

Victims and Prisoners Bill: 31st January 2023

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“Public service interpreters are specialist, qualified and trained professionals....I would argue that surely it must be a non-negotiable, bottom-line principle that interpreting and translation services should be provided by qualified trained professionals; that to me sounds like a principle. An example of an operational guideline would be specifying a level of diploma qualification...”

Baroness Coussins:

Moved by Baroness Coussins

18: Clause 2, page 2, line 27, at end insert— “(3A) Where interpreting and translation services are needed, the victims’ code must specify that specialist, qualified and experienced professionals must be engaged.”

Baroness Coussins Crossbench

My Lords, I will speak to the four amendments in the second group in my name, which are supported by the noble Lord, Lord Ponsonby, the right reverend Prelate the Bishop of Leeds and the noble Baroness, Lady Benjamin. These amendments concern the issue of interpreting and translation in relation to the victims’ code. I gave an outline of my case at Second Reading, so I shall not of course repeat that today.

Since then, the noble and learned Lord, Lord Bellamy, has been kind enough to meet me to discuss my amendments. I am very grateful to him for taking the time to hear me out. I should first declare my interests as co-chair of the all-party group on modern languages, and vice-president of the Chartered Institute of Linguists. **I am indebted to the chartered institute, to the National Register of Public Service Interpreters and to the Bell Foundation for their helpful background briefings, constructive proposals and hard evidence of why these amendments are needed.**

Amendment 18 adds an extra specification to the face of the Bill about what the victims’ code must do, in addition to what is already listed in Clause 2(3). The current interim code states that victims have the right of

“access to interpretation and translation services” if needed.

As a technical aside, the word currently used in the code is “interpretation” rather than “interpreting”. However, I have used the word “interpreting” as it is the more accurate word and the word already used in other MoJ contexts. I have discussed with the Minister why this word should be brought into the text of the code itself. In case other noble Lords are beginning to nod off and think that I am splitting hairs unbearably, I will explain. The word “interpretation” implies analysis and paraphrasing, whereas the word “interpreting” explicitly means repeating in another language exactly, accurately and only what the speaker has said, without any commentary, advice or suggestions—all of

which would be totally unprofessional and anathema to any properly trained and qualified interpreter.

With the technical detail over, I go back to Amendment 18. It is vital that this overarching requirement be enshrined in the Bill and not left to the code, guidance or regulations. As I said at Second Reading, it is completely unacceptable that unqualified, underqualified or inexperienced individuals should be used as interpreters, especially in situations which are dangerous, sensitive, emotional or otherwise challenging for victims.

We know from thoroughly documented experience in the criminal justice system, and other areas of the public sector such as the health service, that a general or vague commitment to interpreting and translation services does not always deliver what is needed or required in practice. If it is left to guidance only, we also know from the NHS experience that there is no monitoring of whether the guidance is observed. Public service interpreters are specialist, qualified and trained professionals. A member of the family does not count. A teenage child certainly does not count. A neighbour does not count. A court official who happens to speak the same language at home does not count. Google Translate certainly does not count.

Put simply, fair access to justice for non-English speakers should be a legal right, not a guideline, recommendation or piece of good practice advice. If the need for a professionally qualified interpreter is stated only in a code or piece of guidance, it is in practice effectively optional. If it is on the face of the Bill, it becomes mandatory and enables us to put a stop to bogus or unqualified people pretending to be interpreters. In the world of public service delivery, that makes all the difference.

We know from various surveys, including one commissioned by the noble Baroness, Lady Newlove, that awareness that the code even exists is at very low levels. How much lower must the awareness levels be for people with poor or no English?

At the same time, different scenarios might legitimately demand different levels of qualification or experience. This is why the MoJ, in the light of discussions that I held with the Minister's predecessor, the noble Lord, Lord Wolfson, over the Police, Crime, Sentencing and Courts Bill, embarked on a thorough independent review of the qualifications and experience required of court and tribunal interpreters. I believe that it is close to publication, in time for the issuing of the next invitation to tender for contracted-out language services.

So please let us not fall into the trap with this Bill of the left hand of the MoJ not knowing what the right hand is up to. Let us have a coherent system, without contradictory provisions for language services in the criminal justice system. A victim giving a witness statement in her home, on the street or in the workplace must have the same right of access to appropriately qualified and experienced professional interpreting as the victim giving evidence in court.

My amendment does not propose specifying exactly which qualification for which type or what level of complexity of case we are talking about, as this will vary and must be carefully worked out in a detailed discussion involving all stakeholders. I learned my lesson from the noble Lord, Lord Wolfson, that that degree of detail is not appropriate for a Bill—but it is vital to be absolutely clear, as in my amendment, that a non-negotiable bottom line must be that only specialist qualified and experienced professionals be engaged.

I would hope that, when it comes to regulations, the MoJ, whether dealing with courts or victims in other scenarios, will at least match the criteria adopted by the police-approved interpreters and translators scheme, known as PAIT, which uses the level 6 diploma in public service

interpreting as a default standard and has adopted the code of conduct agreed by the National Register of Public Service Interpreters. At the moment, neither the police scheme nor the MoJ currently requires interpreters to be on the national register, despite its expertise in standard setting. But the CPS does, so the requirement is potentially worth keeping under review.

The next two amendments in this group, Amendments 25 and 33, simply tidy up and complete the need to be explicit and avoid the all too frequent outcome of overlooking the needs of victims whose first language is not English. Amendment 25 would guarantee that, when the draft of the new victims' code is published, it is published in a range of languages in addition to English. We know that the current version is available in 15 other languages, but approximately 300 languages are spoken in the UK. I am not suggesting for a minute that we have translations permanently on the shelves in all these languages, but it would be sensible to have some built-in bespoke flexibility to determine at the time how many and which other languages would be helpful.

For example, we know that there are some rare languages for which there is not even a public service interpreting qualification, even though there is a demand for those languages in the public sector. The national register has strict protocols on the criteria for engaging interpreters in these circumstances. Demand may vary significantly from one area to another, so flexibility is essential, and my amendment would ensure that this is not overlooked.

Similarly, Amendment 33 would simply require criminal justice bodies providing services in any police area, when taking steps to promote awareness of the code, to include in their target groups those whose first language is not English. Until that becomes second nature, which evidence from the Bell Foundation and others shows us it is not, the obligation needs to be in the Bill.

The fourth and last of my amendments, Amendment 47, is to Clause 11(2)(b), which deals with the guidance on code awareness and the way in which information is collected. The subsection specifies that particular attention be paid to data relating to

“children or individuals who have protected characteristics within the meaning of the Equality Act”.

My amendment would add to that list the words

“and people who have a first language other than English”.

This is because spoken language, or linguistic diversity, is not one of the protected characteristics under our equality legislation, and yet it is self-evident—again, from Bell Foundation research and much else—that inequalities, ranging from lack of information to a diminished quality of justice and human rights, may often still occur. Once again, unless proactively and explicitly required, we will not have data to tell us for whom, how often, in what form, in what circumstances and in what languages the services of interpreters and translators are needed, and therefore what provision—in human or budgetary resources—needs to be available.

I hope the Minister will see fit to encourage His Majesty's Government to accept all four of my amendments, as I believe they will all improve the Bill and enable the Government better to achieve what they clearly wish to achieve for the benefit of victims—all victims. I beg to move.

That is why the national register is so important, said The Bishop of Leeds at 4:45pm on 31 January 2024

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Baroness Coussins Crossbench 5:30, 31 January 2024

My Lords, I am grateful to all noble Lords who spoke in support of my amendments in this group. I also thank the Minister for his reply. He drew a distinction between principles, which he said should be in the Bill, and operational guidance. I would argue that surely it must be a non-negotiable, bottom-line principle that interpreting and translation services should be provided by qualified trained professionals; that to me sounds like a principle. An example of an operational guideline would be specifying a level of diploma qualification for a particular category of case, situation or scenario. So I urge the Minister to be emboldened by the unanimous support around the Chamber for this set of amendments and to negotiate for a bit more room for manoeuvre, particularly on Amendment 18.

8th February 2024