ Ms van Loo admitted that this KPI was not in reality achievable.²⁵⁸ Our evidence from the Magistrates Association discussed above indicates that the distances travelled by interpreters may have increased in comparison to the previous arrangements. Several respondents to our online consultation supported this. The following comments are indicative:

There were so many jobs in London and in the southeast of London without interpreter in my language; I live in the North Midlands which is very far from London, but because it is urgent, they were happy to pay me in my terms and condition, plus a train fare which is a fortune for buying a return train fare on the day to southeast of London. I felt it is like a joke as I know there are so many NRPSI in my language living in London but they all refused to work for ALS. The MOJ would save a fortune for taxpayer if using the old system, instead of using ALS.²⁵⁹

90% of the work ALS offers me requires me to travel 100–400 miles each way. Usually for a 09:30 appearance, which means I would leave for a job at around 04:00 AM. Travelling at this time for this distance, and not being even paid for the first hour each way is not tenable, and impacts on your alertness.²⁶⁰

146. There appear to have been some improvements in the availability of some less common languages. In August 2012 data from the National Register and ALS' supplier list were compared and the latter had a higher number of interpreters for nine languages and lower levels than the former in only one language.²⁶¹ Nevertheless, there may be concerns that those possessing skills in rare languages but who are not on the register of professionals may not be of sufficient quality; no distinction was made by the MoJ as to the tiers at which those on ALS' list were operating.

Reduced levels of complaints

147. There were 3,937 complaints for completed requests over the eight months to the end of August, equating to 5% of completed requests. In July, 6% of complaints related to quality. The Minister told us that performance was "getting better steadily and quite swiftly". She said complaints were going down. For example, in criminal courts the rate of

256 Ev 57

257 *Ibid.*

258 Q 130

259 BELIEVEINJUSTICE, respondent to online consultation, see Annex.

260 Fred, respondent to online consultation, see Annex.

261 Ev 53

complaints fell from 9.9% in February to 1.4% in August; in civil and family cases from 5.8% to 0.6%; and in the tribunals from 17.1% to 5.2% over the same period.²⁶²

148. Mr Fassenfelt observed that although the Magistrates' Association continued to receive complaints, especially about the standards of interpreters, the level of comments on performance had diminished, although he was not convinced that this fully reflected a genuine improvement in performance: "...I am not sure whether that is an impact of Capita introducing a different management team, whether the Ministry of Justice has got a better hold on the contract, or whether magistrates have just got fed up with moaning about it."²⁶³ Another witness, an immigration solicitor, similarly believed that complainants had become less likely to object, for example to prevent on-going adjournment and disruption to court proceedings.²⁶⁴

An improved complaints process

149. We heard that there is now a single register and a proper complaints system; if there are complaints against particular interpreters and they are upheld, Capita TI remove them from the list. The MoJ saw this as an improvement on the quality assurance processes in the previous system.²⁶⁵ For example, whereas previously court staff would only have been able to prevent an interpreter from working in their own court, the new system ensures that if interpreters are found not to be performing to the right standards, they are not used anywhere else operating under the Framework Agreement.²⁶⁶ On the other hand, if Capita TI suspends an interpreter from their list, that interpreter would still be free to take work from elsewhere, including within the justice system, as the complaint has not been investigated through their membership body. This is one of the factors motivating NRPSI to acquire statutory regulatory status.²⁶⁷

150. The online complaints process for users of the service is now backed up by dedicated staff and field-based relationship coordinators who work with justice agencies to resolve complaints. Capita's stated aim is now to resolve each complaint within one working week and in the process independent advice is often sought, particularly with regards to the quality of translations themselves. Up to 31 May 2012, the complaints procedure had led to mandatory familiarisation workshops for 120 interpreters; a further 9 interpreters had been told that their services were no longer needed.²⁶⁸ Some of our witnesses believed that there was a fundamental lack of transparency in complaints procedures as complaints made through the online portal went directly to ALS, which is also the service provider.²⁶⁹ This is discussed in the next chapter.

²⁶² Q 216

²⁶³ Q 50

²⁶⁴ Ev w72; See also The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 3.4

²⁶⁵ Q 214 [Ms Beasley]

²⁶⁶ Q 215

²⁶⁷ Ev w124

²⁶⁸ Ev 83, citing a letter from Peter Handcock to Sir Alan Beith, 31.5.12

²⁶⁹ Ev 34

Migrating work back to ALS

151. When the MoJ gave oral evidence they were in the process of piloting a new system for short-notice work at 19 magistrates' courts and a crown court. The remainder of this work was still being commissioned directly from interpreters under the previous arrangements. The MoJ was sufficiently satisfied with progress on this pilot that the Midlands and Northwest HMCTS regions had begun to return their short-notice bookings to the contract.²⁷⁰ Mr Handcock explained: "We will just watch carefully to make sure that that works and then we will begin to migrate the rest back. By the time we have been right round the country and finished the migration I suspect that almost all of the work will be back on contract."²⁷¹ The Senior Presiding Judge, Lord Justice Goldring, informed us in December that performance had improved to such an extent that he had recently agreed that all bookings in all magistrates' courts in the regions above should be done through ALS.²⁷² He told us that problems remained in courts obtaining interpreters at short notice, particularly for some less frequently spoken languages, and that performance in tribunals may be less consistent than in courts.

152. ***We are pleased to hear that service levels have improved markedly in recent months and that this will allow HMCTS to book all of the interpreting work it requires through Capita TI in the near future. We call on the Ministry of Justice to keep us apprised of fulfilment rates, and their estimation of the volume of work demanded by HMCTS that Capita TI are being asked to fulfil, on a monthly basis until we can be satisfied with the extent of improvement.***

Inaction in imposing penalties

153. No fines—known as service credits, which represented a percentage charge which could be levied for each percentage of underachievement against KPIs for the fulfilment of assignments and timely delivery—were imposed on Capita-ALS by the Ministry of Justice in the first three months of operation.²⁷³ The Ministry told the NAO that it had taken into account Capita's additional investment in its decision to waive what amounted to £11,000 worth of penalties.²⁷⁴ The MoJ subsequently told us that it also believed the emphasis was rightly placed on improving service performance at that stage.²⁷⁵ As we noted above, there had also been a threat to withdraw from the contract in February. These fines seem rather low in the context of a Framework Agreement reported to be worth £70 million over five years.²⁷⁶ Ms Lee told the Committee on 23 October 2012 that she calculated that the service credits and other penalties equated to approximately £15 per unfulfilled case which in her view was insufficient incentive for Capita-ALS to improve performance.²⁷⁷

270 Ev 53

271 Q 212

272 Ev 108

273 Ev 109; The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 3.9

274 Ev 30

275 *Ibid.*

276 The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 1.3

277 Q 36

154. The Ministry of Justice also has the power to audit Capita. The NAO was critical of the fact that the Department had not done so by the time of their report, and, at that stage it had no plans to do so.²⁷⁸ The MoJ told us that it is now conducting spot checks and audits as part of its ongoing management of the contract; three sample audits had been undertaken by the end of October and the intention is to continue to audit at monthly intervals.²⁷⁹

The cost of remedial action and implications for cost savings

155. Several of our witnesses raised concerns that lower quality interpreting might increase costs elsewhere in the system, drawing our attention to many examples of: repeated bail and remand hearings, with defendants being remanded in custody unnecessarily in the absence of an interpreter; adjournments and appeals resulting in costs to legal aid; wasted court and police time; and irrecoverable proceeds of crime when prosecutions collapse.²⁸⁰ In instances where an interpreter does not attend, or is unsuitable, such as those described above, the court has had no other choice but to adjourn to a later time or date in the hope that an interpreter will be present. As we also noted above, the impact of this has been to delay progression of cases through the court system, sometimes repeatedly; to cause individuals to be remanded in custody overnight or for longer periods because of the absence of an interpreter; and to increase the overall cost of proceedings as advocates and others, including victims, defendants and witnesses, including expert witnesses such as the police and other public sector professionals, are required to return to court.²⁸¹

156. Despite the difficulties with the operation of the Framework Agreement, the MoJ claims it will save £15m in the first year, representing 50% of the estimated annual cost of interpreters under the previous arrangements.²⁸² While the annual cost of the contract is estimated at £15 million, Capita TI is only paid for what it delivers; the MoJ has estimated that this is likely to amount to between £6 and £10m over the first year. Mr Parker admitted that Capita TI had not yet made a profit from the contract, although he hoped that they would begin to do so in the next financial year.²⁸³

157. The MoJ has projected some direct annual costs that it was likely to incur as a result of the problems with the contract, including £4 million for off-contract payments to interpreters under the old arrangements, primarily for short notice bookings, and £60,000 for increases in ineffective trials in magistrates' courts.²⁸⁴ Ms Beasley explained why the estimate for ineffective trials seemed low: "Our estimate is that for an ineffective trial in the magistrates' courts the cost is about £650 and it's about £1,500 in a Crown court. It depends crucially on the assumptions that you make about what people do when a particular trial is ineffective. If you are the solicitor in the case, you have probably so much work to do that you maybe waste a very short period of time at court and then you would

278 The National Audit Office, *The Ministry of Justice's language services contract*, September 2012, para 3.9–3.13

279 Ev 69

280 See Ev w13, Ev w51, Ev 120

281 Ev w13, Ev 15

282 Ev 53

283 Qq 171–2

284 Ev 53

go on and do other work.”²⁸⁵ While there has been a doubling of ineffective trials, overall, there are still relatively few. Other assessments place the costs, for example of a Crown Court retrial, significantly higher, for example, for one trial which collapsed after four days following interpreter error, the wasted expenditure was estimated at £25,000.²⁸⁶ In addition, these calculations do not include the cost of adjournments of court and tribunal hearings that were not related to trials.

158. In October, the Ministry provided us with an update on its expenditure: the actual off-contract payments amounted to £1.55m between February and the end of September. The initial monthly costs of reverting back to the old booking systems were £500,000; by September this had fallen to just over £70,000.²⁸⁷ Initial estimates did not include any savings on administration and excluded agency administration. The Ministry has not estimated the additional level of administrative expenses that will have stemmed from Capita’s underperformance and dealing with the high volume of complaints and additional monitoring that has been required by HMCTS and the MoJ; these are likely to amount to considerably higher administrative expenses than under the previous system.²⁸⁸

159. Several of our witnesses believed that this underestimated the true public cost of underperformance. We heard from one solicitor’s firm that felt there was no option but to obtain Legal Services Commission funding for an independent interpreter to attend all hearings as the quality of the interpreters at the Immigration and Asylum Chambers could no longer be relied on; she estimated that costs to legal aid amounted to £400 in one particular case that has been adjourned, including independent interpreter fees, an additional hearing fee and the travel costs of the advocate.²⁸⁹ There have also been examples of wasted cost orders being taken against Capita-ALS, for example, a recent case in Cambridgeshire resulted in Capita-ALS being requested to pay £500 for prosecution costs, £160.75 for defence and the bus fare for the defendant.²⁹⁰

160. The various ancillary costs appear to have proved difficult to quantify. Neither the Magistrates’ Association, nor the Law Society, were able to provide us with any assistance in quantifying the extent of disruption to court proceedings which has stemmed from problems in implementing the Framework Agreement.²⁹¹ The Ministry of Justice was unable to answer a parliamentary question regarding how many civil court cases had been adjourned as a result of a lack of an interpreter.²⁹²

161. *While the contract is delivering significant cost savings to the Ministry of Justice, these are not at the level promised. Additional costs are currently being borne by the contractor and there may be future ramifications for the Department when it comes to re-commissioning interpreting and translation services if these financial issues are not*

285 Q 217

286 <http://www.bbc.co.uk/news/uk-england-london-17709440>; Ev w119; see also Ev 120

287 Ev 69

288 Ev 107

289 Ev w13

290 Ev w28; See *Oxford Times*, Drink Driver went wrong way down an M40 slipway, 14 December 2012

291 Q 46

292 HC WA, 19 October 2012, col 482W

resolved. We are concerned that the existing arrangements are financially unsustainable in the sense that Capita TI is propping up the continuation of the Agreement, so the Department's savings are effectively being secured at the company's expense. There is a distinct risk that the MoJ will not be able to continue to realise the same level of cost savings in the future and that when the time comes to re-tender the contract there may be an insufficient supply of professional interpreters to furnish it. The MoJ would then be left with fewer savings and an enduringly poorer quality of service. The MoJ must get a better grasp of the costs of underperformance. It is unacceptable that existing cost figures do not account for cases that have been (repeatedly) adjourned because of interpreting problems and those in which a defendant has been unable to apply for bail and has consequently been remanded in custody. In its response to this report and at regular intervals thereafter we call on the Ministry to inform us of its updated assessment of its cost savings.

Embargoed advance copy: Not to be published until 00.01hrs on Wednesday 6 February 2013

7 Future priorities

162. In assessing the extent to which the Framework Agreement was operating effectively the Minister focused on the fact that the NAO's investigation had concluded that the MoJ should fully implement the contract: "If the contract was not good, if there was no confidence in it, then surely the National Audit Office would have said leave it".²⁹³ Nevertheless, she conceded that despite the improvements described in the previous chapter the MoJ continued to have some concerns about performance in certain geographical areas, certain jurisdictions with certain languages, and she recognised there was no room at all for any complacency. She explained that Capita's priorities were to: devise a new assessment; recruit more interpreters; and to develop career progression within the tiers; as well as to work with the Department to implement the recommendations of the National Audit Office, which also included completing checks on interpreters and the commissioning of an independent assessment of whether the new quality standards are appropriate. She further acknowledged that to get the contract operating to the standard the Department would like to see would require working "creatively and carefully and cleverly".²⁹⁴ In this chapter we consider each of these areas and draw our own conclusions about the ongoing priorities for the MoJ and Capita TI.

Further recruitment of interpreters

163. Ms van Loo described what ALS was doing to further improve fulfilment rates by attracting new interpreters based on the information it had collated on the languages required and locations where they are required:

"We have a recruitment plan in place, which we are executing at the moment, which involves building relationships with awarding bodies and universities. We also work with the criminal justice organisations and ask for their support in terms of the interpreters that were working previously within the system. They may contact those interpreters and ask if they would be interested to work for us, so that is another opportunity for us. That has been very successful."²⁹⁵

In the week commencing 5th November 2012, 20 new interpreters were recruited.²⁹⁶

164. ***We are surprised that there is no absolute target of numbers of interpreters for the supplier database. Before the MoJ seeks to rollout the operation of the agreement fully to the Crown Prosecution Service it must ensure that Capita TI has determined a defined minimum necessary to deliver that work. We also consider it necessary for the MoJ to undertake or commission some work to establish more clearly the requirements of the CPS than was done in respect of HMCTS.***

²⁹³ Q 216

²⁹⁴ Q 208

²⁹⁵ Q 126

²⁹⁶ Ev 64

The absence of assessments

165. The MoJ described the backlog in assessments as “challenging” to resolve because of difficulties between ALS and its independent contractors in marking assessments, and the lack of qualifications to benchmark against for some of the rarer languages.²⁹⁷

166. As we concluded our inquiry Capita TI and MoJ were in the process of agreeing a new approach to assessment as they conceded that the one in the contract was not feasible. Capita’s proposal is for an interview based approach to the verification of interpreters’ experience within the criminal justice sector, followed by an induction process, including a work shadowing assignment, and adherence to the code of conduct.²⁹⁸ The MoJ gave Capita considerable time to make alternative arrangements for assessment. ***We support the new approach planned for assessing interpreters provided that Capita TI ensures that any quality assurance elements that underpin it are appropriately tight and rigorously monitored.***

Developing career progression

167. Capita is required under the Framework Agreement to ensure that those on its supplier list have access to continuous professional development. This was not compulsory under the previous arrangements but membership of a professional body usually comes with the expectation that an individual will actively maintain and update their skills; this can be time consuming and costly.²⁹⁹ In evidence to our inquiry on the budget and structure of the Department ALS made the following reference to its approach to quality assurance: “Assigning qualified and experienced linguists to assignments and insisting on continuous professional development, while reducing operational inefficiencies, remains our focus. We are determined to get the service running at a level that meets the MoJ’s requirements, provides transparency of opportunity for linguists and fully supports the justice sector.”³⁰⁰ Other than a reference to familiarisation training by the NAO, we received little evidence on how Capita is satisfying this requirement. When we asked Capita for further information on this matter they explained that criminal justice workshops had been introduced for interpreters already familiar with the criminal justice system, and who have previously undertaken work in the sector, for example, those who had been working for the police but not in courts.³⁰¹ We heard that this constituted very basic training delivered by someone without experience of legal training.³⁰² It appears that no work was under way to provide access to professional development until recently. As we concluded our inquiry we learned that Capita had recently “engaged an industry expert” in identifying and preparing training for interpreters, and we heard that some training needs had been identified through the workshops described above.³⁰³ ***We are dissatisfied that Capita TI has failed to provide for those on its supplier list a proper programme of***

297 Ev 30

298 Ev 64

299 Ev w82, Ev 38

300 HC (2012–13) 97-II, Ev 171

301 Ev 64

302 Ev w3; see also Ev w17

303 Ev 64

professional development almost one year after it began operating under the Framework Agreement.

Completing monitoring checks

168. There was apparent uncertainty in our evidence as to whether the aim of the contract was merely to act as a booking system or to provide a quality of service, which would include monitoring the quality of interpreting and managing regulatory aspects as well as the logistics. Mr Parker attempted to explain to us Capita's role in quality assurance:

“We are responsible for the quality of the interpreter that attends. As part of this, what we can't actually warrant is what happens when the interpreter is in court. If we then received issues from that court about the quality, we would investigate, and, as has happened in some cases, the ultimate sanction would be to remove the interpreter from the available list” and “...all we are doing is matching someone's qualification against the tiering that was agreed, [with the MoJ], at the time of the contract.”³⁰⁴

169. Since the NAO highlighted numerous difficulties with ALS' own approach to quality assurance, and the MoJ's initial failure to provide sufficient arrangements for independent monitoring, there is now regular monitoring by MoJ. For example, the MoJ is now routinely inspecting Capita's register of interpreters and the work it has done to check qualifications and tiering. Mr Handcock suggested that this gave “a very high degree of assurance about the people on their books and the people that they are supplying. That wasn't the case in the beginning, but we have put that right.”³⁰⁵ As we noted above Capita also assured us that its investment had enabled it to rectify inadequate processes and procedures. The Minister hoped that Capita TI would be delivering against its performance indicators by March 2013, the end of the financial year.³⁰⁶

170. Nevertheless, Ms Lee and respondents to our e-consultation, among others, continued to express doubt that the criteria for qualifications at the appropriate tiers had been met and verified.³⁰⁷ These concerns may well have justification. On 24th October 2012, the MoJ audited a sample of 30 interpreters registered with Capita TI; one-third of the sample required further documentation to prove their qualifications at the appropriate tier and one did not have appropriate security checks.³⁰⁸ Since the oral evidence hearing took place, on 1 November, Capita TI sent emails to some workers registered with it, asking them to provide proof.

171. It is clear that the contractual terms regarding the appropriate qualifications and CRB checks for those servicing the contract continue to have been flagrantly disregarded until very recently. We are dismayed that a contractor should apply such an apparently lackadaisical approach to verifying qualifications and executing appropriate vetting.

304 Qq 164, 167

305 Q 192

306 Q 208

307 Ev 120; see Ed2005 and Dmn, respondents to online consultation, see Annex.

308 Ev 69

While there have been improvements these have taken a very long time to achieve, even with the considerable performance improvement resources at Capita's disposal. We are concerned that the Ministry of Justice has so recently found evidence that questions persist as to whether interpreters on the supply list are meeting appropriate quality requirements in terms of having properly verified qualifications and experience as defined under the tiered system. We are not yet satisfied that there are sufficient safeguards currently in place to ensure that only suitably qualified interpreters are providing services to HMCTS.

172. *We welcome the Department's efforts to quality assure the work of Capita-ALS in implementing the Framework Agreement, but we believe that, in the absence of an independent regulator, this mechanism should have been in place from the start and we are concerned that regular monthly checks continue to be necessary some nine months or so into the operation of the contract.* The Ministry of Justice has shown ALS, and subsequently Capita TI, considerable leeway in not rescinding the contract despite ongoing breaches of their obligations under the Framework Agreement, and has presumably had to devote more resources than expected to close monitoring of the contract. We ask the Ministry of Justice in its response to this report to provide us with an estimate of the administrative costs of providing such a considerable level of oversight of the contract.

Enduring concerns about quality standards

173. While it is probable that the poor quality of services provided stemmed partly from a failure on behalf of ALS to put effective systems in place to underpin its delivery under the Framework Agreement, the evidence indicates that there are more fundamental problems within the new arrangements which could have a more enduring detrimental impact on interpreting in the justice sector. We consider these concerns from the perspective of the judiciary, magistracy, legal professionals and the interpreter community below.

Regaining the confidence of the judiciary, magistracy and legal professionals

174. The Magistrates' Association and the Law Society were in agreement that the service continues to require improvement with regard to the quality of interpreters provided.³⁰⁹ Mr Fassenfelt was clear that the existing arrangements did not give magistrates confidence:

"If [confidence] starts to leak away, as officers of the court, we will have serious concerns in the future about interpreting services [...] [The Magistrates' Association] feel[s] that for magistrates to gain that trust and confidence there needs to be some form of divide between the [regulatory and service provision functions] [...] There needs to be independent monitoring of the contract. I do not see that happening now. I see the provider—the contractor—doing the monitoring. To me, that does not give the confidence that we need as a magistracy."³¹⁰

309 Q 57

310 Qq 55–58; see also Ev w17

The Senior Presiding Judge believed that the quality of ALS interpreters remained variable, and that this was continuing to cause disruption to court proceedings, and meant that the general view of tribunals was that arrangements were not yet as reliable as the old arrangements.³¹¹ These fears were similarly expressed by other stakeholders. Annette Elder of Elder Rahimi Solicitors, who specialise in immigration and asylum, said: “we are returning to a situation of unskilled and inexperienced interpreters being used which is simply unacceptable and shameful in the context of particularly asylum and human rights protection cases.”³¹² The Minister felt that the higher fulfilment rates and lower complaint rates should be sufficient to restore confidence.³¹³

175. At the time of the MoJ’s initial memorandum we heard that there were remaining issues for frontline staff and the judiciary which the Department was seeking to resolve with Capita-ALS. We asked for clarification of the nature of these matters and were told that together they were reviewing quality standards and seeking to attract additional qualified interpreters to the work.³¹⁴ The MoJ has also been working to improve internal processes, for example, relating to financial assurance and guidance on complaints and compensation, and to produce more detailed guidance on appropriate use of interpreters, presumably related to the tiering system.³¹⁵ We also heard from the Senior Presiding Judge that there were two judicial representatives on the HMCTS project board which is working to manage the contract.³¹⁶

176. Capita explained that there was a continuous process of improvement, underpinned by ongoing dialogue with MoJ and its customers:

“We continue to work closely with the courts, and, actually, where we have worked very closely with the courts, such as City of Westminster, we are now at 99.5% fulfilment. So we believe the contract is improving all the time. Are there certain things that we’d like to change? We talk to the Ministry of Justice all the time about that, about things both ways, about where we think improvements could be made, but until our customer tells us otherwise we will continue to deliver the service.”³¹⁷

177. *Notwithstanding the progress that has been made, we consider that the Ministry of Justice and Capita TI have much hard work ahead of them to restore the trust of sentencers and the legal profession. We recommend that the MoJ considers negotiating with Capita TI to replace the distance indicator with an indicator of quality, for example, a user satisfaction measure.*

311 Ev 108

312 Ev w13

313 Q 216

314 Ev 69

315 *Ibid.*

316 Ev 108

317 Q 180

Ongoing inadequacies in the complaints mechanism

178. We received criticisms about the absence of an effective accessible complaints mechanism, and were told of instances in which there had been no feedback on complaints that had been made to the MoJ about poor service provision.³¹⁸ For example, one of our witnesses, Matthew Scott, a barrister practising in criminal law, explained that he had made a complaint directly to the MoJ but had received no response.³¹⁹

179. Mr Atkinson of the Law Society considered that an alternative mechanism for complaints would be very helpful. He explained:

“It would give some evidence base and alleviate some of the difficulties that we have experienced in giving our evidence, which has been primarily anecdotally based. We would then have a proper basis for looking at and analysing the problems, including the problems for those providing the service. It would allow us to look at whether there are geographical differences in the problems and at the numbers. If there were somewhere that lawyers could complain to, whose specific function was to receive those complaints, it would encourage them to believe that there was a reason to make a complaint, with the hope that that would lead to some improvement. If there were a direct service for them to report to, I think it would also lead to a higher level of reporting of problems.”³²⁰

180. Mr Hancock considered that the existing system was sufficient in that professional stakeholders could complain through the MoJ:

You have to bear in mind that Capita are our contractors and we don't think it would represent an appropriate standard of service to people who use the courts for us to invite them to pursue their own complaints with our contractors. We think that's our responsibility. We think it's our responsibility too, because when someone has a complaint about the provision of a service around a court hearing there may be any number of explanations for that and it might not be a Capita issue. We need to know that people are raising those complaints, first of all, so that we can ensure that it isn't some part of the court process that has caused the problem and, secondly, to ensure, for example, that if an interpreter has been found to be inadequate we know that as well. But, where that complaint is made by a legal professional, we will then put that complaint on to the complaints system.³²¹

In subsequent written evidence the MoJ committed to including the legal profession in its revised communications strategy and ensuring that they are aware of the best route for raising concerns with HMCTS.³²²

181. As complaints can only be submitted by those with access to the online portal there is no publicised mechanism for solicitors and barristers to register problems with interpreters

³¹⁸ Ev w17, Ev 109, Ev 34, Ev 47

³¹⁹ Ev w9; it should be noted that Mr Scott's wife is a professional interpreter.

³²⁰ Q 52

³²¹ Q 220

³²² Ev 69

supplied by ALS; this also denies end users of interpreting services, including defendants and witnesses, and members of the public, the right of complaint. Those professional stakeholders who do not have access to the online portal are not sufficiently aware that there is an alternative route for complaints directly to the MoJ. **We recommend that the MoJ establish a dedicated phone number for registering complaints about interpreter services for those stakeholders who do not have access to the portal, and publicise the existence of this complaint route. Data on the number of complaints received by this route, and the proportion of such complaints that are fed through to the portal, should be published alongside statistics on complaints made directly through the portal itself.**

Regaining the confidence of professional interpreters

182. Many witnesses from the interpreter community feared that the combination of the tiered system and the reduced levels of pay would have a sustained detrimental impact on the interpreter pool. It was evident from our discussions that there remain fundamental concerns about: the assessment process; remuneration; quality standards; a lack of independent regulation; a lack of transparency regarding control mechanisms; and the sustainability of professional interpreting in the justice sector. The Minister, Helen Grant MP acknowledged that it was “very, very important” for the Ministry to seek to build a “very good and close” relationship with the interpreter community to enable them to “move forward constructively together” and she agreed to do “whatever we can to make that happen”.³²³ ***We welcome the Minister’s willingness to engage in discussion with the interpreter community and we will monitor the outcome of these discussions.***

183. We were told that interpreters would continue to be reluctant to work until both standards and pay issues had been resolved. There is certainly convincing evidence that the sustainability of the system may be threatened. For example, the system was intended to improve the level of continuous professional development, yet some witnesses expressed concerns that reductions in pay would be likely to have the opposite effect as they would reduce interpreters’ incentive to undertake training and development.³²⁴ The University Council of Modern Languages counselled that the arrangements had the potential to create an enduring diminution of quality as in the future interpreters were unlikely to go to the expense of training to a high level if it is not requisite of employment in the justice sector.³²⁵ Indeed we were informed that there had been a “dramatic fall” in the take-up of the Diploma in Public Service Interpreting in the last year.³²⁶

184. When we asked our witnesses representing professional bodies and the national register what could be done to recover the situation, they concurred that in their view the Framework Agreement was “unsalvageable”.³²⁷ Mr Rosenthal explained this from ITI’s perspective:

³²³ Q 231–232; “Justice Minister invites interpreters to crunch meeting” Involvis press release, 1 November 2012

³²⁴ Ev w25

³²⁵ Ev w79

³²⁶ Ev w82

³²⁷ Qq 24–26

“In our professional view, as a professional body, the framework agreement as it stands is unsalvageable. I think it contains many false premises. The bottom line is that, under this framework agreement, existing professional qualifications have been ignored. The rates of pay that are offered under it are so low that qualified professionals are no longer able or willing to continue working in the court system. There are so many different concerns about it that we must recognise that the framework agreement as it stands is part of the problem and must be replaced by something better.”³²⁸

185. One of the most fundamental concerns expressed to us by NRPSI and PIJ was that they regarded the functions for which Capita-ALS was responsible—work provider; supplier; regulator; assessor of qualifications and competence; registrar of suitably qualified and competent interpreters, and disciplinarian—as fundamentally conflicting; in their view this enabled ALS to dictate recruitment, pay, price, quality and other factors, preventing fair competition and disadvantaging other existing and new suppliers.³²⁹ Furthermore Mr Sangster told us he believed that the resulting lack of independence in the monitoring of quality, competence and qualifications, and dealing with complaints potentially provided an opportunity for the contractor to “cloud, fudge, miss or ignore some or all of these issues” and consequently made it more difficult for the MoJ to monitor the effectiveness of the delivery of the service.³³⁰ In his view the Framework Agreement therefore needed to be “revisited and stripped apart”.³³¹ Ms Lee stated that she believed that the disciplinary function and the regulatory function, in particular, were not appropriate functions for a commercial agency and that these should be exercised independently, by independent bodies.³³² PIJ went as far as to propose that the previous system be reintroduced, while a feasible alternative was developed in proper consultation with interpreters’ organisations and the NRPSI.³³³

186. One example of a potential problem relating to the disciplinary function is that professional witnesses are called upon to review interpreting when quality or accuracy has been questioned; where a reviewing interpreter is reliant for work on the same agency that engaged the professional interpreter whose work is subject to review, there may be perceived pressure not to provide a negative report as this could impact on future work opportunities.³³⁴ Another example of the potential problems of ALS being self-regulating related to the complaints system which we discussed in the previous chapter. Ms Lee told us:

The professional institutes have codes of ethics and disciplinary frameworks and procedures in place. Those disciplinary frameworks include an appeals procedure. The full framework and procedure is published; it is transparent, and all parties know what to expect. Moreover, anybody is in a position to make a complaint to

328 Q 24

329 Ev 109, 42, Q 24

330 Ev 57

331 Q 29

332 Q 24; see also Mr Sangster Q 29

333 Ev 109

334 Ev w28

those professional bodies. With the new regime, under Applied Language Solutions/Capita, as far as we are aware and have been able to ascertain, there is no facility for anybody who is not a court employee to put in a complaint. The only channel for complaints is through the online portal.³³⁵

187. Not surprisingly Capita TI did not agree that the contract was unsalvageable. Ms van Loo told us that she saw the various functions Capita provided as complementary.³³⁶ The Minister similarly rejected this notion as the National Audit Office's investigation had concluded that the Department had very good reason to change the original contract and that the new arrangements should be fully implemented: "If interpreting organisations are saying it's unsalvageable and it is not good, then I am a little bit mystified now."³³⁷

188. Our witnesses representing the professional interpreter community and the national register also suggested that there must be a separation of some of the functions currently undertaken by the contractor. For example, Mr Sangster wished to see "an independent registrar to vet and approve the qualifications of interpreters employed under the FWA, and to deal effectively and impartially with complaints."³³⁸ One interpreter drew parallels with the Office of the Immigration Services Commissioner for immigration advisors or the Financial Services Authority for those providing mortgage and financial services.³³⁹

189. When we put these suggestions to the MoJ they stated:

"the Framework Agreement requires all interpreters to be qualified dependent on the tier. These qualifications are obtained independent of Capita/ALS from recognised educational institutes, examining boards or regulatory bodies. The customer and its stakeholders are a key element of overseeing the services. If the customer (MoJ, ACPO etc) is not content with the quality and skills of an interpreter then they can remove them from the register. However, interpreting and translation services cover many sectors and there would be many issues in regulating interpreters and translators. Whilst we have not given full consideration to the possibility of an independent regulator and arbitrator, the NAO recommendations were for the contract to be implemented fully with independent advice on the quality assessment to be obtained. We are working to implement these recommendations with Capita and the interpreting community, as well as other justice sector partners."³⁴⁰

190. *The failure of Capita-ALS to implement appropriate safeguards until, following the National Audit Office recommendations, they were required to do so by the Ministry of Justice, has reinforced the concerns of the interpreter community about the fact that the service provider is responsible for almost all functions. It has certainly taken some time, and the impetus of the NAO's investigation, followed by more rigorous monitoring by the MoJ, to highlight exactly where the problems lie and to see real progress in performance.*

335 Q 33

336 Q 135

337 Q 222

338 Ev 57

339 Ev w14

340 Ev 69

191. *Our evidence suggests that the most important priority for the MoJ is to establish whether the strengthening of quality assurance arrangements, and other work that has been done to remedy other problems, are sufficient to improve the quality of interpreting services provided to HMCTS under the Framework Agreement. We share the National Audit Office's concern that the existing safeguards of quality within the system may not be fit for purpose; if this is not addressed it is likely that the confidence of important stakeholders, including the judiciary, magistracy and legal professionals, will continue to be undermined, and that many professional interpreters will continue to be reluctant to provide their services. We support the National Audit Office's recommendation that these standards should be independently reviewed and look forward to seeing the results of that assessment.*

192. *Our evidence suggests that the concerns of many members of the interpreter community will not be dispelled by insipid and general responses from the MoJ on such issues as remuneration, and rebuilding trust, for example. It is likely that concrete safeguards will need to be negotiated, for example, following the independent review of the tiered system of qualifications proposed by the NAO, a proposal that we also endorse. The language used by the Minister in describing the path that the MoJ must take to move forward, appears to illustrate the Department's acceptance that the Framework Agreement requires some renegotiation, albeit through careful and creative cooperation with Capita TI. The Ministry and Capita TI must prove that the Framework Agreement is capable of attracting, retaining and deploying an adequate number of qualified and competent interpreters to meet the requirements of the courts and other agencies. This will also require the professional interpreter community to work flexibly with the Department in seeking to find an acceptable way to restore their services to the justice sector. It is essential that this is achieved before fully extending the reach of the contract to other justice agencies.*

193. We believe that ultimately there should be a regulation system that is independently organised to select and classify interpreters for the appropriate level of court and tribunal work, assuming that some form of tiering remains in place following the review, and ensure that they are held accountable for delivering to the standard required. In the meantime it is important that the functions of Capita TI in delivering quality assurance are clarified, and if necessary, further strengthened. In addition we consider that there is a strong case for a further review of rates of remuneration and modelling of the potential impact of increasing these rates, particularly for highly qualified interpreters, on registration rates.

The European Directive

194. The National Agreement complies with Articles 5 and 6 of the European Convention on Human Rights (ECHR) i.e. the right to be informed in a language one understands of the reasons for arrest and the right to a fair trial incorporating the right to have the free assistance of an interpreter.³⁴¹ PIJ and NRPSI expressed concern that under the Framework Agreement, the UK might be in breach of the requirements of EU Directive on the right to interpreting and translation during the criminal justice process [Directive 2010/64/EU]

which must be transposed into domestic law by 27 October 2013.³⁴² In particular their concerns related to the ability to adhere to Articles 2, 3 and 5 of the Directive, which ensure that interpreting and translation is of a quality sufficient to safeguard the fairness of the proceedings and that a register or registers of independent translators and interpreters who are appropriately qualified is established. This view was supported by Fair Trials International, barrister Matthew Scott, the European Legal Interpreters and Translation Association (EULITA), whose members include ITI and ACPI, and the International Association of Conference Interpreters.³⁴³

195. The NRPSI—which is already recognised by the European Commission as an independent register and voluntary regulator—proposed that, in order for the UK to comply, the Framework Agreement would have to be amended to the effect that face-to-face interpreters should be registered with NRPSI.³⁴⁴ The Minister told us that she was “quite satisfied” that the current contract met the standard that will be required under the EU directive.³⁴⁵

196. *The transposition into UK law later this year of EU Directive [2010/64/EU] on the right to interpreting and translation during the criminal justice process will prove a timely test of the appropriateness and robustness of quality safeguards embedded in the Framework Agreement and the efforts that have been made to strengthen them in the light of the reports of the National Audit Office and two parliamentary select committees.*

³⁴² Ev 109, 42

³⁴³ Ev w1, 5, 9, 76

³⁴⁴ Ev 42

³⁴⁵ Qq 224–225

Annex: e-consultation

Introduction

The Committee set up a web forum entitled the Court Language Services Forum in support of its inquiry into Interpreting and Translation services and the Applied Language Solutions contract. The purpose of the online forum was to encourage contributions from current interpreters providing services for ALS; the interpreting community in general; court and tribunal service staff; legal practitioners; members of the judiciary and magistracy; and defendants who have used ALS services. The Committee felt that due to the nature of the inquiry, some stakeholders would be reticent to provide formal written evidence and an online forum would provide greater scope for reflection on the provision of interpretation in the court and tribunal services by ALS. Following this, as in other e-consultations exercised by Select Committees, users were invited to give anonymous contributions to enable the fullest disclosure of experience.

Practicalities

The forum opened on the 17 October 2012 and ran until 5 November 2012.

The site was designed and created by the Parliamentary web-centre. During the registration process, users agreed to a set of discussion rules. The forum was moderated by Justice Committee staff- messages were checked to ensure that they adhered to the discussion rules before they were published on the forum. Posts that were moderated included a note drawing forum users to the attention of the fact that it had been amended.

Contributions to the forum were used by members of the Committee to inform their questioning of the witnesses who attended hearings as the inquiry progressed as well as during the process of drafting and agreeing a report.

Outreach

The forum was announced by the Committee via a press note which was sent to a number of organisations including Law Society Gazette; National Register of Public Service Interpreters NRPSI; Association of Police and Court Interpreters; Society for Public Service Interpreting; Institute of Translation and Interpreting; Professional Interpreters Alliance; Chartered Institute of Linguists; Capita; Ministry of Justice; PCS Union; UNITE; UNISON Police and Justice Service Group; Prison Officers Association; Individual courts; Magistrates Association; HM Council of Circuit Judges; Law Society; Bar Associations; Guardian. The e-consultation was advertised on the UK Parliament website as well as their twitter feed. Stakeholders and various organisations shared a link to the e-consultation forum on social media, particularly Twitter.

Forum questions

The web forum posed the following three questions:

- Q 1 What are your experiences of ALS service provision?
- Q 2 What are your views of efficacy of steps taken to rectify under performance?
- Q 3 What are your experiences of the complaints resolution service?

Profile of respondents

The e-consultation received a total of 4195 views and 88 distinct users posted on the forum. The question relating to ALS service provision received 65 posts; steps taken to rectify under performance received 19; and experiences of the complaints resolution service received 10 posts. 21 respondents identified themselves as interpreters providing services on behalf of ALS; 14 as legal practitioners or other practitioners; 1 defendant in a criminal case or party in civil and family cases; 45 as others; 7 would rather not say.

Summary of responses

Distance travelled by interpreters

Interpreters have reported that ALS has asked them to travel long distance to attend court and tribunal sessions, often the other side of the country.

I try to tell it on every forum that this is what ALS/Capita doing. I talked to an interpreter who has no DPSI qualification, lives in [Scottish town] and is regularly sent to all parts of England. One day to Cornwall, another day to Bradford. And he feels extremely proud of himself what an important person he is! I live in [Scottish town]. I used to be the only person in my language who worked for the Tribunal Services in Scotland. I used to get one-two jobs per month. Since ALS got the contract they give all the jobs to people living in England. I talked to somebody who had a tribunal case in [Scottish town]. Her interpreter who had no qualification and worked for ALS came from Birmingham.³⁴⁶

90% of the work ALS offers me requires me to travel 100-400 miles each way. Usually for a 09:30 appearance, which means I would leave for a job at around 04:00 AM. Travelling at this time for this distance, and not being even paid for the first hour each way is not tenable, and impacts on your alertness.³⁴⁷

They report that this is not due to lack of interpreters in the area, but that those more conveniently located refuse to work for ALS.

There were so many jobs in London and in the southeast of London without interpreter in my language; I live in the North Midlands which is very far from London, but because it is urgent, they were happy to pay me in my terms and condition, plus a train fare which is a fortune for buying a return train fare on the day to southeast of London. I felt it is like a joke as I know there are so many NRPSI in my language living in London but they all refused to work for ALS. The MOJ would save a fortune for taxpayer if using the old system, instead of using ALS.³⁴⁸

Interpreters, who used to work within a small radius of their local courts, only occasionally having to travel further afield, are now seldom offered assignments in these courts, but rather offered work in other parts of the country. The travel expenses are a waste of public money and if an interpreter has to travel 4 hours each way to a job that may only be for an hour, that means that they are unable to accept another job for the afternoon, as they would not have time to get to it. An interpreter cannot live on this. Are the interpreters who are servicing the local courts of that interpreter actually themselves too coming from a different part of the country?³⁴⁹

Perverse incentives and pay

To some extent, interpreters have attributed long distance travel to a pay structure which incentivises accepting only cases which are further away.

I should stress that it only makes financial sense for me to accept bookings for assignments I have to travel to over 100 miles. It does not make sense to accept even longer bookings (i.e. trials) as if they do not last as long as they were supposed to, interpreters are not paid any cancellation fees (but have to make themselves available for the whole length of the trial/refuse other work due to that

³⁴⁶ Anna0703

³⁴⁷ Fred

³⁴⁸ BELIEVEINJUSTICE

³⁴⁹ Elsy

commitment). We spend most of our time driving/travelling to the venues which must affect our performance.³⁵⁰

Others disagree, saying that for them the uncertainty of a day's work means that they cannot afford to travel long distances for short term work.

Capita often ask me to work a long distance from home and at short notice but I never accept. Travel means such assignments take up an entire day and Capita are unable to offer me what I earn from a day on other projects. They would get closer if they guaranteed more than an hour's pay for long distance assignments, paid travel costs and travel time in full, and paid for accommodation when they want an interpreter to travel several hundred miles and appear at 10am. A change here appears essential since Capita stated in evidence to the Justice Committee they will never meet the KPI committing them to find an interpreter within 25 miles of the client for 95% of assignments.³⁵¹

Despite ALS's willingness to cover large travel expenses, some have reported strict regulation on the time spent working by interpreters.

I have been told by the company that if I agree to interpret for counsel/probation/ anyone else outside of the courtroom, it is 'in my own time' and I will not be paid for it! How can the system function?! Time down in the cells with a defendant to explain after the decision what the next steps are, appeal etc. or outside the courtroom by probation officers is not factored in, and interpreters are expected to try and persuade the court clerk to sign them off at a different time from when the case finishes. Court clerks, it is clear, are under strict instructions from ALS/Capita to sign only to when the case ended.³⁵²

Some have reported that poor levels of pay are undermining a profession in which years of training are required.

We need to understand how long it takes to learn a foreign language to a certain standard, in order to be able to interpret from and into it within a specific sector. First of all it takes decades to learn the language itself and later you need to obtain a specific set of skills that are required in order to interpret. You need to be able to translate legal terminology within seconds during a court session and sometimes it is very difficult even for the best interpreters out there. You need to take into account that it is a job that requires due diligence, great listening and verbal skills, ability to transfer a vast amount of information that is encrypted in a different language within a short time frame.³⁵³

Let's look at what is happening now. "Capita" are trying to obtain these sets of skills at a fraction of the price they were provided before. How can you expect to have any self respecting specialist to work for the amounts they are offering? £20 per hour, it would be a great salary if you would be working a full 40 hours week. It would amount to £41,600 per year before tax. In my opinion that would be right remuneration for such type of work. But reality is a bit different. They do not offer a salary to the interpreters along with guarantees like sick pay, pensions, holiday pay. They expect them to be available 24/7 without offering any incentives. In order for people to survive they need to earn at least the minimum wage. And let's not forget about the market principles of supply/demand and opportunity cost. We are not talking here about unskilled labour. They are people with distinctive skill sets that just cannot be replaced by anyone of the street.³⁵⁴

This risks, according to respondents, pushing highly skilled workers out of the court interpreters market.

350 dmn

351 babelfish

352 Elsy

353 Tomasap

354 *Ibid.*

In light of these facts we are facing a decline of quality and the contract can only be sustained by introduction of a monopoly to the provider of such services. This is exactly what had happened here. There are no incentives that are created for the interpreters to work for them. They will chose other career opportunities and move away. So we will be left with no other choice but to give this monopoly to "Capita". The problem with this contract was that "Capita" and MOJ assumed that it will be able to replace the workforce or force them to work for nothing. That did not work out as planned but there was no contingency plan in place. So the whole system started collapsing and we need to stop that before it is too late to salvage what's left.³⁵⁵

Administrative failure and the use of freelancers

Serious concerns were raised about ALS's ability to administer interpreting services on a large scale.

All the jobs they phoned me is always at the last minute. Sometimes in one day there were 5 jobs without interpreter. They bombarded me with phone calls asking me to calculate this or that, and by the time I work it out it is too late to be at court. So it ended up job was cancelled or adjourned.³⁵⁶

The allegation that interpreters in numerous occasions failed to attend courts at which they were booked, or were late to proceedings is prevalent throughout the responses.

Following a no-show at the end of August, when a witness and barrister turned up in court from far afield (plus a number of local friends who had taken the day off from work), only to find that ALS had not provided an interpreter, there was a reconvened hearing in October. I phoned ALS regularly to check on the provision of an interpreter, only to find, three days before the hearing, that again there would be no interpreter. They said they were unable to find one. I phoned the court asking for their help. They obtained ALS's agreement that they could not provide this service, whereupon the court undertook to find a suitable interpreter, which they did with great professionalism. If I had not made these telephone calls, there would have been a second aborted court hearing, with hugely expensive, wasted effort from a witness and barrister (both of whom had to travel long distances and stay overnight to be at the court in time), friends and the whole court (Judge, officials etc.).³⁵⁷

On 5th October 2012 I attended [a] Magistrates' Court to represent a client who required an interpreter; the matter was relatively straight forward and should have been dealt with more quickly than it was. The reason for the delay was that despite an Interpreter being booked by ALS to arrive for the morning no interpreter arrived until 2pm, the interpreter who dealt with the matter had been to another matter at [a] Magistrates' Court in the morning before arriving to deal with the matter. The end result was that effectively my client was deprived of his liberty for longer than he should otherwise have been.³⁵⁸

Some legal practitioners have commented on the implications of this; that their clients were held on remand and denied their liberty as a result of the delay caused by absent interpreters.

I am a criminal defence Solicitor working in [a north England] region on Saturday 29th September was Duty Solicitor covering a local Magistrates Court. One of the three clients in custody on that date was a Lithuanian national requiring the services of the Court Duty Solicitor having not previously been represented during his interview. He had been charged with an allegation involving domestic violence. However, the Prosecutor had stated that provided he was able to supply a separate address away from his former partner there was going to be no objection to bail. That was the easy part! The client could speak little, if any English and after an hour wait for an interpreter

³⁵⁵ Tomasap

³⁵⁶ BELIEVEINJUSTICE

³⁵⁷ LAK

³⁵⁸ Blackaby

(which the Police told the Court Clerk they had contacted) nobody had attended. The best answer that could be obtained is that an interpreter would be sought and would "probably" be able to attend by mid afternoon. Understandably, the Magistrates and Court Clerk were not prepared to wait that long certainly where there was no definite answer given. I tried therefore to assist as best as I could. Eventually I tried to utilise the Google translate app on my iPhone. However there was no signal in the cells and this meant having to go outside the Court building, put the question whatever I was trying to say to the client into the phone, go back and show him it through the Perspex and hope that he understood what was being asked. Unfortunately, it turns out that the Google translate app is perhaps not the most accurate as far as Lithuanian is concerned. I was unable to adequately explain the situation to the client and therefore unable to provide any alternative address to the Court. Clearly on a Saturday there was no chance of trying to obtain alternative accommodation which is usually arranged through the Probation Service. Therefore the client had to be remanded in custody until the Monday when through the "Russian" interpreter who attended he was able to secure bail having put forward an alternative address. It was clear that had he had an Interpreter and being furnished with that information bail could and should have been granted on the Saturday.³⁵⁹

On occasions when an interpreter has been provided, however, legal practitioners report that in some cases they do not speak the required language.

There are cases where ALS booked a wrong dialect, I went to a Kurdish interpreting but shockingly my client was a Bengali speaker not Kurdish, the case was adjourned. But who knows if actually it was the ALS who made the mistake! The chances are 50/50 it could be the MOJ person who requested the booking made a mistake.³⁶⁰

In order to resolve this issue courts and tribunals have resorted to the use of freelance interpreters under the pre-framework agreement arrangements.

In the last month my wife, who has refused to work for ALS for professional reasons has undertaken a number of interpreting tasks for the Immigration tribunal. These were offered to her by an interpreting agency as ALS could not find an interpreter. She was paid the standard court rate by the agency who will charge the MoJ the same rate plus a suitable mark up for their own expenses - say 20%.³⁶¹

We have seen that when ALS/Capita could not provide suitable interpreters, we were then thought of as a 'rescue measure' to the incompetence of that agency who has no knowledge whatsoever of what court interpreting actually involves and is only motivated by what profit 'this lucrative market' can bring for them. We know that Capita is still unable to provide suitable interpreters and NRPSI colleagues are still being contacted by the courts.³⁶²

Mistranslation and a lack of qualifications

The quality of interpreters provided by ALS has been called into question; numerous respondents report instances of serious mistranslation with implications for court proceedings.

An unqualified ALS interpreter told me in a court case that I join in the last day, that she found herself mis-interpreted a statement of the defendant, which lead to the jury having the impression that the defendant evidence is not creditable. She doesn't realize it should be declared to the judge immediately in the court. I encouraged her to talk to the barrister she work with, but no action was taken then.³⁶³

³⁵⁹ Robin123

³⁶⁰ Apollo

³⁶¹ NDM1953

³⁶² N6

³⁶³ Ed2005

I am also Italian and my client could not speak any English therefore required the service of an Italian interpreter. One of the two interpreters booked for the hearing, as there were two Defendants both Italian nationals, was utterly incompetent to the extent that she mistranslated the whole of the conversation between Counsels and Judges. I had to intervene and alert Counsel that she was misquoting and wrongly translating what was being said in Court.³⁶⁴

On 31 October a trial was set down for an Italian national at a Court in London. The interpreter supplied by ALS arrived late, she then spoke to me using words which did not exist in the Italian language. She sat in the dock with my client and did not translate anything: she then told the Defendant she could not hear what was being said that is why she did not translate. I subsequently spoke to my client who told me she was totally useless. Had it not been for me, a native Italian, being in Court and knowing my client, it would have been a complete disaster.³⁶⁵

Further to this there have been allegations that the interpreters lack knowledge of court procedure and etiquette.

I had a chance to observe a Russian interpreter in a Magistrates' Court. With regard to the quality of interpreting, I will give a couple of examples. She translated the legal advisor's "Are you willing to indicate a plea?" as "Are you guilty?" and she struggled with some simple terms, e.g. "unconditional bail" was translated just as "release". When I spoke to her after that short hearing, she told me she was working for ALS for pocket money.³⁶⁶

On 20th October 2012, I was duty solicitor at [a] Magistrates' Court, on that day I represented a client who appeared before the court in custody. Indeed as it was a Saturday on remand prisoners appeared in court, the Interpreter arrived late that day, which was not a particular problem since I had to represent other clients. Eventually I had to take instructions from the client on serious charges without the assistance of the Interpreter, since when the interpreter did arrive she did not inform the cells of her arrival which was unacceptable given the fact the only defendants appearing before the court were remand prisoners.³⁶⁷

Even the easiest legal terms were totally misinterpreted. The oath was interpreted as "the proof I will give" – "give evidence" is the simplest of the legal terms used in Court; and astonishingly, the Police's caution (defendant's recorded interview was read out in Court) was interpreted as "you should not say anything". When it came to the more complex legal terminology, Capita's worker simply stopped interpreting as she seemed completely lost; when legal terms such as "burden of proof is reversed", "evidence by way of rebuttal", or even simpler terms as "contemporary notes" were being discussed, Capita's worker just kept an worrying silence. Capita's worker also failed to comply with one of the most important aspects of an interpreter: she was clearly interpreting in a partial way towards the defendant. Victim's family members, who could also speak both languages, complained to the Prosecutor but he decided not to take action as he was confident he had enough evidence to the jury (defendant was eventually found guilty).³⁶⁸

The court interpreter was terrible. Her Bulgarian was not very good at all, I don't think it was her first language. There was a great deal of legal terminology that she did not translate but kept using the English words instead.³⁶⁹

Concerns have been raised by the level of qualifications held by interpreters and whether their qualifications have been verified.

³⁶⁴ gio

³⁶⁵ *Ibid.*

³⁶⁶ Observer

³⁶⁷ Blackaby

³⁶⁸ hiroko1926

³⁶⁹ Sophia

I cannot justify the contract can ensure the safety of information and foreign language speakers are rightfully represented in courts under the new system. I have met many interpreters from ALS over the last few months, many of them does not have any relevant qualification. For examples: retired shop keepers and overseas students and local born Asian ethnicity but out of job law student seeking court experience. Having been talking to 2 of the overseas students with student visa, they were not aware themselves being not entitle to work as freelance interpreters. However, ALS staff told them that they can work after seeing their passports during assessment.³⁷⁰

I received my first job offer several hours after I registered on their portal. I do not believe that my qualifications, security checks and references were checked. At that time I was not even able to upload my certificates / security checks onto the portal. In fact I know that my referees were only contacted by ALS some 3 or 4 months later. From my experience it seems that ALS is allocating assignments on a "first come - first served" basis without taking professional qualifications into account. The jobs that come up in my language on the ALS portal are immediately taken by a few regional "Tier 2" interpreters who do not work as professional interpreters and therefore have time to sit in front of their computer/phone and check for new assignments.³⁷¹

This is clearly a joke. I know at least one Polish Tier 2 interpreter in Devon qualified to Tier 2 who has absolutely no degree in languages, does not have a DPSI. This one has also attempted to pass the Met Test last year and failed 3 of 4 parts.³⁷²

Positive experiences

Respondents however have reported positive experiences in relation to the ease of use of the online portal.

ALS runs a modern operation based on a 'one-shop', Linguist Lounge portal. All Courts and Tribunals job assignments are paperless and job details can be viewed on a secure profile. At the end of each of my MoJ job assignments the financial reconciliations are performed online within 72 hours with weekly BACS transfers into my bank account. I have to admit, I am quite familiar with the online office type of work and I also have bags of IT experience gained from previous employment. This probably helped me grasp much quicker the new way of doing business.³⁷³

From my direct experience of working both directly and through ALS, I wish to say that it is not plainly correct that everything is bad. For example, the online system is very good in principle and payments are received quickly by BACS rather than by cheques. Also when it comes to the new rates, I suspect it may have been perfectly acceptable rate per hour if you were employed in a professional capacity of an interpreter full or part-time with guaranteed payment. However, with the system as is, the work is random and not guaranteed, very seldom capable of yielding more that 15-20 hours per week interpreting on average with bookings being scattered all over the country with travelling time involved. Perhaps some courts could consider employing the most common language interpreters on a part-time/full-time basis. This would give the interpreters this much needed stability, pension and holidays and the courts will get the reliability and value for money.³⁷⁴

Steps taken to rectify under performance

Some respondents have suggested that interpreters were still not being properly vetted to check their CRB status and their qualifications.

370 Ed2005

371 dmn

372 JMP

373 mickydon

374 NRPSIinterpreter

As of 25 October 2012, ALS continue to use or offer work to interpreters who have not provided a current security clearance to the company. Following the NAO report, Ministry of Justice promised that by the beginning of September all interpreters would be properly vetted and Solicitor General is repeating more or less the same thing now. This is not true. ALS continues to this day to offer work to interpreters who are not properly assessed or security vetted. By failing to do so, they are putting public at risk and are in breach of the framework agreement. It is about time that this matter is brought in front of a court by judicial review and the contract stopped until they get their act properly together.³⁷⁵

Others disagreed, saying that the assessment centre run by Middlesex University for ALS provided suitable verification of interpreting skills.

The assessment carried out by ALS and Middlesex University was in line with DPSI requirements, i.e. simultaneous and consecutive interpreting were as hard as the DPSI examination, the written translation on the other hand was much easier than DPSI standard. In my opinion it is a good idea to assess interpreters from time to time in order to guarantee high standards although I can understand why many interpreters were reluctant to undertake this assessment.³⁷⁶

In the absence of that arrangement there is doubt amongst respondents regarding the assessment process.

The only steps that I have noticed are completely ineffectual. Re under-performance of interpreters - I (a professionally qualified interpreter working over many years) have seen some instances of other interpreters who have not interpreted everything said and who should not be working as interpreters, although if they were taken on by ALS it is not ultimately their fault. The 'assessments' were a farce, with equipment not working, and many problems voiced by most of the interpreters that took it, but which were never responded to.

Interpreters working in the judicial system are mostly professional with real, proven qualifications and experience. The majority are registered with a professional organisation such as the NRPSI (National Register of Public Interpreters), the APCI (Association of Police and Court Interpreters) or other reputable ones. Qualification procedures are rigorous, and standards are therefore high. Technical terms have to be mastered, and court proceedings require you to interpret jargon-laden legal language in real time. Many interpreters have to retake tests/exams many times before they qualify. The payoff for the courts is that all NRPSI-registered interpreters can do the job properly. The same cannot be said of the ALS 'test', which is frankly a joke. ALS claimed their system was better as qualification was easier and cheaper, and not all interpreters wanted to sit the DPSI or MET tests or pay for NRPSI registration. The truth is people did not want to sit the test because they would not be able to pass it. And those are the people who are now working for ALS - the only people who will work for it, given the insulting rates of pay on offer.³⁷⁷

Aside from this concerns were raised regarding quality assurance of interpreting services

I am concerned that standard of interpreting for the police and courts is slipping, and that there is no system in place for monitoring the quality of interpreting provided by individual interpreters. In its tender document ALS made much of its quality control systems, but I have neither seen nor heard of any monitoring of interpreters' performance. I have come across ALS interpreters working in the courts who do not have the qualifications required for Tier 2, and whose interpreting has been very poor. I have heard reports from many advocates and others involved in court proceedings of poor interpreting by ALS interpreters, and several defendants have told me that on previous hearings they had interpreters whom they could scarcely understand, and who didn't bother to interpret much of what was being said in court.³⁷⁸

³⁷⁵ AJ

³⁷⁶ B52

³⁷⁷ artemis

³⁷⁸ nuthatch

The complaints system

The e-consultation received no reports of the complaints system used by court staff. Legal practitioners have reported difficulty with the system, however, and a reluctance by ALS to take responsibility for interpreters who do not attend court sessions when they have been booked.

I am very angry at ALS's response to a request for repayment of wasted costs, due to their not providing an interpreter at an asylum hearing in the North East. I had paid for a vital witness to come from London and stay overnight in a hotel, to testify on behalf of my friend who is an asylum seeker. I then had to pay all over again at the reconvened hearing – the same thing nearly happened, but this time I found out in time (by continuously ringing them) that ALS were not going to be able to provide an interpreter, and I was able to alert the court who saved the day by providing one. Several days after my email to ALS requesting repayment of the costs, a brusque lady from their payment queries section phoned me, said the costs incurred were not their responsibility and that I should contact the interpreter who did not turn up (whoever they are). She stated, 'If you want to save the world, that's your prerogative'. When I replied that I was happy to pay for the witness to come once, whatever the outcome, but not to cover for their lack of provision, and that the government contract to provide the interpreter service was with ALS and not with individual interpreters, she put the phone down on me.³⁷⁹

Interpreters have also been unable to seek redress for complaints that they have had.

I am a fully qualified interpreter. I have worked for ALS/Capita since it started. There have been many problems since the start. I have tried writing e-mails, speaking to a number of different members of staff at their offices and also to a manager in person and by text, phone and e-mail. None of the issues I have brought to their attention have ever been resolved. It is very rare that I get a reply. When I do it is only to say that the Ministry of Justice will not agree! All the points I try to make, including suggestions of how things could work better, are like talking to a brick wall, because it is as if they deliberately do not want to understand what I am saying. The only exception is the manager I have contact with, who at least is sympathetic and understanding, but although they say they will take it further, nothing has ever been resolved. My working situation is getting tougher and tougher. Currently I have no work. The last time I complained they not only did not reply but promptly made jobs inaccessible to me, thus withholding work. They reply that they do not have my qualifications documents which they have had since the start. I have re-sent them to no avail. All my attempts to sort the situation have resulted in nothing.

Conclusions and recommendations

Interference with witnesses

1. We consider that the actions of the Ministry in respect both of court staff and of the magistrate may have constituted a contempt. We find the approach of the Department on this matter extremely unhelpful, particularly in the light of the very successful use by this Committee of online consultation with their staff in previous reports, such as our reports on the role of the prison officer and the role of the probation service. The Department has not previously resisted the use of a process which gives the Committee a broader understanding of the experience of staff, and which is not in any way designed to challenge the ultimate responsibility of Ministers for the policies of the Department. (Paragraph 10)
2. It is not for the Ministry of Justice to judge whether steps they took in relation to the inquiry did or did not interfere with our collection of evidence. That is a matter for us and for the House of Commons. Any act which obstructs or impedes the House in discharging its functions may be treated as a contempt of the House. (Paragraph 11)
3. In considering this matter we have been mindful of the fact that the House exercises its jurisdiction in cases of contempt sparingly and only when essential to prevent substantial interference with the performance of its functions. In this case it appears that our efforts to obtain a full picture of the current effectiveness of interpreting services in courts were hampered by the absence of any substantiation from frontline staff. However we consider that we have sufficient evidence from other sources to make a reliable judgment. We have relied on evidence from other important stakeholders, including the Senior Presiding Judge, the Magistrates' Association, and the Law Society, along with the testimony of professional interpreters who were observing court proceedings. We have therefore not asked the House to take further action on this matter although we gave serious consideration to doing so. We expect the Ministry of Justice and its agencies to have proper regard to the rights of Parliament and those who give evidence to Committees of the House, and, as our predecessor Committee demonstrated in 2004, we will not hesitate to refer alleged infringements to the House when necessary. (Paragraph 12)

Previous arrangements for interpreter services

4. Notwithstanding clear administrative inefficiencies within the variety of previous arrangements for the provision of interpreting services to the courts, we conclude that there do not appear to have been any fundamental problems with the quality of services, where they were properly sourced i.e. through arrangements that were underpinned by the National Register of Public Service Interpreters, with interpreters qualified in the Diploma in Public Service Interpreting, and under the terms set out by the National Agreement. (Paragraph 24)

The procurement process

5. Our evidence strongly suggests that the Ministry of Justice did not have a sufficient understanding of the complexities of court interpreting work prior to initiating the procurement of a new service. The competitive dialogue process failed to produce a working model that would enable skilled professional interpreters to continue to service courts and tribunals. The consultation that was undertaken was limited because by the final stage of the competitive dialogue process the nature of the new arrangements had been largely determined and the important concerns that were raised by the interpreter community, and others, even if they were heard, were unheeded. (Paragraph 43)
6. There was clear potential for problems with ALS' capacity to deliver on its promises which were not adequately anticipated or dealt with either by the Department or by the contractor itself. We share the National Audit Office's concerns over the weakness of the Department's due diligence and risk mitigation procedures. This is a cause for concern at a time when the same Department is likely to be responsible for a large complex centralised commissioning programme for implementing the "Rehabilitation Revolution". In response to one of the recommendations of our report The budget and structure of the Ministry of Justice—which expressed similar concerns and called for an independent review of the Department's capability in commissioning services—we were told that a strategic approach was being taken to building the requisite skills. We hope that lessons have been learned from this experience, and, given the amount of outsourcing the Department is to be engaged in, we seek further assurances of the Department's capacity in this area and repeat our call for an independent review before any further major projects commence (Paragraph 46)

Early operational problems

7. We have referred above to the Ministry's efforts to prevent us receiving first hand testimony from court and tribunal staff on the standards of interpreting services. It is clear to us from the evidence we have been able to collect that the quality and effectiveness of court and tribunal interpreting services was seriously hampered by ALS' performance. (Paragraph 59)
8. We are seriously concerned about the increase in ineffective trials as a result of non-attendance of interpreters, particularly in magistrates courts. We will monitor the quarterly statistics on ineffective trials for the remainder of the year to see whether this is an ongoing trend. (Paragraph 63)

Explanatory factors for poor performances

9. The decision to opt for a regional roll-out was done partly to prevent regional boycotts, suggesting that the MoJ were all too aware of the scale of serious resistance from amongst the interpreter community. The MoJ was, at best, naïve to view the new arrangements simply as an "outsourced booking process". Interpreters had repeatedly raised significant concerns about the new terms and conditions under which they were expected to work. (Paragraph 72)

10. The professional interpreter boycott undoubtedly contributed to ALS' difficulties in coping with demand but we do not believe it entirely explains them. The Ministry of Justice and its contractor appear to have buried their heads in the sand. Many of the concerns that interpreters raised regarding the nature of the new operating model were realised during implementation, were utterly predictable, and should have been properly considered from the outset. (Paragraph 88)
11. The interpreter community drew the Ministry of Justice's attention to the wildly unrealistic distance key performance indicator during the consultation process but this was disregarded. The number of languages required, the uneven distribution of interpreters and their language combinations across the country, the irregular schedule of courts and police services, last-minute contracting, and varying language needs, all inevitably make it necessary for interpreters to travel long distances. We are concerned that this is a further factor that deters professional interpreters from working under the Framework Agreement as travel expenses have been reduced. If Capita TI is absorbing higher travel costs than ALS first estimated there may be implications for future cost savings. (Paragraph 100)
12. ALS did not make it clear to the MoJ that the three tier system for interpreters had not been supported by the independent expert it had consulted. The Department has sanctioned, untested, a tiering system that imposes major changes to professional occupational standards and has significant potential to undermine the progress that has been made in professional development and resulting improvements in the quality of interpreting services provided in the justice sector. It would be disastrous if the Department continued to permit the courts to be starved of highly qualified interpreters. Just as the Department had concerns that membership of the National Register did not guarantee quality, we fear that a diminution of quality is an inevitable product of implementing a new system which does not accurately evaluate the skill levels of professional interpreters. (Paragraph 102)
13. Being able to communicate in a given language does not make someone an interpreter. The National Agreement, the National Register and qualifications that underpinned it were put in place to safeguard the right to a fair trial. The level of concern that arose during the consultation process regarding the potential diminution of quality standards by imposing the tiered system, diluting qualification requirements and imposing lower levels of pay suggest that the Ministry of Justice was determined to pursue the implementation of the Framework Agreement in the face of evidence that it would reduce the quality of language services available to the courts. (Paragraph 103)
14. We are astonished that the pilot was not used to test the tiering system and assess whether interpreters meeting the new standards could perform adequately in court. We are particularly concerned at the decision of the Ministry of Justice not to seek to build on safeguards developed under the previous system whereby interpreters other than those registered by NRPSI were to be used only in exceptional circumstances. We support the National Audit Office's proposal that the tiered system should be independently evaluated. (Paragraph 104)

15. The use of tier 3 interpreters in courts and tribunals should be reserved for those cases in which it is absolutely unavoidable, such as in rare languages for which there is no relevant professional qualification, or to meet the specific needs of a deafblind person who requires a particular mix of skills in an interpreter. Alongside fulfilment rates, the MoJ should monitor the level of use of particular tiers of interpreters by HMCTS and ensure that any instances of inappropriate use of tier 3 interpreters can be properly investigated and managed. (Paragraph 105)
16. It is unreasonable to expect interpreters to be available for as long as they may be required and not paying for the full time actually required. (Paragraph 121)
17. We conclude that under any scenario the levels of remuneration available to interpreters servicing the justice sector have significantly reduced. This in part explains why NRPSI interpreters have refused to work under the new arrangements and this in turn impacts on the ability of the contractor to fulfil jobs at a rate which meets demand. The 2001 Auld report recommended a review of the level of payments to interpreters with a view to encouraging more of the best qualified interpreters to undertake work and to establish a national scale of pay. The same interpreters now feel that they have been forced to leave the market. (Paragraph 123)
18. The bulk of the savings accrued in contracting ALS to provide interpreting services appear to stem not from the resolution of administrative issues which were causing inefficiencies, and were a key factor motivating the change, but from a reduction in interpreter pay. In devising the new pay structure the Ministry of Justice and ALS failed to appreciate the differences between court work and police work that would result in court interpreters being unable to achieve a sustainable level of income. We recommend that the MoJ audit the true amounts that are being expended on interpreter pay and travel by Capita TI to establish whether the contractor is providing a level of remuneration that is unsustainable and may already be having a deleterious effect on the quality of interpreters that will be available to the justice sector in future. In order to ensure that the best qualified interpreters are available to courts and tribunals it may be necessary for Capita to further increase the rate of pay for the highest qualified at tier 1. (Paragraph 124)
19. ALS and Capita paid lip service to the regulatory duties accepted under the Framework Agreement. The inability to cope with complaints and the failure of basic vetting procedures are key examples of ALS' lack of capacity to deliver on its promises to the Ministry of Justice. (Paragraph 128)

Steps taken to rectify under-performance

20. ALS clearly needed significantly more resources than it had at its disposal to deliver the service levels that it promised under the Framework Agreement. The Ministry of Justice was only saved from its failure to conduct proper due diligence, or to take account of the views of consultees, and from the likelihood of subsequently being forced to terminate the contract, by the fact that Capita bought ALS and has been willing to invest heavily in the infrastructure required to salvage an operating model under the Framework Agreement. (Paragraph 136)

21. Performance figures clearly do not reflect the company's fulfilment against 100% of the requirements of HMCTS and they should be altered, retrospectively and in the future, to indicate this. (Paragraph 141)
22. The level of customer cancellations seems rather high. We recommend that Capita TI reissues guidance to staff regarding the logging of customer cancellations. We also recommend that the MoJ undertakes an audit of fulfilment data with a focus on the reasons for customer cancellations, and uses their findings to seek to reduce the level of these by its agencies' stakeholders. (Paragraph 142)
23. We are encouraged that the feedback to MoJ suggests that participants within agencies of the justice system other than courts and tribunals are satisfied with ALS' performance under the contract. (Paragraph 143)
24. We are pleased to hear that service levels have improved markedly in recent months and that this will allow HMCTS to book all of the interpreting work it requires through Capita TI in the near future. We call on the Ministry of Justice to keep us apprised of fulfilment rates, and their estimation of the volume of work demanded by HMCTS that Capita TI are being asked to fulfil, on a monthly basis until we can be satisfied with the extent of improvement. (Paragraph 152)

Costs of remedial action and implications for cost savings

25. While the contract is delivering significant cost savings to the Ministry of Justice, these are not at the level promised. Additional costs are currently being borne by the contractor and there may be future ramifications for the Department when it comes to re-commissioning interpreting and translation services if these financial issues are not resolved. We are concerned that the existing arrangements are financially unsustainable in the sense that Capita TI is propping up the continuation of the Agreement, so the Department's savings are effectively being secured at the company's expense. There is a distinct risk that the MoJ will not be able to continue to realise the same level of cost savings in the future and that when the time comes to re-tender the contract there may be an insufficient supply of professional interpreters to furnish it. The MoJ would then be left with fewer savings and an enduringly poorer quality of service. The MoJ must get a better grasp of the costs of underperformance. It is unacceptable that existing cost figures do not account for cases that have been (repeatedly) adjourned because of interpreting problems and those in which a defendant has been unable to apply for bail and has consequently been remanded in custody. In its response to this report and at regular intervals thereafter we call on the Ministry to inform us of its updated assessment of its cost savings. (Paragraph 161)

Future priorities

26. We are surprised that there is no absolute target of numbers of interpreters for the supplier database. Before the MoJ seeks to rollout the operation of the agreement fully to the Crown Prosecution Service it must ensure that Capita TI has determined a defined minimum necessary to deliver that work. We also consider it necessary for

the MoJ to undertake or commission some work to establish more clearly the requirements of the CPS than was done in respect of HMCTS. (Paragraph 164)

27. We support the new approach planned for assessing interpreters provided that Capita TI ensures that any quality assurance elements that underpin it are appropriately tight and rigorously monitored. (Paragraph 166)
28. We are dissatisfied that Capita TI has failed to provide for those on its supplier list a proper programme of professional development almost one year after it began operating under the Framework Agreement. (Paragraph 167)
29. It is clear that the contractual terms regarding the appropriate qualifications and CRB checks for those servicing the contract continue to have been flagrantly disregarded until very recently. We are dismayed that a contractor should apply such an apparently lackadaisical approach to verifying qualifications and executing appropriate vetting. While there have been improvements these have taken a very long time to achieve, even with the considerable performance improvement resources at Capita's disposal. We are concerned that the Ministry of Justice has so recently found evidence that questions persist as to whether interpreters on the supply list are meeting appropriate quality requirements in terms of having properly verified qualifications and experience as defined under the tiered system. We are not yet satisfied that there are sufficient safeguards currently in place to ensure that only suitably qualified interpreters are providing services to HMCTS. (Paragraph 171)
30. We welcome the Department's efforts to quality assure the work of Capita-ALS in implementing the Framework Agreement, but we believe that, in the absence of an independent regulator, this mechanism should have been in place from the start and we are concerned that regular monthly checks continue to be necessary some nine months or so into the operation of the contract. The Ministry of Justice has shown ALS, and subsequently Capita TI, considerable leeway in not rescinding the contract despite ongoing breaches of their obligations under the Framework Agreement, and has presumably had to devote more resources than expected to close monitoring of the contract. We ask the Ministry of Justice in its response to this report to provide us with an estimate of the administrative costs of providing such a considerable level of oversight of the contract. (Paragraph 172)
31. Notwithstanding the progress that has been made, we consider that the Ministry of Justice and Capita TI have much hard work ahead of them to restore the trust of sentencers and the legal profession. We recommend that the MoJ considers negotiating with Capita TI to replace the distance indicator with an indicator of quality, for example, a user satisfaction measure. (Paragraph 177)
32. We recommend that the MoJ establish a dedicated phone number for registering complaints about interpreter services for those stakeholders who do not have access to the portal, and publicise the existence of this complaint route. Data on the number of complaints received by this route, and the proportion of such complaints that are fed through to the portal, should be published alongside statistics on complaints made directly through the portal itself. (Paragraph 181)

33. We welcome the Minister's willingness to engage in discussion with the interpreter community and we will monitor the outcome of these discussions. (Paragraph 182)
34. The failure of Capita-ALS to implement appropriate safeguards until, following the National Audit Office recommendations, they were required to do so by the Ministry of Justice, has reinforced the concerns of the interpreter community about the fact that the service provider is responsible for almost all functions. It has certainly taken some time, and the impetus of the NAO's investigation, followed by more rigorous monitoring by the MoJ, to highlight exactly where the problems lie and to see real progress in performance. (Paragraph 190)
35. Our evidence suggests that the most important priority for the MoJ is to establish whether the strengthening of quality assurance arrangements, and other work that has been done to remedy other problems, are sufficient to improve the quality of interpreting services provided to HMCTS under the Framework Agreement. We share the National Audit Office's concern that the existing safeguards of quality within the system may not be fit for purpose; if this is not addressed it is likely that the confidence of important stakeholders, including the judiciary, magistracy and legal professionals, will continue to be undermined, and that many professional interpreters will continue to be reluctant to provide their services. We support the National Audit Office's recommendation that these standards should be independently reviewed and look forward to seeing the results of that assessment. (Paragraph 191)
36. Our evidence suggests that the concerns of many members of the interpreter community will not be dispelled by insipid and general responses from the MoJ on such issues as remuneration, and rebuilding trust, for example. It is likely that concrete safeguards will need to be negotiated, for example, following the independent review of the tiered system of qualifications proposed by the NAO, a proposal that we also endorse. The language used by the Minister in describing the path that the MoJ must take to move forward, appears to illustrate the Department's acceptance that the Framework Agreement requires some renegotiation, albeit through careful and creative cooperation with Capita TI. The Ministry and Capita TI must prove that the Framework Agreement is capable of attracting, retaining and deploying an adequate number of qualified and competent interpreters to meet the requirements of the courts and other agencies. This will also require the professional interpreter community to work flexibly with the Department in seeking to find an acceptable way to restore their services to the justice sector. It is essential that this is achieved before fully extending the reach of the contract to other justice agencies. (Paragraph 192)
37. We believe that ultimately there should be a regulation system that is independently organised to select and classify interpreters for the appropriate level of court and tribunal work, assuming that some form of tiering remains in place following the review, and ensure that they are held accountable for delivering to the standard required. In the meantime it is important that the functions of Capita TI in delivering quality assurance are clarified, and if necessary, further strengthened. In addition we consider that there is a strong case for a further review of rates of

remuneration and modelling of the potential impact of increasing these rates, particularly for highly qualified interpreters, on registration rates. (Paragraph 193)

European Directive

38. The transposition into UK law later this year of EU Directive [2010/64/EU] on the right to interpreting and translation during the criminal justice process will prove a timely test of the appropriateness and robustness of quality safeguards embedded in the Framework Agreement and the efforts that have been made to strengthen them in the light of the reports of the National Audit Office and two parliamentary select committees. (Paragraph 196)

Embargoed advance copy: Not to be published or imparted before 00.01hrs on Wednesday 6 February 2013

Formal Minutes

Tuesday 22 January 2013

Members present:

Sir Alan Beith, in the Chair

Steve Brine

Mr Robert Buckland

Rehman Chishti

Jeremy Corbyn

Nick de Bois

Mr Elfyn Llwyd

Graham Stringer

Interpreting and translation services and the Applied Language Solutions contract:

Draft Report (*Interpreting and translation services and the Applied Language Solutions contract*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 196 read and agreed to.

Summary agreed to.

Annex agreed to.

Resolved, That the Report be the Sixth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report, together with written evidence reported and ordered to be published on 16 October and 21 November.

[Adjourned till Tuesday 29 January at 9.15am.]

Witnesses

Tuesday 23 October 2012

Madeleine Lee, Director, Professional Interpreters' Alliance, **Nick Rosenthal**, Chair, Institute of Translation and Interpreting, and **Ted Sangster**, Chair, National Register of Public Service Interpreters Ltd Page

Ev 1

John Fassenfelt, Chairman, Magistrates' Association, and **Richard Atkinson**, Chair, Criminal Law Committee, Law Society Page

Ev 8

Tuesday 30 October 2012

Andy Parker, Joint Chief Operating Officer, Capita, **Sunna van Loo**, Public Services Director, Capita, and **Gavin Wheeldon**, former CEO, Applied Language Solutions Page

Ev 12

Helen Grant MP, Parliamentary Under-Secretary of State, **Ann Beasley CBE**, DG Finance and Corporate Services, and **Peter Hancock CBE**, Chief Executive, HM Courts and Tribunals Service, Ministry of Justice Page

Ev 22

List of printed written evidence

1	Ministry of Justice	Ev 30, 53, 57, 64, 69
2	Professional Interpreters' Alliance	Ev 34, 120
3	Institute of Translation and Interpreting	Ev 38
4	National Register of Public Service Interpreters Ltd	Ev 42, 57
5	The Magistrates' Association	Ev 47
6	Law Society of England and Wales	Ev 48
7	Capita	Ev 52, 55, 57, 64
8	Professional Interpreters for Justice	Ev 71, 109, 120
9	Dr Francis Beresford	Ev 83, 107
10	Rt Hon Lord Justice Goldring, former Senior Presiding Judge for England and Wales	Ev 108

List of additional written evidence

(published in Volume II on the Committee's website www.parliament.uk/justicecom)

1	Jeremy Lynn	Ev w1
2	EULITA (European Legal Interpreters and Translators Association)	Ev w1
3	Sarolta Melania Lillywhite	Ev w3
4	Laura Orsini	Ev w4
5	International Association of Conference Interpreters	Ev w5
6	Matthew Scott	Ev w9
7	Elder Rahimi Solicitors	Ev w13
8	Colvin de Silva	Ev w14
9	Susanna Garcia	Ev w14
10	Zornista Stoyanova	Ev w15
11	SE Suffolk Bench	Ev w17
12	Yelena McCafferty	Ev w17
13	Saadia Ahmad	Ev w20
14	Orsolya Mance	Ev w20
15	Eszter Fejes	Ev w22
16	Dr Yvonne Fowler	Ev w25
17	John McCarthy	Ev w27
18	Magdalena Taylor	Ev w28
19	Marketa Moskvikova	Ev w31
20	Miguel Llorens	Ev w32
21	Mrs Jennifer Hogg	Ev w34
22	Marie Adamova	Ev w36
23	Society of Official Metropolitan Interpreters UK Ltd	Ev w39
24	Klasiena Slaney	Ev w41
25	Ranjeeta Johnson	Ev w43
26	Kasia Beresford	Ev w44
27	Chartered Institute of Linguists	Ev w51, w135
28	Sitta K. Sittambalam	Ev w59
29	Elvana Moore	Ev w62
30	Sense	Ev w63
31	Ian McGarr	Ev w65
32	Jennifer Smith	Ev w66
33	Rekha Narula	Ev w67
34	Amanda Clement	Ev w69
35	Association of Sign Language Interpreters	Ev w70
36	Dr Christopher Stone	Ev w71
37	Mrs Thuy O'Shea	Ev w72
38	Carita Thomas	Ev w72
39	Emery Johnson Solicitors	Ev w73
40	Prison Reform Trust	Ev w74
41	Fair Trials International	Ev w76

42	University Council of Modern Languages, Open University	Ev w79
43	Peterborough Magistrates' Court	Ev w80
44	Irina Jefremova	Ev w81
45	Yvonna Swanson	Ev w82
46	Bogumila Kolbus	Ev w83
47	Elena Irimia	Ev w93
48	Association of Translation Companies	Ev w93
49	Marc Starr	Ev w95
50	Involvis Ltd	Ev w98
51	Cintra Ltd	Ev w108
52	Dennings LLP	Ev w110
53	The Reverend Michael J Slade	Ev w115
54	thebigworld	Ev w115
55	Dr Zuzana Windle	Ev w118, w123
56	Gonul Ekmekci	Ev w119
57	Dev Rajasansi	Ev w119
58	Pawel Nalewaj	Ev w120
59	Ligia Xavier	Ev w121
60	Amjad Parvez	Ev w122
61	Brooke Townsley, Senior Lecturer Interpreting and Translation, Middlesex University	Ev w122, w127
62	National Register of Public Service Interpreters Ltd	Ev w123
63	Mateusz Kiecz	Ev w123
64	National Audit Office	Ev w124
65	Chartered Institute of Linguistics	Ev w124
66	Geoffrey Buckingham	Ev w125

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2010–12

First Report	Revised Sentencing Guideline: Assault	HC 637
Second Report	Appointment of the Chair of the Judicial Appointments Commission	HC 770
Third Report	Government's proposed reform of legal aid	HC 681-I (Cm 8111)
Fourth Report	Appointment of the Prisons and Probation Ombudsman for England and Wales	HC 1022
Fifth Report	Appointment of HM Chief Inspector of Probation	HC 1021
Sixth Report	Operation of the Family Courts	HC 518-I (Cm 8189)
Seventh Report	Draft sentencing guidelines: drugs and burglary	HC 1211
Eighth Report	The role of the Probation Service	HC 519-I (Cm 8176)
Ninth Report	Referral fees and the theft of personal data: evidence from the Information Commissioner	HC 1473(Cm 8240)
Tenth Report	The proposed abolition of the Youth Justice Board	HC 1547 (Cm 8257)
Eleventh Report	Joint Enterprise	HC 1597 (HC 1901)
Twelfth Report	Presumption of Death	HC 1663 (Cm 8377)
First Special Report	Joint Enterprise: Government Response to the Committee's Eleventh Report of Session 2010–12	HC 1901

Session 2012–13

First Report	Post-legislative scrutiny of the Freedom of Information Act 2000	HC 96-I (Cm 8505)
Second Report	The budget and structure of the Ministry of Justice	HC 97-I (Cm 8433)
Third Report	The Committee's opinion on the European Union Data Protection framework proposals	HC 572 (Cm 8530)
Fourth Report	Pre-legislative scrutiny of the Children and Families Bill	HC 739
Fifth Report	Draft Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013	HC 927