



Professional Interpreters for Justice, c/o Involvis, The Coach House, Holbrook, IP9 2QR

The Rt. Hon. Margaret Hodge MP
Chair
Committee of Public Accounts
House of Commons
London SW1P 3JA

Tuesday 8th October 2013

Dear Mrs Hodge

THE MINISTRY OF JUSTICE'S LANGUAGE SERVICE CONTRACT

Thank you very much for your letter of 2nd September and for your actions in addressing the problems of the language service contract.

We are very pleased you have asked the National Audit Office to investigate further and would like to provide you with up-to-date information which we hope will be useful.

Directive 2010/64/EU

We do not believe the UK can ensure proper implementation of Directive 2010/64/EU on the right to interpreting and translation in criminal proceedings, which comes into effect this month. Member States are under a binding obligation to ensure a quality of interpretation (and translation) services that is sufficient for safeguarding the fairness of criminal proceedings. They are also bound by Article 8 (non-regression clause) which prohibits the lowering of existing standards in Member States during transposition.

The amount of interpreting work not currently covered by the Capita TI contract

Despite the former Justice Minister Helen Grant MP's assurances during the parliamentary debate (20th June) in Westminster Hall that 'we do not have supply problems', there continue to be daily accounts of where Capita TI is unable to fulfil bookings or is providing linguists who are poorly qualified to interpret to an acceptable standard. Our latest Dossier of these is enclosed. Of equal concern is the quality of the linguists booked by private agencies working under subcontract to Capita TI. Are these subcontractors being checked?

Many courts continue to book their own interpreters directly. Worryingly, there are also examples where defendants or witnesses require interpreters but these are not provided and the cases are proceeding without them with the obvious risk to justice and the right to a fair trial.

The Ministry of Justice committed to publish information in its next Statistical Bulletin regarding the numbers of 'off contract' bookings but there has been no published data about the language services contract since the end of March (Statistical Bulletin, 30 January 2012 – 31 January 2013).

Availability of data

The Freedom of Information requests made by our representatives show there is a continued reluctance to publish data surrounding the language services contract and a continued absence of transparency. We are unclear how inspection and auditing of the contractor is carried out and whether action has been taken to make this independent.

There is also evident confusion on the question of who owns the register of interpreters and the data which Capita produces about the contract.

An FOI Internal Review Request by Mr Pells of 28th August, which was responded to on 24th September (reference 85063) by K Hutchins (Operational Delivery Manager, Kilo) re-enforced the MoJ's original decision not to answer how many interpreters are on the register and how many of them had completed assignments.

The reason given in the official response was 'the information is not held by the MoJ but by the Contractors Capita' and goes on to say: 'HMCTS does not have sight of this list. This information belongs to Capita who are the data controllers not the MoJ or HMCTS. With regards to the number of registered interpreters this figure will change daily and is not recorded by Capita-TI as a daily figure so therefore they would not be able to go back to the date in July.'

This response by the MoJ to the FOI is not consistent with the answer given by Ann Beasley, representing the Ministry of Justice, who gave evidence to the PAC hearing on 15th October 2012. She answered a question from Ian Swales about 'Who owns the portal?'

Ann Beasley stated: "We do. We own all the intellectual property. We own the register of interpreters. If we needed to, we have the right to step in."

Both of these statements cannot be true.

The Ministry's review of assessment and qualification requirements

PI4J was invited to a Ministry of Justice workshop on 3rd September, which was independently facilitated. PI4J representatives provided expertise and ideas to help shape the scope of the Independent Quality Assessment although we maintained the view that the Framework Agreement and contract with Capita should be abandoned.

We were told that the FWA and contract will continue, but that any recommendations which come out of the Independent Quality Assessment would influence what happens regarding future procurement. Given all the evidence we question why there is a need to wait.

The official note of 3rd September is enclosed for your information and if you would like further details regarding the content of the workshop and our thoughts around quality we would be pleased to provide these. We asked and it was agreed that we should see the draft scope for the Independent Quality Assessment although we have not received this at the time of writing.

Needless to say we continue to be very concerned about the delay in carrying out this quality assessment and are frustrated with the lack of progress made by the Ministry of Justice.

It is over a year since the National Audit Office made its recommendations, published 10th September 2012 and over nine months since we wrote to the former Justice Minister Helen Grant MP (22nd January) with suggestions about the quality review. At the parliamentary debate on 20th June Sir Alan Beith said he had received more information in a letter dated 18 June from The Minister, where 'she says that steps have been taken to "scope and initiate" the quality assessment.' He urged (as we do) 'swifter progress'.

It is a pity that the former Minister was not persuaded as a result of the debate to cancel the contract, which was summed up by Andy Slaughter MP as 'the anatomy of a disaster.'

Number and size of wasted costs

We will be writing to Sir Alan Beith to ask whether the former Minister reported back to the Justice Committee and what actions have been taken on a number of areas she committed to provide further information on during the parliamentary debate of 20th June. These included a user satisfaction measure and the numbers and costs of off-contract bookings which were not accounted for in the figure provided by the Minister of £13.3 million spending on the first year of the contract.

The stated savings figure of £15 million is also questionable because of the wasted court time of the failings and the costs of defendants having to remain or return to custody when interpreters are not available.

On the question of costs we would like to bring to your attention the £15million operating loss recorded in Capita TI's annual accounts for 2012, published on 7th August. The Directors' report states that its turnover has increased from £6.8million to £21.1 million and operating loss has increased from £1.6 million to £15 million. It states: 'The increase in turnover and operating loss is due to the onerous courts' interpretation contract which commenced in early 2012'.

It appears that the £15 million 'savings' stated by the former Minister are not because the service is being run more efficiently but because Capita TI are swallowing the costs. The contract as it stands is not sustainable or financially viable.

Sir Alan Beith has said 'it will not be possible for the Ministry to escape parliamentary scrutiny after this debate' and we are keen to see further scrutiny progressed.

PACE

We are enclosing the copy of our response to the PACE consultation, which we have been very concerned about. Since making our submissions I, on behalf of PI4J, received a telephone call from Brian Roberts at the Home Office who has said it is likely, because of the strength of similar messages in a number of submissions, that the Framework Agreement will be removed as an example from the new PACE Codes due to be published on 27 October.

Professional Interpreters for Justice – next steps

In summary, we believe a different model is required to fulfil the requirements of supply and quality whilst balancing efficiency and cost effectiveness. We are doing our own work in defining what approach should be taken when the Government begins any new procurement.

We are also about to conduct another independent survey of public service interpreters to gather their views.

I look forward to hearing from you again regarding the NAO investigations and please do not hesitate to contact me if our representatives can be of further assistance on any matter.

We will of course keep you abreast of progress with our own work and would like to thank you again for your commitment to understanding what went wrong and to seeing the provision of interpreter services improve.



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On behalf of the Steering Committee of Professional Interpreters for Justice

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cc. Members of the Public Accounts Committee

Encs

- Dossier
- Official note of the 3rd September workshop
- Capita TI accounts
- PACE response