

Details of an email sent on 3rd August 2020 to Crown Commercial Services regarding professionalism in public services interpreting

Thank you for your time recently and for the opportunity to have frank and passionate conversations regarding quality and codes of professional conduct. As discussed, controlling quality really depends on input and output; are the right people being deployed for interpreting engagements (input) and then are there any complaints which need to be handled (output). As we discussed, getting the Code of Professional Conduct right for public service interpreters is absolutely key to ensure input is 'best possible practice' and that output has an effective disciplinary system which is transparent and clear for all to see.

As you know, NRPSI has been operating the Code Professional of Conduct and a transparent disciplinary system for the last 26 years; the Code is visible to all who wish to find it on the website; http://www.nrpsi.org.uk/downloads/NRPSI_Code_of_Professional_Conduct_22.01.16.pdf and the disciplinary process is clearly outlined; (http://www.nrpsi.org.uk/downloads/NRPSI_Disciplinary_Framework_and_Procedures_22.01.16.pdf) with results from the hearings publicly available; <https://www.nrpsi.org.uk/for-clients-of-interpreters/disciplinary-outcomes.html>

As you know we received a letter dated 24th October 2019 from the then Minister for Implementation, Simon Hart MP on behalf of the Cabinet Office stating there is "not the demand across the entirety of public sector to mandate the use of accredited, registered and regulated interpreters for all interpreting services requirements". This followed a letter dated 5th September 2019 from the Cabinet Office, signed by the Rt Hon Oliver Dowden CBE MP stating "Government has no plans to mandate all public bodies to use accredited, registered and regulated interpreting practitioners". Since then of course there has been another election, a new government and the coronavirus crisis, which has led to criticism of how the government has been dealing with interpreting and translation issues, as we discussed; see <https://www.linkedin.com/feed/update/urn:li:activity:6694498367315177472/>

Statutory regulation relates to professionals having to be registered with a regulatory body. Thus organisations engaging with these professionals are mandated to ensure only accredited, registered and regulated practitioners are deployed.

Any regulator maintains a register of individuals who meet the agreed required standards set for the specific profession. This includes standards of education, training, professional skills, qualifications, levels of experience and behaviour.

Statutory regulation exists to protect the public against the risk of poor practise; setting standards of practice and measuring competence by registering those who are competent to practice and restricting the use of specified protected titles to those who are registered - protection of title. Sanctions may be applied to those who are registered and controlled by a code of professional

conduct, such as removing them from the register if their fitness to practice is found to be impaired in any way.

Government's view, seemingly based on feedback from the public sector, that there is no appetite to achieve the benefits of statutory recognition for public-protection is an attitude which NRPSI is certainly continuing to address. Indeed, there was a flurry of press coverage, both legacy media such as the FT (5th Nov 2019 article) as well as digital coverage, following these comments last year prior to the last election. Tackling such an attitude lies at the heart of NRPSI strategy; see page 4, 5 and 6 of the 'Annual Review' at [http://www.nrpsi.org.uk/downloads/1240 NRPSI Annual Review 6th Edition.pdf](http://www.nrpsi.org.uk/downloads/1240_NRPSI_Annual_Review_6th_Edition.pdf)

With regard to the code of professional conduct for spoken word interpreting in the CCS framework, I am encouraged by your desire for 'best possible practice' but disappointed by the CCS not focusing on NRPSI's Code of Professional Conduct.

NRPSI contends that CCS will actually be nullifying best possible practice in language service provision in the public sector if it launches a framework where the gold-standard Code of Professional Conduct for Public Service Interpreters is being ignored. As you stated in the minutes from 16th July regarding spoken language services; "...there was more of an issue in the spoken space due to the various organisations which represented different mediums and levels. Given the Framework has a wide spectrum of requirements we have chosen not to endorse any of those organisations in reflection of a Code of Conduct but instead create a mandatory requirement that all Language Service Providers (LSP's) have one in place which meets the clauses set out in the attachment shared. This would ensure, where an Interpreter is not a member of an organisation they will still have to adhere to a recognised Code of Conduct."

As we discussed, NRPSI is not a membership organisation. The National Register was however launched under the auspices of the CIOL and managed by the CIOL from 1994 to 2011. Also of note is that the APCI demands a member of this association is a NRPSI Registrant before joining the APCI, as does SOMI. And the newly launched AIT demands NRPSI registration before an interpreter can join the association as a member. Please see the 'Related Organisations' page of the website at <https://www.nrpsi.org.uk/news-and-links/Related-Links.html> ; NRPSI is not a competitive membership operation to any of these bodies - but it is the Register and Regulator for accredited, registered and regulated public service interpreters - for those with level 6 or above qualifications; see http://www.nrpsi.org.uk/downloads/Qualifications_and_Experience_Criteria_for_Entry.pdf .

You are absolutely correct that NRPSI has no jurisdiction over level 6 qualified interpreters who are not a Registrant, because it is currently the voluntary regulator given the government's and public sector's lack of appetite for professionalism in public service interpreting, according to the letters from government ministers. Nevertheless, many interpreters who take their profession seriously understand the need to be registered and regulated. What they also need, and want, is their profession to be taken seriously by the authorities.

This is exactly the argument for it to become statutory for a level 6 or above to be registered and recognised by the National Register - to protect the public and to protect the public purse.

Therefore it makes a great deal of sense to ensure the core of the National Register's Code of Professional Conduct is being used by these non-registered interpreters. Recall the Tran case where an interpreter was taken off the Register in 2017 but continued operating on an agency's books for two more years before being sent down for criminal behaviour in 2019. You and the CCS have in your power the chance to begin tackling such behaviours by deploying those elements of NRPSI's code which can be applied in the new CCS framework.

With regard to level 3 and 4 qualified interpreters, you and I both recognise there is a real demand for this sector to be registered and regulated as we have discussed a number of times. NRPSI certainly has the experience and the desire to explore launch and maintenance of a NRPSCIT (National Register for Public Service Community Interpreting and Translation) or NRCIT (National Register of Community Interpreting and Translation) - the question is does the public sector 'have an appetite' for statutory recognition and policing of this public services' arena.

To move the situation forward, to improve quality issues in the public sector where language services are involved, we would like to propose CCS takes the relevant elements of NRPSI's Code of Professional Conduct and apply it to the CCS framework.

Please note we have attached a draft of how this might work; your comments about how such a Code ought to operate have, I hope, been addressed. This proposed draft does have 'teeth' with all interpreters, be they NRPSI Registrants, other level 6 who currently do not abide by the Code or levels 3 and 4 who do not yet have a register or regulator but are used by the public sector for language services for certain specific jobs, based on the CCS framework.

You will note how this proposed code makes use of NRPSI experience over the last 26 years, handles the issues of not having teeth for those interpreters not registered with NRPSI, ensures consistency of control for the LSPs codes for their commercially produced lists and also lays the foundations for transparent Professional Conduct Committee, Disciplinary Committee and Appeals Committee processes and protocols. This proposed draft for a new CCS Public Services Interpreter Code of Professional Conduct covers more granular detail than is in the CCS draft for the complaints process, is more demanding on LSPs and ought to deliver 'best possible practice' by interpreters given today's ecosystem. This proposed draft will help lay the foundation for what I believe you and the CCS are looking to achieve.

NRPSI is passionate about these issues - because we are driven by protection of the public and also ensuring best use of public funds.

Best use of public funds and protection of the public cannot be the most important factors motivating executives in privately owned LSPs; they are primarily driven to deliver profits and thus dividends for their shareholders as their most important priorities.

I applaud this as I spent my working life up to May 2019 in privately owned businesses; my overarching priority as a board member and key executive in those organisations where I toiled was ensuring I delivered first and foremost for the shareholders.

When making use of privately owned businesses as outsourcing engagement agencies, it is vital they are controlled by public services. One key element of control is the nature of the code of professional conduct they use for the self-employed contractors they engage with to deliver for the public sector as well as their disciplinary processes if/when things go wrong with these deployments. Some agencies are in fact already recognising NRPSI's Code and standards and have built their contracts with self-employed interpreters on NRPSI's Code of Professional Conduct; see <https://www.recruitment-empire.co.uk/remote-spoken-interpreting-telephone-video/code-of-conduct-to-be-followed-by-remote-interpreters/>

It is also key for these engagement agencies or LSPs to have a code of conduct for themselves guiding how they conduct their business; the Association of Translation Companies (ATC) has made headway in this arena with the manifesto for LSPs working in the public sector published earlier this year.

It is a matter of record that there are LSPs which are content to recruit unqualified and inexperienced bilinguals for government language service delivery. As discussed before, we know there are certain NHS Regional Trusts and Hospital Trusts also allowing unqualified and inexperienced bilinguals delivering language services for the public sector. Winning-back control of best-possible-practice will not be achieved unless there is a profound change in the levels of professionalism demanded by the government, the public sector and its contracted agencies. Please compare the recent emailing from tbw which was distributed last week to the CPD section of the NRPSI website (<https://www.nrpsi.org.uk/news-and-links/CPD-Events.html>) to get a sense of the difference in quality being encouraged by the National Register.

For evidence backing up this view of privately owned businesses in the public sector, please see the seminal paper written in 1976 by finance professors Michael Jensen and Dean William Meckling of the Simon School of Business at the University of Rochester entitled 'Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure.' Also see the key article written by Milton Friedman in the New York Times from 13th September 1970, where he stated that a corporate executive working in an entity is actually an employee of the owners of that business. He has direct responsibility to his employers via the ownership structure of the firm. The key responsibility for senior executives is to conduct the business in accordance with shareholders' desires, which generally will be to make as much money as possible while conforming to basic rules embodied in law ensuring the business stays in business. As the father of modern economics, Adam Smith said; '...that the best economic benefit for all can usually be accomplished when individuals act in their self-interest...' yet '...the interests of the business person will always be at odds with the public interest'. See the well-respected Harvard Business Review article from 1991 entitled 'Does Privatization Serve the Public Interest?' where the authors state: "The replacement of public with

private management does not of and by itself serve the public good. Accountability and consonance with the public's interests should be the guiding lights".

As already stated, NRPSI's overarching concerns are not making profits and then paying dividends to shareholders, but in serving the public, serving the public sector and regulating professional public service interpreters – being transparently accountable and consonant, and in agreement with, the public interest.

Our aim is to convince government and those public sector organisations which have no appetite for best possible practice that: statutory recognition of public sector interpreters is vital; mandatory use of those registered and regulated interpreters is key; NRPSI's history and the newly launched NRPST are crucial platforms for achieving best practice in public service interpreting; terms and conditions including engagement fees cannot be left in the hands of privately owned engagement agencies but needs public sector control; there is a need for an independent and neutral register and regulator of level 3 and 4 public service interpreters (a NRPSCIT or NRCIT) which needs initial funding to ensure an effective launch; and the current Code of Professional Conduct which has been hammered out over NRPSI's last 26 years of existence ought to be a foundation stone of the new CCS framework's code and complaints/disciplinary process. Such a move by the CCS would be a positive step forward to the continuing professionalisation and search for best practice in public sector interpreting.

Please let me know if there is anything further you need from NRPSI and I look forward to continuing this dialogue with you as you shape the final draft of the CCS framework for language services, finding ways to encourage best possible practice in language service provision in public services.

Kind regards,

Mike Orlov

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