

# **Independent Review of Quality Arrangements under the MoJ Language Services Framework Agreement**

Ministry of Justice

November 2014

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## List of Abbreviations

<b>ALS</b>	Applied Language Solutions
<b>APCI</b>	The Association of Police and Court Interpreters
<b>BA</b>	Bachelor of Arts (degree)
<b>BSL</b>	British Sign Language
<b>CILT</b>	The National Centre for Languages
<b>CiOL</b>	Chartered Institute of Linguists
<b>CJS</b>	Criminal Justice System
<b>CPD</b>	Continuous Professional Development
<b>DPSI</b>	Diploma in Public Service Interpreting
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>FA</b>	Framework Agreement
<b>FHEQ</b>	Framework for Higher Education Qualifications
<b>HMCTS</b>	Her Majesty's Courts and Tribunals Service
<b>HMP</b>	Her Majesty's Prison
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>IoLET</b>	Institute of Linguists Educational Trust
<b>ITI</b>	Institute of Translation and Interpreting
<b>JC</b>	Justice Committee
<b>KPI</b>	Key Performance Indicator
<b>LSP</b>	Language Service Professionals
<b>MA</b>	Master of Arts (degree)
<b>MoJ</b>	Ministry of Justice
<b>NA</b>	National Agreement on arrangements for the use of interpreters, translators and language service professionals in investigations and proceedings within the CJS
<b>NAO</b>	National Audit Office
<b>NRCPD</b>	National Registers of Communication Professionals working with Deaf and Deafblind People
<b>NRPSI</b>	National Register of Public Service Interpreters
<b>NOS</b>	National Occupational Standards
<b>NVQ</b>	National Vocational Qualification
<b>NQF</b>	National Qualifications Framework
<b>PAC</b>	Public Accounts Committee
<b>PACE</b>	Police and Criminal Evidence Act 1984
<b>PSI</b>	Public Service Interpreting
<b>QDT</b>	Qualifications Decision Tree

## 1.0 Executive Summary

### 1.1 Introduction

The Ministry of Justice (MoJ) commissioned Optimity Matrix<sup>1</sup> to undertake an Independent Review of the quality arrangements under the MoJ Language Services Framework in January 2014 (the Optimity Matrix Review)<sup>2</sup>. The MoJ sought a balanced assessment of the quality standards required for interpreter services, taking specific account of the needs of the justice system, end users and interpreters, whilst providing value for money to taxpayers.

Interpretation and translation services<sup>3</sup> are used by the MoJ and its agencies at different stages of the justice system throughout proceedings in courts and tribunals, and in prisons and probation. Prior to January 2012, language services for the justice sector were booked by the MoJ with individual language service professionals. However, to improve efficiency and quality, and reduce administrative costs, the MoJ established a new centralised system for procuring language services in the form of a new Framework Agreement (FA) with Applied Language Solutions, who were subsequently purchased by Capita Translation and Interpreting (TI).

Following early criticisms of the performance of the FA, investigations were conducted by the National Audit Office (NAO), the Public Accounts Committee (PAC) and the Justice Committee of the House of Commons (JC), all of whom made recommendations relating to quality standards.

In this context, Optimity Matrix has been commissioned to examine the latest evidence. The Optimity Matrix Review is based on extensive desk research and consultation with experts, justice sector users, end users and interpreters via surveys, interviews as well as a workshop. The findings are based on a summative assessment of this evidence, rather than on a systematic review of comparative experiments of different models of interpreter services. As such, the findings will be heavily influenced by prevailing practice and the views and experience of stakeholders.

The following paragraphs provide a summary of the findings of the Optimity Matrix Review. Recommendations have also been prepared by the Optimity Matrix Review Team for the MoJ to consider in conjunction with other available information.

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<sup>1</sup> Matrix Knowledge formally joined the global consultancy group Optimity Advisors in September 2014. As its European arm, the newly combined business trades as Optimity Matrix and runs the public policy arm of Optimity Advisors' global operations. For more info go to: [www.optimitymatrix.com](http://www.optimitymatrix.com)

<sup>2</sup> Contract Reference: 3640 Professional Services

<sup>3</sup> Interpreting is defined as 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.

## 1.2 Key Findings

### 1.2.1 Quality Requirements

**Qualifications:** There was clear consensus that qualifications are the most robust and reliable measure of interpreter quality and are an appropriate tool to ensure quality standards of interpretation and translation across the justice sector.

**Face-to-face interpreters of standard languages:** A number of qualifications were deemed by various stakeholders consulted for this Review as providing sufficient indicators of quality for interpreters to work in the justice system. There were a variety of views expressed about which qualifications were the most appropriate. The top ten qualifications identified by stakeholders for use by face-to-face interpreters of standard languages working in the justice sector are listed below.

- *IoLET Diploma in Public Service Interpreting (DPSI) – Law option*
- *IoLET Diploma in Public Service Interpreting (DPSI) – Health option*
- *IoLET Diploma in Public Service Interpreting (DPSI) – Local Government option*
- *Metropolitan Police Test / IoLET Diploma in Police Interpreting*
- *MA in Interpreting and Translation (as long as the justice system specific skills are examined)*
- *MA in Interpreting (as long as the justice system specific skills are examined)*
- *BA in Interpreting and Translation (as long as the justice system specific skills are examined)*
- *BA in Interpreting (as long as the justice system specific skills are examined)*
- *Post Graduate Diploma in Interpreting (as long as the justice system specific skills are examined)*
- *Post Graduate Diploma in Conference Interpreting (as long as the justice system specific skills are examined)*

These top ten qualifications are relevant not only for the first working language but also any additional languages being offered by the interpreter. Of the interpreters registered with Capita TI that responded to the supply survey, just under 50% hold one or more of these top ten qualifications.

**Rare language interpreters:** Rare languages are characterised by having no relevant qualifications. In this respect, it is difficult to use qualifications as a benchmark for quality. This is a recognised problem across the public sector and is not specific to justice. All stakeholders were keen to look at innovative solutions to improve the quality of service for those who need rare language interpreters.

**Interpreters for deaf and deafblind people:** For interpreters for deaf and deafblind people, the requirements prescribed under the FA were considered by stakeholders as acceptable. This might be due to the fact that that these interpreters have to be drawn from the relevant national

registers and must therefore meet National Registers of Communication Professional working with Deaf and Deafblind People (NRCPD) quality requirements.

**Translators and Telephone Interpreters:** The qualifications deemed most appropriate for translators and telephone interpreters working across the justice system are similar to those deemed most appropriate for face-to-face interpreters of standard languages. For translators, however, there is a need for additional capability to translate in writing from a second language to a native language.

**Experience:** Study participants perceived experience to be a necessary but not a sufficient requirement for an interpreter working across the justice system. Experience needs to be combined with relevant qualifications. The vast majority of justice sector organisations were perceived to require at least 100 hours of experience, with requirements of at least 400 hours of experience for those organisations with the most serious potential consequences. The current FA includes a minimum requirement for 100 hours experience for registered interpreters.

## 1.2.2 Allocation of Jobs

**Differences in quality requirements across the justice sector:** Stakeholders and prevailing practice suggest that quality requirements differ across the justice sector due to the risk and/or complexity/importance associated with the work. There is, however, no standard unambiguous definition of complexity and risk. International and European legislation on the right to an interpreter and the former National Agreement (NA) only apply to the Criminal Justice System (CJS) which suggests a consensus that the needs of the criminal justice sector require special consideration, probably on account of issues of freedom and liberty. Stakeholders also considered the work of senior courts to require a higher level of skills and experience.

**Use of a Tiering System:** Tiering has the potential to effectively match the supply of suitably qualified interpreters and translators to those cases which most need their skills. However, opinions of the current three tier system were mixed – those who work in the justice system were generally satisfied with the system yet a number of respondents stated that it is overly complex and difficult to utilise effectively. Experts<sup>4</sup> believed a two tier system would be simpler and more appropriate.

## 1.2.3 Assessing and Assuring Quality

**Assessing quality at the hiring stage:** Study participants were dissatisfied with the current evaluation procedures at the hiring stage of interpreters of standard languages. There is a perceived lack of focus on both qualifications and experience in the procedure. **For rare language interpreters**, there are assessment problems but this is no different to the general industry-wide issue regarding the absence of qualifications.

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<sup>4</sup> For the purpose of this study, experts specialised in the area of interpretation and translation have been consulted who are independent and do not provide language services under the FA, for Capita TI or as part of the Ministry of Justice.



**Assuring ongoing quality:** Experts have stated the importance of **independent monitoring or spot checks** as a means of assuring ongoing quality; however, there were some concerns related to this process being undertaken by the service provider. There are currently few known examples of the use of monitoring or spot checks within the profession.

The provision of **Continuous Professional Development (CPD) programmes** for interpreters and translators is quite common within the industry and is perceived to be important for the development of appropriately qualified language service professionals. Interpreters and translators working in the justice sector were generally dissatisfied with the (lack of) provision of CPD. Opinion was divided about who should be responsible for providing CPD, and whether this should be the MoJ, Capita TI or the CIOI. In this regard, some stakeholders believed that the responsibility for the provision of CPD should not be left to the discretion of commercial agencies. CPD is already a requirement under the FA but is not currently implemented.

In general, study participants agreed that a **complaints procedure** should facilitate the proper investigation and resolution of issues that arise; should allow for dialogue between supplier and service user; and should include an escalation facility bound by realistic timescales. Although this is a requirement under the FA, opinion was divided about how well the current complaints procedure operates.

## 1.3 Recommendations

Based on these findings and those made in previous reports by the NAO, the PAC and the JC, the Optimity Matrix Review includes a number of recommendations.

It should be noted that it has not been possible to calculate the cost of implementing these recommendations as insufficient information is available to do so. Where possible, estimates of the potential scale of the impacts have been provided.

As a general note, it is imperative that MoJ continues to maintain an open dialogue with all relevant stakeholders, as only with sector wide buy-in can the current issues be overcome.

### 1.3.1 Recommendation 1: Use of qualifications and experience as an indicator of quality, combined with a simplified tiered system to improve transparency in the allocation of interpreters to jobs.

The Optimity Matrix Review recommends that qualifications and experience should be used as an indicator of the quality of interpreter services. In particular:

- all face-to-face interpreters working in the justice system should be qualified;
  - The top ten qualifications identified by stakeholders as suitable for interpreters working in the justice sector could be used by the MoJ to set the required

quality standards for any new FA. However, it is recognised that less than one half of FA registered interpreters currently hold one or more of these qualifications. On balance, therefore affordability and supply constraints would render this impractical as a minimum requirement for all justice jobs. The MoJ should, however, seek to match interpreters with one of these qualifications to those jobs which are complex or higher risk.

- The well-established National Occupational Standards (NOS) however, do provide a baseline standard for qualifications which all interpreters working in the public sector should have for entry into the profession. Currently it is not a requirement under the FA for interpreters to have qualifications which comply with NOS. It is recommended that, if the MoJ is unable to achieve a situation where all interpreters have specialist justice qualifications, that the NOS be used to provide a minimum benchmark for qualifications for entry into the profession which all interpreter services should adhere to.
- experience is an important contributor to quality, especially experience in the justice system;
  - all interpreters should have at least 100 hours of experience as per the current FA;
  - for more complex cases, interpreters should have at least 400 hours of public service experience.

The tier system is a useful concept for matching quality and risk. However it is recommended that the system be simplified from three tiers to two to improve simplicity and transparency.

There is no unambiguous or objective definition of risk and complexity which could be used to distinguish between tiers, however, the MoJ should consider all CJS and senior courts jobs as being more likely than other jobs to require experienced interpreters with justice specific qualifications.

Balancing the needs of the justice system, end users, interpreters, and taxpayers, the Optimality Matrix Review therefore recommends that the MoJ considers simplifying and amending the current tiered system of job allocation and quality standards as follows:

#### **Tier A**

- **Quality requirements:** interpreters should hold one of the top ten qualifications identified by the Optimality Matrix Review (or equivalent) and at least 400 hours of public service interpreter experience.
- **Job allocation:** interpreters in Tier A would be prioritised to jobs in the CJS and the Senior Courts.

#### **Tier B**

- **Quality requirements:** a qualification assessed as meeting the NOS and at least 100 hours of experience.

- **Job allocation:** interpreters in Tier B would be allocated to jobs outside the CJS or Senior Courts.

This recommendation could be implemented via:

- Reallocating jobs among the current pool of Capita TI interpreters.
- Training the current pool of Capita TI interpreters.
- Expanding the current pool of interpreters participating in the FA.

Review estimates suggest that the supply of interpreters sourced from the current pool of Capita TI interpreters that qualify as Tier A is sufficient to meet the demand of interpreter jobs in the CJS and the Senior Courts. This recommendation would have no negative impact on the current supply of interpreters in those areas.

The requirement for all interpreters to be qualified would help improve the perceived poor quality of evaluation of interpreters at the hiring stage.

### 1.3.2 Recommendation 2: Improving the efficient use of qualified interpreters

The Optimity Matrix Review recommends improving the efficient use of qualified interpreters, by continuing to increase the efficiency of the current system of booking and allocating language services and the use of video interpreting technology within the courts.

### 1.3.3 Recommendation 3: Improve Continuous Professional Development

The Optimity Matrix Review has found that a CPD programme for interpreters and translators is perceived by all stakeholders as important and necessary. The current FA already includes a suitable programme for delivering CPD to language service professionals working in the justice sector. However, it does not appear to have been implemented.

This review therefore recommends the implementation of the CPD programme already allowed for in the FA. The overarching purpose of the CPD programme would be maintenance and development of the interpreter skill set, as well as a tool to facilitate the appraisal of interpreters. There is also scope for the CPD programme to **include training for the purpose of gaining experience in courts and tribunals**, for example through a mentoring or shadowing system for newly qualified interpreters. This type of training could count towards the hours of experience required for Tier A interpreters under Recommendation 1.

#### 1.3.4 Recommendation 4: Improve assessment of rare language interpreters (at the hiring stage)

The findings on assessing and assuring quality note the inherent difficulty of assessing interpreters in rare languages and acknowledge this as an industry wide issue.

A short-term recommendation of the Optimity Matrix Review is therefore for the MoJ/Capita TI to make better use of technology (such as video conferencing), using remote assessors to improve access to rare language interpreters. Non-language specific aspects of rare language interpreter skills could be tested in English. With a more long-term view, the Optimity Matrix Review recommends an assessment of the demand for particular languages in the justice sector, as well as the demand for qualifications in rare languages, in order to develop appropriate qualifications for the most in demand languages/qualifications.

#### 1.3.5 Recommendation 5: Improve the ongoing quality assessment of interpreters

The findings on assessing and assuring quality further suggest the importance of a robust (ongoing) quality assurance mechanism, including independent monitoring and spot checking.

The Optimity Matrix Review therefore recommends that the existing FA requirement for ongoing evaluation of quality, including spot checks, be properly implemented.

Furthermore, the Optimity Matrix Review recommends that Capita TI amends its current complaints procedure to include the possibility for all participants in the justice system to file complaints on its interpreters. This should include the provision of information on the right to complain, as well as information on the workings of the complaints procedure. In this context, both the MoJ and Capita TI need to pay closer attention to the issue described in the findings as the 'principal-agent problem'.

#### 1.3.6 Review Observation: The need for regulation of the interpreting profession

**Regulation is out of scope of this review;** however, experts consulted consider it acceptable for a commercial entity to continue the provision of language services as long as an independent regulator is used to set the quality standards for language service professionals and monitor compliance with these standards.

Although out of scope, the Optimity Matrix Review therefore recommends that National Register of Public Service Interpreters (NRPSI) is given a more vital role (at least within the justice system) as they could provide incentives for interpreters to acquire relevant qualifications in order to reach the Tier A quality requirements. This would also send a positive signal that the MoJ holds the interpreting profession in high regard and demonstrates a will to ensure the profession's regulation. Regarding interpretation for deaf and deaf blind people, the NRCD should take a similar role to that of NRPSI.

## 2.0 Introduction

The findings of the Optimicity Matrix Review are presented in five main chapters:

1. **Chapter 1** Executive Summary.
2. **Chapter 2** Introduction and Background. This includes a description of the research objectives and methodology and the policy context. It also includes important contextual information on previous and existing quality standards for interpreters/translators.
3. **Chapter 3** Findings. This provides an overview of the findings of the Optimicity Matrix Review.
4. **Chapter 4** Recommendations. There are a number of recommendations described in this Chapter which the MoJ is invited to consider when setting future policy.

In addition, the report is followed by seven Appendices providing further background on several aspects of to this study.

## 2.1 Research Objectives and Methodology

In assessing the quality standards, the MoJ asked that the Optimicity Matrix Review take specific account of the need to achieve a balance between the needs of the justice system, end users, interpreters and providing value for money to the taxpayer. They further outlined the need that recommendations identify those areas of the FA that need closer focus, be practical and implementable, and pertain to changes to the current arrangements or with a view to future commissioning of the FA.

In addition, the MoJ earmarked the following areas as outside the scope of this assessment: interpreter terms and conditions, the procurement and management of the FA, and the potential for a regulatory framework.

The Optimicity Matrix Review is based on extensive desk research and consultation with experts, justice sector users, end users and interpreters via surveys, interviews and a workshop. The findings are based on a summative assessment of this evidence, rather than on a systematic review of comparative experiments of different models of interpreter services. As such, the findings will be heavily influenced by prevailing practice and the views and experience of stakeholders.

Further details of the research objectives and methodology can be found in Appendix 1.

## 2.2 Policy Context

When participants in the UK justice system do not speak English as their first language, interpretation and translation services need to be provided to ensure that these individuals are able to understand the content and extent of possible consequences of actions being taken.

Prior to January 2012, justice sector interpreters were mainly procured directly from the NRPSI, as stipulated by the NA.<sup>5</sup> The NA set out guidelines on the procurement of language services primarily for the CJS; these were also used to inform this process in the civil justice system. In practice, procurement procedures differed between justice system organisations. The courts, for example, contacted interpreters directly and paid them individually, whereas tribunals used a central team to organise bookings and payment for a panel of interpreters.

However, in view of the cost estimates and the diversity of procurement procedures, an MoJ audit deemed this system administratively inefficient. In order to mitigate these issues the MoJ set up a centralised system for procuring language services in the form of a new FA with Capita TI. The primary aims being to improve quality and availability of interpreters, to make booking and payment of interpreters more cost-efficient, and to collect central management information on the usage and payment of interpreters.<sup>6</sup>

In August 2011, the MoJ signed a four-year FA with Applied Language Solutions (ALS) for the provision of specific interpretation and translation services. Under this Framework, criminal and civil justice sector bodies could enter individual contracts with ALS. In October 2011, the MoJ signed a five-year contract under the FA with ALS for the general provision of interpreters and translators in courts, tribunals and prisons. Moreover, several other justice bodies, namely nine Police forces, probation services, the Legal Aid Agency and the Crown Prosecution Service, have since signed contracts for the provision of language services under this FA. In December 2011, ALS was acquired by Capita – now Capita Translation and Interpreting (Capita TI) – and the MoJ Contract became operational in January 2012.

The new system proposed by ALS, and agreed with the MoJ, matched registered interpreters and translators to potential work through a three tier system representing interpreter competency. Initially, there were significant challenges with the operation of the new system. Poor results against key performance indicators<sup>7</sup>, and delays in certifying interpreters for quality and security led to criticism.<sup>8</sup> This situation with the contract requirements has subsequently stabilised – the proportion of bookings fulfilled has now risen to 96%. However, not before these issues had been investigated by the NAO, the PAC and the JC. The reports on these investigations all made recommendations relating to quality standards.

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<sup>4</sup> National Agreement on the arrangements for the use of Interpreters, translators and language service professionals in investigations and proceedings within the CJS, as revised 2007.

<sup>6</sup> Language Services Framework/JAH/CMTNorth/0811 between the Ministry of Justice and Applied Language Solutions (now Capita-TI). This document also includes the initial Specifications for proposal (produced by the MoJ) and the Proposal response (produced by Capita-TI). p.99 & 102-103.

<sup>7</sup> National Audit Office, The Ministry of Justice's language services contract: Progress update, Session 2013-14 (HC995), 22 January 2014. London: The Stationery Office Limited. p.6.

<sup>8</sup> National Audit Office, Memorandum: The Ministry of Justice's language services contract, 10 September 2012. Available online at: [www.nao.org.uk](http://www.nao.org.uk). p.17 & 19.

Further details on the reports are outlined Appendix 2.

## 2.3 Legal Context

International and European law requires language service professionals of an appropriate quality. There is no definition of quality in this context. The provisions only apply to the CJS. English and Welsh law follows and refers to the terms stipulated in the relevant European law. Again, these only apply to the CJS. The following paragraphs provide a summary of the relevant legislation.

Pertinent international and European legislation establish the right to interpretation and translation where the defendant does not speak the language of the legal proceedings, namely in Article 14 (3) of the **UN International Covenant on Civil and Political Rights** (ICCPR);<sup>9</sup> and Article 5 (2) and 6 (3) of the **European Convention of Human Rights** (ECHR).<sup>10</sup> However, these provisions only apply to criminal cases and do not specify that the interpretation or translation must be of a certain quality. In addition, the European Court of Human Rights (ECtHR) ruled that *'an interpreter must be competent in order for the applicant's right under Article 6 (3) to be practical and effective'* yet does not define competent.<sup>11</sup>

**EU Directive 2010/64/EU**<sup>12</sup> has been in force since October 2013 and builds on the above legislation, applying only to criminal proceedings. As well as further cementing the right to interpretation or translation, the Directive includes articles which discuss the quality of interpreters or translators; according to Article 2 (8) and Article 3 (9) the required quality is *'a quality sufficient to safeguard the fairness of proceedings'*. The Directive further states that these language service professionals should be *'appropriately qualified'*. However, there is no clarification of either term.

The right to interpretation and translation is not set out in legislation within the UK or England and Wales. However, the abovementioned ECHR has been incorporated into domestic law by the Human Rights Act 1998. Moreover, Article 2 of this Act obliges the judiciary to abide by decisions of the ECtHR. EU Directive 2010/64/EU is also in force across the UK, as Member State transposition was required by October 2013.

Further details on the relevant international and European legislation can be found in Appendix 3.

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<sup>9</sup> Article 14, UN International Covenant on Civil and Political Rights, 1966.

<sup>10</sup> Article 5 (2) European Convention of Human Rights

<sup>11</sup> *Osmani and Others v. Former Yugoslav Republic of Macedonia* (decision 2000)

<sup>12</sup> Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings [2010] OJ L280/1.

## 2.4 Existing Quality Standards

In terms of prevailing quality standards in interpretation and translation, the justice system in England and Wales is guided by several policy documents, which are listed in the table below.

The following paragraphs provide a brief summary of these guidelines and requirements.

**Table 1: Chronological outline of the main quality standard documents in interpreting and translating**

Year	Quality Standard Documents	Organisation
2006 (Revised)	National Occupational Standards in Interpreting	CiLT
2007 (Revised)	National Occupational Standards in Translation	UK Commission for Employment and Skills
2007 (Revised)	National Agreement on arrangements for the use of interpreters, translators and language service professionals in investigations and proceedings within the CJS	Office for Criminal Justice Reform
2011	Framework Agreement relating to Language Services between the Ministry of Justice and Applied Language Solutions (now Capita TI): Appendix A	Ministry of Justice
2013 (Revised)	Framework Agreement relating to Language Services between the Ministry of Justice and Applied Language Solutions (now Capita TI): Qualifications Decision Tree	Ministry of Justice
2014 (Revised)	Police and Criminal Evidence Act 1984 (PACE) codes of practice	Home Office

### 2.4.1 National Occupational Standards

The National Occupational Standards (NOS) for interpreting<sup>13</sup> and translation,<sup>14</sup> composed by the National Centre for Languages (CiLT) in 2006 and 2007 respectively, outline the minimum standards for the development of professional and Higher Education qualifications. They state that the minimum level of qualification for entry into the profession is Level 6 of the National Qualifications Framework (NQF). This is equivalent to a Bachelor's degree under the Framework for Higher Education Qualifications (FHEQ).<sup>15</sup> The NOS define this standard by detailing the skills, knowledge and characteristics required to practise as an interpreter or translator of appropriate quality.

Both the interpreting and translation standards define the role of an interpreter and outline the principles of professional practice before explicitly detailing the necessary skills and knowledge.

<sup>13</sup> CiLT, (2006), National Occupational Standards in Interpreting, London, UK

<sup>14</sup> CiLT, (2007), National Occupational Standards in Translation, London, UK

<sup>15</sup> CiLT, (2006), National Occupational Standards in Interpreting, London, UK



For interpreters, nine units outline the minimum skills and knowledge with an additional six stating advanced skills and knowledge. Each unit indicates specific performance criteria and knowledge and skill requirements and is included under one of the following four overarching sections:<sup>16</sup>

1. 'Preparation units' – e.g. preparation for an assignment.
2. 'Interpreting performance units' – e.g. interpreting one-way or two-way.
3. 'Professional development units' – e.g. evaluating and enhancing your performance.
4. 'Support function units' – e.g. supporting interpreting through sight translations.

For translation, the following four essential units are distinguished:<sup>17</sup>

1. Maintain skills and systems for managing translation tasks.
2. Manage new translation assignments.
3. Translate written texts from one language to another.
4. Develop your performance as an advanced professional translator.

These units apply to four quality levels of translators ranging from 'Professional translator' to 'Translator operating as senior project manager of a translation team'. As above, these units include specific performance criteria and knowledge and skill requirements.

Further details on the NOS in interpreting and translation can be found in Appendix 4.

## 2.4.2 The National Agreement (NA)

Prior to the FA, the NA on arrangements for the use of interpreters, translators and language service professionals (LSPs) in investigations and proceedings within the CJS<sup>18</sup> provided guidance on '*arranging suitably qualified interpreters and [LSPs]*' specifically for the CJS.

The NA emphasised that '*face-to-face interpreters used...should be registered with NRPSI, and LSPs used...should be registered with [Signature]*'.<sup>19</sup> However, it further states that if an interpreter cannot be sourced from NRPSI or Signature, a secondary list of sources can be consulted. If an interpreter is still not found, a third list of options should be consulted although there is a caveat in that these interpreters should not be used for the broad range of evidential purposes.

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<sup>16</sup> Ibid

<sup>17</sup> CiLT, (2007), National Occupational Standards in Translation, London, UK

<sup>18</sup> National Agreement on the arrangements for the use of Interpreters, translators and language service professionals in investigations and proceedings within the CJS, as revised 2007.

<sup>19</sup> NRPSI (National Register of Public Service Interpreters) is the independent regulator of professional face-to-face interpreters in spoken languages. Signature, formerly CACDP (Council for the Advancement of Communication with Deaf People), runs the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD) and is the leading awarding body for qualifications in deaf and deafblind communication techniques. It should be noted that in the National Agreement there is no mention of Signature; the organisation was still known as CACDP.

Regarding the quality requirements for interpreters it is accepted that these registers 'provide a number of important safeguards as to interpreters' competence, reliability and security vetting'.<sup>20</sup> In this respect, the quality requirements for NRPSI registered interpreters are outlined in Table 2.

The quality requirements for Signature registrants able to work under the NA included those qualified to Level 4 in the National Vocational Qualification Framework at the time (now Level 6) in BSL/English, and Level 3 in Lip-speaking and Speech to Text Reporting. Trainee BSL/English Interpreters; Junior Trainee BSL/English interpreters; and Level 2 Lip-speakers were not acceptable.

**Table 2: Requirements for registration with NRPSI<sup>21</sup>**

Category	Qualification	Hours of experience
<b>Full Status</b>	<ul style="list-style-type: none"> <li>Diploma in Public Service Interpreting (DPSI); and / or</li> <li>Metropolitan Police Test; and / or</li> <li>Equivalent Level Interpreting Qualification at Honours Degree level.<sup>22</sup></li> </ul>	More than 400 hours of proven PSI experience in the UK
<b>Interim Status</b>	<ul style="list-style-type: none"> <li>Option (a) – DPSI; and / or Metropolitan Police Test; and / or equivalent level Interpreting Qualification at Honours Degree level.</li> </ul>	None
	<ul style="list-style-type: none"> <li>Option (b) – A degree partly studied in English with at least one interpreting and one translation component.</li> </ul>	400 hours of proven PSI experience in the UK
<b>Rare Languages<sup>23</sup></b>	<ul style="list-style-type: none"> <li>Cambridge Proficiency in English or equivalent qualification.</li> <li>Annual review including evidence of CPD.</li> </ul>	100 hours of proven PSI experience in the UK.

Further detail on the NA can be found in Appendix 5.

### 2.4.3 Police and Criminal Evidence Act 1984 (PACE)

The Codes of Practice issued under the Police and Criminal Evidence Act 1984 (PACE) offer guidance to the police. PACE Code C 2014 states that 'appropriately qualified' interpreters should be provided. It further specifies that the arrangements must comply with the minimum requirements set out in Directive 2010/64/EU, paraphrasing the wording of Articles 2 and 3 of

<sup>20</sup> Ibid p.4

<sup>21</sup> Criteria for Entry onto the National Register for Public Service Interpreters. Accessed on 20/02/2014 at: <http://www.nrpsi.co.uk/pdf/CriteriaforEntry.pdf>

<sup>22</sup> For example, a degree level qualification (or higher) with at least two interpreting components and two translation components. The qualification must include consecutive and simultaneous interpreting and sight translation. A syllabus must accompany your certificate; if this is written in a language other than English a certified translation of both the syllabus and certificate must be submitted as well.

<sup>23</sup> Rare languages are defined as those languages where there is no qualification available however there is a demand for the language. If the language applied for is not currently listed on the National Register then the Language Definition Committee (LDC) of the Chartered Institute of Linguists will determine whether the language can be listed on the register.

the Directive.<sup>24</sup> The Code interprets this requirement in the following way: *'the suspect must be able to understand their position and be able to communicate effectively with police officers, interviewers, solicitors and appropriate adults as provided for by this and any other Code in the same way as a suspect who can speak and understand English and who does not have a hearing or speech impediment and who would therefore not require an interpreter'*.<sup>25</sup>

## 2.5 The Framework Agreement (FA) between ALS/Capita TI and the MoJ

The FA between the MoJ and ALS/Capita TI superseded the NA.<sup>26</sup> Although the main changes to the system were directed at fixing the administrative inefficiencies, the quality requirements for language service professionals also changed. These requirements are set out in this section.

### 2.5.1 Face-to-face Interpreters of Spoken Languages

In their proposal to the MoJ, ALS suggested a three tier system for face-to-face interpreters based on the qualifications and experience of the interpreter.<sup>27</sup> In addition, interpreters were required to undertake an internal assessment. The qualification, experience and other requirements for face-to-face interpreters of standard languages are stated in Table 3.

It should be noted that under the FA any reference to a UK qualification also includes any equivalent qualification that has been awarded across Europe. Moreover, the assessment centres mentioned are no longer in place.

In the case of **rare languages** (i.e. languages where the DPSI or equivalent qualification is not available) the interpreter must have the Cambridge Proficiency in English Certificate, or NRPSI registration (rare language category), 100 hours of public sector interpreting experience, evidence of CPD, references and a pass at the assessment centre. As is the case for face-to-face interpreters of standard languages the assessment is no longer in place.

In December 2013, the quality requirements as stated under Appendix A of the FA were revised for face-to-face interpreters in standard and rare languages. Capita TI and the MoJ developed the **Qualifications Decision Tree** (QDT) to provide greater clarity about the qualifications accepted for each tier and to allow Capita TI to evidence those qualifications.<sup>28</sup> The qualification requirements in the QDT differ from the original requirements in the following ways:

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<sup>24</sup> Police and Criminal Evidence Act 1984 Code C 2014, Para 13.1A

<sup>25</sup> Police and Criminal Evidence Act 1984 Code C 2014, Para 13.1A

<sup>26</sup> House of Commons, Justice Committee, Interpreting and translation services and the Applied Language Solutions contract, Sixth Report of Session 2012–13 (HC 645), 6 February 2013, p. 3.

<sup>27</sup> Language Services Framework/JAH/CMTNorth/0811 between the Ministry of Justice and Applied Language Solutions (now Capita-TI). Annex A.

<sup>28</sup> National Audit Office, The Ministry of Justice's language services contract: Progress update, Session 2013-14 (HC995), 22 January 2014. London: The Stationery Office Limited. P.13.

- Six qualifications are specified under the term ‘Diploma in Linguistics’ including the BA in Interpreting.
- Ten qualifications are specified under the term ‘Language Diploma’ including the BA in Modern Languages.
- Eight qualifications are specified under the term ‘Other Interpreting Certificate’ including the UK Border Agency Certificate.
- The Metropolitan Police Test is now a Tier 1 qualification in its own right.
- The QDT specifies the requirements for interpreters whose primary language is not English (rare and standard languages). If an interpreter wishes to interpret in her/his “Mother Tongue”, proof of birth and a qualification in another language is sufficient evidence. The Tier will then depend on the category the qualification falls in.
- A stringent ‘Qualifications Exceptions Process’ was developed for any qualifications that are relevant to the profession but not specifically mentioned in the QDT.

It should be noted that **the QDT only applies to face-to-face interpreters of spoken languages**, meaning all other language service professionals are still bound by the requirements of Appendix A (telephone interpreters/interpreters for deaf and deafblind people/translators).

**Table 3: Overview of the requirements for face-to-face interpreters (Tiers 1, 2 and 3) under the FA: Appendix A**

Tier One	Tier Two	Tier Three
<b>Qualifications</b>		
<ul style="list-style-type: none"> <li>• Diploma in Public Service Interpreting – Law (DPSI); OR</li> <li>• Certificate in Community Interpreting (CCI – forerunner to DPSI); OR</li> <li>• Metropolitan Police Test (post-1997) + DPSI (Health or Local Govt) or Honours Degree or Higher in Interpreting.</li> </ul>	University level education (any degree) AND one of the following: <ul style="list-style-type: none"> <li>• ‘Partial DPSI’ (English Law option) i.e. all modules except 3b; OR</li> <li>• A degree in linguistics, English philology, Modern Languages or MA in Teaching of English, or other language related diplomas where English figures as part of the course completed.</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrable experience in the public sector with appropriate linguistic background; OR</li> <li>• Formalised basic interpreter training – suggested programmes: <i>the WEA programmes, Bi-Lingual Skills Certificates, Community Level Interpreting Degrees under the NVQ certification system.</i></li> </ul>
<b>Registers/Associations<sup>29</sup></b>		
<ul style="list-style-type: none"> <li>• Registration with NRPSI;</li> <li>• Membership of APCI;</li> <li>• Membership of ITI (Police Court Interpreter Level).</li> </ul>	-	-
<b>Experience</b>		
<ul style="list-style-type: none"> <li>• At least 100 hours of PSI.</li> </ul>	At least 100 hours of PSI AND one of the following: <ul style="list-style-type: none"> <li>• Previous or current employment in criminal justice services in their countries of origin, OR</li> <li>• legal train;</li> </ul>	<ul style="list-style-type: none"> <li>• At least 100 hours of PSI not necessary but desirable.</li> </ul>

<sup>29</sup> This is a requirement that applies in parallel or instead of a qualification.

Tier One	Tier Two	Tier Three
	OR <ul style="list-style-type: none"> <li>Other exposure to criminal justice work through other channels (such as volunteer and/or paid work in the community for police services or work for Victim Support).</li> </ul>	
Other requirements		
<ul style="list-style-type: none"> <li>References</li> <li>Tier One pass at assessment centre</li> </ul>	<ul style="list-style-type: none"> <li>References; and</li> <li>Tier Two pass at assessment centre</li> </ul>	<ul style="list-style-type: none"> <li>References</li> <li>Tier Three pass at assessment centre</li> </ul>

### Interpreters for Deaf and Deafblind People

Appendix A of the FA states that all interpreters wishing to work with deaf and deafblind people must be qualified registrants of one of the NRCPD. It further notes that the following qualifications are therefore acceptable:

- **British Sign Language:** CACDP Level 6 NVQ in Interpreting (BSL / English) and at least NVQ Level 6 in BSL.
- **Lip Speaking:** CACDP Level 3 Certificate (Lipspeaking).
- **Speech to Text Reporters:** CACDP Level 3 Certificate (Verbatim speech to text reporting).
- **Deafblind manual:** CACDP Level 3 Certificate (Deafblind manual).
- **Notetaker** (electronic and manual): CACDP Level 3 Certificate (Notetaking).

### 2.5.2 Telephone Interpreters

Interpreters applying to work as telephone interpreters under the FA must have an internationally recognised qualification or must be registered with NRPSI. Examples provided include the DPSI, Community Interpreter Certificates or the Metropolitan Police Test.

Initially, telephone interpreters were required to pass an internal assessment. This assessment consisted of an informational interview about the general terms and conditions of performing telephone interpretation, a Language Proficiency Test (LPT) to assess the candidates' English language skills, and the Interpreter Skills Assessment (ISA) – a bi-directional test based around role-play scenarios. However, this assessment is no longer in place.

### 2.5.3 Translators

Translators who wish to work under the FA must:

- Be fully qualified, have qualified membership of a relevant professional body (e.g. the CIOI, ATA and ITI) and / or hold a degree in their source language. The FA states that translators will only translate into their native language (the target language).<sup>30</sup>
- Have three years verifiable experience as a professional linguist.
- Demonstrate that they have translated a minimum of 100,000 words in their specialism.
- Have references.
- Pass an assessment. This consists of the translation of a 300-500 word text which is then quality assured by an in-house translator or an approved translator with LISA QA metrics.

Additional requirements under the FA include the terms of the code of conduct to which all interpreters and translators must agree and abide. Regarding quality, it states that interpreters must have a commitment to increase their knowledge and skill; always interpret to the best of their ability; disclose professional limitations and only undertake assignments for which they are competent.

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<sup>30</sup> The 'target language' is defined as the language into which the document is being translated. The 'source language' is the language in which the original document / recording is expressed.

## 3.0 Optimity Matrix Review Findings

### 3.1 Quality requirements

#### Key Findings

##### Qualifications:

- There was clear consensus that qualifications are the most robust and reliable measure of interpreter quality and are an appropriate tool to ensure quality standards of interpretation/translation across the justice sector.
- There was a general consensus among stakeholders that all interpreters working in the justice sector need to be qualified to a minimum level.
- The following top ten qualifications represent those deemed most appropriate to assure a high quality service for face-to-face interpreters working in the justice sector by study participants:
  - IoLET Diploma in Public Service Interpreting (DPSI) – Law option
  - IoLET Diploma in Public Service Interpreting (DPSI) – Health option
  - IoLET Diploma in Public Service Interpreting (DPSI) – Local Government option
  - Metropolitan Police Test / IoLET Diploma in Police Interpreting
  - MA in Interpreting and Translation (as long as justice specific skills are examined)
  - MA in Interpreting (as long as justice specific skills are examined)
  - BA in Interpreting and Translation (as long as justice specific skills are examined)
  - BA in Interpreting (as long as justice specific skills are examined)
  - Post Graduate Diploma in Interpreting (as long as justice specific skills are examined)
  - Post Graduate Diploma in Conference Interpreting (as long as justice specific skills are examined)
- The qualifications deemed most appropriate by study participants for translators and telephone interpreters are similar to those required for face-to-face interpreters.
- Study participants perceived the current qualification requirements for interpreters for deaf and deafblind people to be adequate across all justice sector organisations.
- A vast majority of stakeholders agreed that the qualification and experience requirements should be the same for any additional languages.

##### Experience:

- Existing and previous experience requirements are 100 hours (FA) or 400 hours (NA/NRPSI) of public service experience.
- The vast majority of justice sector organisations were perceived to require at least 100 hours of experience, with requirements of at least 400 hours of experience for those organisations with the most serious potential consequences.
- There were mixed responses as to whether experience should be gained inside or outside the justice sector, or through both avenues.

A number of those consulted as part of this Review agreed that the most robust measure of the quality of a language service professional is ownership of a relevant qualification. Qualifications<sup>31</sup> usually confer a status as a recognised practitioner of a profession or activity. Therefore, the most suitable way to evidence whether language service professionals meet the necessary quality standards is through a review of qualifications. In addition to a relevant qualification, experience is important to ensure the further development of high quality language service professionals. The findings relating to qualifications and experience are discussed below.

As outlined in Section 2, the NOS set a uniform professional standard across all interpreting and translation. In this respect, relevant literature acknowledges that any assessment of interpreter skills, including qualifications, should: '*be calibrated against independent National Occupational Standards*'.<sup>32</sup> Moreover, the NA previously set the qualification requirements for interpreters in the CJS. In this respect, these standards should be seen as established practice and therefore used as the benchmark against which interpreting and translation qualifications should be measured.

### 3.1.1 Qualifications

#### Face-to-Face Interpreters of Spoken Languages

The NOS require a qualification at Level 6 NQF as a minimum level for entry into the interpreting profession, which is equivalent to a Bachelor's degree. The NA stipulated that the qualifications deemed acceptable by NRPSI adequately reflected the requirements of working in the CJS with some caveats (e.g. DPSI qualifications must be the Law option). The qualifications acceptable for NRPSI full status are:

- IoLET Diploma in Public Service Interpreting (DPSI) / IoLET CCI (forerunner to DPSI).
- Metropolitan Police Test (now the IoLET Diploma in Police Interpreting).
- An Equivalent Level Interpreting Qualification at Honours Degree level.<sup>33</sup>

Those consulted as part of the Review, as well as language service agencies and associations, all considered the DPSI in Law and the Metropolitan Police Test to be the most appropriate qualifications for interpreters working in the CJS.

The interpreters consulted identified a number of qualifications as being appropriate for face-to-face interpreters working in the justice sector:<sup>34</sup> The top ten qualifications selected are shown in

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<sup>31</sup> Defined as passing an examination or an official completion of a course

<sup>32</sup> Corsellis, A, (2008), *Public Service Interpreting: The First Steps*, Palgrave Macmillan, London, UK p.60

<sup>33</sup> For example, a degree level qualification (or higher) with at least two interpreting components and two translation components. The qualification must include consecutive and simultaneous interpreting and sight translation. A syllabus must accompany your certificate; if this is written in a language other than English a certified translation of both the syllabus and certificate must be submitted as well.

<sup>34</sup> These only include qualifications selected by at least a third of the survey respondents.



Table 4 below. The DPSI in Law was selected as acceptable by 80% of respondents and the Metropolitan Police Test by 55%. An additional eight interpreting qualifications were selected by over a third of those in response to this question. The variation in response reflects a combination of familiarity with the qualifications and differences of view.

These eight qualifications also all examine the relevant skills and knowledge set out in the NOS. However, experts advised that in addition to formal qualifications, certain additional justice system specific knowledge would be required to be certain that these qualifications ensure a quality of interpreting sufficient to safeguard the fairness of proceedings (i.e. adequate for work in high risk/importance justice system organisations).

**Table 4: Percentage of total respondents (N=654). Source – Optimality Matrix Review Survey.**

Qualifications deemed most appropriate for face-to-face interpreters working in the justice sector	
DPSI (Law)	80%
Metropolitan Police Test	55%
MA in Interpreting & Translation	50%
MA in Interpreting	49%
DPSI (Health)	48%
BA in Interpreting & Translation	48%
BA in Interpreting	47%
DPSI (Local Government)	46%
Post Graduate Diploma in Interpreting	39%
Post Graduate in Conference Interpreting	33%

As well as the interpreters consulted, stakeholders all agreed on the DPSI (Law) and Metropolitan Police Test. Within the group of experts consulted, variations of opinion existed regarding the additional eight qualifications mentioned above.

For face-to-face interpreters who wish to work in more than one language, the FA stipulates that they must have the same level of qualification and experience as they would require for their first language. This view was supported by the vast majority of study participants.

Regarding rare language interpreters, the inherent lack of qualifications for these languages means that the quality of these interpreters needs to be measured in a different way. This is further discussed as part of the assessment and assurance of quality.

### Interpreters for Deaf and Deafblind People

The majority of all those consulted as part of this Review deemed the qualifications for interpreters for deaf and deafblind people prescribed under the FA as acceptable. Stakeholders noted that this is perhaps due to the fact that these interpreters have to be drawn from the relevant national registers – the NRCPD – and must therefore meet NRCPD quality requirements. Incidentally, these are the same requirements that were in place under the NA.

## Translators

The NA stated that translators must have been objectively assessed through a nationally recognised qualification calibrated against the NOS for Translation. In addition, it also stated a number of suitable sources for legal translators. Other than these requirements, no additional standards were set.

The translators consulted as part of this Review were asked to assess which qualifications they perceive to be adequate for a translator to work in the justice system. The two most highly selected qualifications were the DPSI in Law which was selected by over two thirds of the respondents, and the Masters in Interpreting and Translation which was selected by over half of the respondents. In addition, the following seven qualifications were deemed most appropriate by respondents:

**Table 5: Percentage of total respondents (N=703). Source – Optimicity Matrix Review survey.<sup>35</sup>**

Qualifications deemed most appropriate for translators working in the justice system	
BA in Interpreting and Translation	48%
Metropolitan Police Test	45%
DPSI (Health)	37%
BA in Translation	37%
MA in Interpreting	37%
DPSI (Local Government)	36%
Post Graduate Diploma in Interpreting	32%

## Telephone Interpreters

The NA stated that these interpreters must have the same qualification requirements as face-to-face interpreters of standard languages. This was a view supported by those consulted as part of this Review.

### 3.1.2 Experience

Those consulted for this Review highlighted the fact that experience in isolation does not guarantee quality. Therefore, experience needs to be seen as an additional requirement to sufficiently meet the quality standards of the justice sector. The requirements under the NA were 400 hours of public service interpreting experience. Under the FA, 100 hours of public service interpreting experience is necessary. Based on these experience requirements, a majority of survey respondents stated that, with the exception of prisons and probation, all justice sector

<sup>35</sup> Supply survey questions 19 (N=108), 24 (N=577) & 31 (N=18). It should be noted that questions 19 and 24 were asked to respondents who identified themselves as translators/interpreters where English is (Q19) or is not (Q24) their mother tongue. Q31 was asked to respondents who identified themselves as 'translators only'. In this respect, no differentiation could be made between the two groups (translators/interpreters and translators only) due to the small number of 'translators only' respondents.

organisations required at least 100 hours of experience. In addition, a majority of respondents perceived the Senior Courts to require at least 400 hours of experience.

There is also no clear consensus as to what type of experience is relevant. A number of those consulted expressed the view that experience could be gained in the justice system (51%; N=739) whereas over a third thought that experience could be gained outside the justice system. Additionally, many stated that both avenues should be used to gain experience in interpreting and translation.

A challenge mentioned with regard to a potential need for an interpreter to have experience in the justice sector, is the difficulty for interpreters to gain such experience prior to joining Capita TI (as most justice work is currently procured through Capita TI). Some solutions mentioned by stakeholders to this issue were:

- For interpreters to gain experience gradually, initially carrying out work for probation, magistrates' court, solicitors and the police (outside the FA); before moving to the more senior courts.
- A mentoring/shadowing system for newly qualified interpreters.
- Question and answer sessions with experienced interpreters.

## 3.2 Allocation of Jobs

### Key Findings:

#### Differences in Quality Requirements across the Justice Sector

- Legislative obligations and previous policy documents for language services only apply to the CJS. The FA is the first to apply across the broader justice system.
- Study participants also perceived work in the CJS to carry a greater risk for those involved than work in the civil justice system.
- The quality requirements for interpreters/translators across the different justice sector organisations differ according to the risk and/or complexity/importance associated with a case.
  - It was perceived that a high level of skill and experience is needed across all justice system organisations.
  - However, a differentiation can be made between the extremely high skill and experience levels required for the Senior Courts and the less high levels required for the subordinate courts and tribunals, prison and probation.
  - Police work and all court and tribunal work was perceived to require at least 100 hours public service experience with Senior Courts perceived to need more. Study participants stated mixed perceptions regarding the experience needed for prison and probation work – they selected either less than 100 hours or between 100 and 400 hours.

### The Tiering System

- A majority of interpreters who work under the FA and justice sector and end user representatives agreed with the Tiering System.
- A majority of interpreters who do not work under the FA were not in favour of the Tiering System.
- Other stakeholders stated that a Tiering System could have some value. The majority of these were in favour of two tiers as opposed to three.

### 3.2.1 Differences in Quality Requirements across the Justice Sector

It has been found that all justice sector organisations require a high level of skill and experience (

Figure 1). However, many study participants stated that the quality requirements for interpreters and translators across the different justice sector organisations differ according to:

- The risk associated with a case, differentiating between the criminal and civil justice system.
- The complexity or importance associated with a case, differentiating between senior court and other justice organisations.

#### Risk: criminal justice cases

As set out in the previous chapter, the quality requirements for interpreters in international and European law<sup>36</sup> only apply to investigations and proceedings within the CJS. Furthermore, the quality requirements under the NA only applied to the CJS, which differentiated between interpreters **used in criminal proceedings** that needed to be registered with either NRPSI at full or interim status (with Law option) for non-English spoken languages, and, as full members, with CACDP<sup>37</sup> for communicating with D/deaf people<sup>38</sup> on the one hand, and those interpreters not on any of these registers on the other hand<sup>39</sup>. In order to join these registers, interpreters already needed to have certain qualifications and levels of experience.

While the general right to a fair trial applies to all cases<sup>40</sup>, civil (i.e. private disputes between persons or organisations in areas such as family law, employment law and commercial law) as well as criminal law, many of those consulted for this Review stated that the greater the risk associated with a case, the higher the quality requirements for interpreters and translators

<sup>36</sup> UN International Covenant on Civil and Political Rights, 1966; European Convention of Human Rights; Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings [2010] OJ L280/1.

<sup>37</sup> Formerly known as the Council for the Advancement of Communication with Deaf People

<sup>38</sup> The term "D/deaf" is used to refer to the whole range of deaf people. "Deaf" with upper case "d" denotes those who consider themselves to be linguistically and culturally deaf through use of a shared language (BSL) and culture. The word "deaf" with lower case "d" denotes those who have a hearing loss and do not use sign language.

<sup>39</sup> National Agreement on arrangements for the use of interpreters, translators and language service professionals in investigations and proceedings within the criminal justice system, as revised 2007, p. 4

<sup>40</sup> Article 6 European convention of Human Rights.

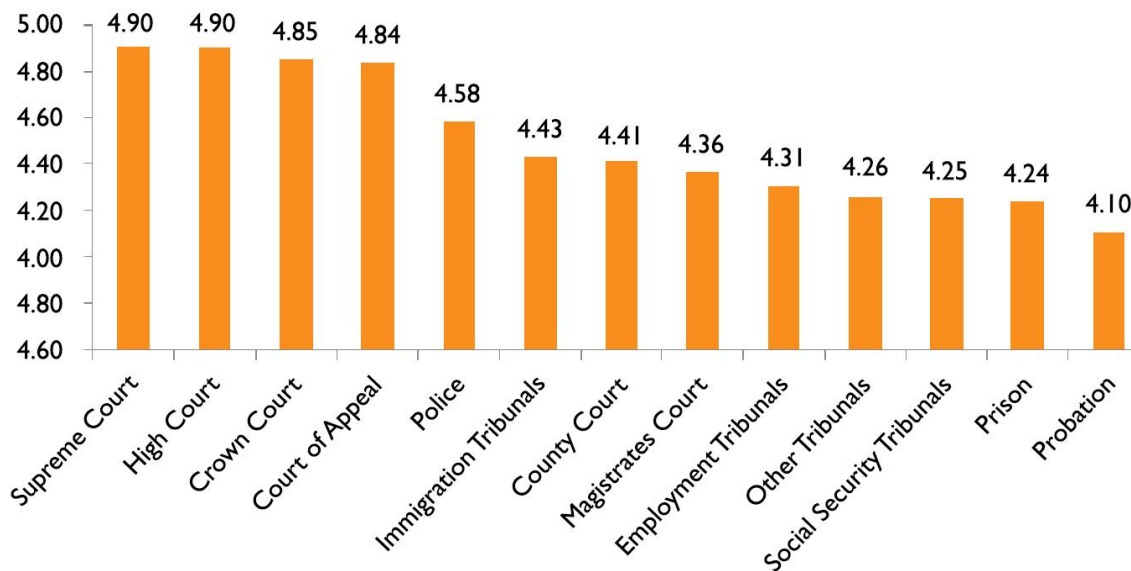
should be. In this regard, stakeholders perceived that cases in the CJS may involve a higher risk for the person in need of interpretation, namely the defendant. This includes the risk of receiving a custodial sentence; limitations of their liberty; or receiving a criminal record etc. Other justice sector cases do not carry this risk, as the sanctions do not include the potential loss of liberty (but are rather of a monetary nature). However, implications on the individual may also be serious in these cases which carry an element of risk (such as custody or deportation cases).

### Importance and complexity: Senior Court cases

Survey respondents were asked to give their perceptions of the skill and experience needed to work in different justice sector organisations (

Figure 1).

**Figure 1: Respondent ranking of level of skills and experience in interpreting/translating needed in the different justice sector organisations on a scale from 1 (Very Low) to 5 (Very High). Average rankings (out of 5) (N=417)**



Source: Optimality Matrix Survey of Interpreters

Figure 1 shows that survey respondents perceived the need for a high level of skills and experience in interpreting/translating in the different justice sector organisations overall, but also found there to be a difference between the level of skill and experience required for the Senior Courts, which received a very high average ranking of 4.86 for the High Court, Crown Court and Court of Appeal, and the less high level required for the subordinate courts and tribunals, which received an average ranking of 4.30.<sup>41</sup>

<sup>41</sup> It should be noted that the Supreme Court has not entered into a contract under the Framework Agreement.

Differences were also noted by survey respondents when stating how many hours of experience are necessary to work in the different justice sector organisations. The majority of respondents thought that the Senior Courts; High Court; Court of Appeal; Crown Court required greater than 400 hours of experience, whereas for Magistrates Court, Tribunals and County Court a majority of respondents thought that between 100 and 400 hours experience was sufficient.

### 3.2.2 The Tiering System

Most interpreters and translators consulted for this Review who are working for Capita TI as part of the FA (49%) agreed that the current Tiering System is an appropriate allocation mechanism. This contrasts with those interpreters and translators who do not have direct experience of the system, as the majority of these individuals did not support the approach (76%); many of these perceived the system to be 'unworkable' and 'impossible to monitor'.

Those who work in the justice system and end users surveyed were split about the tiered system (50%; N=30), and opinions were also mixed on the number of tiers. Individual respondents suggested that a two tier system would be more understandable for booking staff and would also ensure fewer uncertainties about qualifications. Those who responded who are currently responsible for booking interpreters indicated some difficulties with identifying the appropriate tier of interpreters for differing assignments. It was suggested by some respondents that it is difficult to determine in advance how demanding a task will be, and to identify the appropriate level of interpretation needed accordingly.

Findings from the interviews support the view that a tiered system can have value as long as it is properly controlled and operated with appropriate guidance. In this regard, some stakeholders pointed at the fact that currently a part of the Court jobs are allocated to Tier 3 interpreters<sup>42</sup>, arguing the current Tiering System is not utilised effectively. Most interviewees who agreed with a tiered approach suggested a two tier system based on qualifications. A three tier system was argued against mainly on the grounds of it being unjustifiable and unworkable.

## 3.3 Assessing and Assuring Quality

### Key Findings:

#### Assessing Quality at the Hiring Stage:

##### Interpreters/Translators of Standard Languages

- There was dissatisfaction with the current evaluation procedures.
- There was a perceived lack of focus on both qualifications and experience.

##### Interpreters of Rare Languages

- Assessing rare languages is an industry wide issue, where the established process (i.e.

<sup>42</sup> For further information on Tier 3 usage, section 4.4.3.

the 'norm') is not ideal.

- Ideas and suggestions (i.e. increase the use of remote interpreting through video conference technology; increase efficiency in the booking process) existed on how this process can be improved and positive movement is being made in this respect.

### Assuring Ongoing Quality:

#### Spot Checks

- The importance of independent monitoring or spot checks was stated by experts. Additionally, it was perceived by some that this process should not be undertaken by the service provider.
- Few examples are known regarding ongoing monitoring or spot checks of language service professionals.

#### Continuous Professional Development

- The provision of CPD is important for the development of appropriately qualified interpreters.
- CPD is already a requirement under the FA but is not currently implemented. Thus, interpreters and translators were generally dissatisfied with CPD provision.
- Examples of CPD exist within the profession: CPD is provided and supported by agencies, registers, educational entities, end user and government bodies.

#### Dealing with Complaints

- A properly structured complaints procedure is necessary to ensure the thorough investigation and resolution of any issues. This is a requirement under the FA.
- There was a division of opinion regarding satisfaction with the complaints procedure within those interpreters/translators working under the FA.

### 3.3.1 Assessing Quality at the Hiring Stage

#### Interpreters and Translators of Standard Languages

Under the FA, interpreter skills were initially assessed in the hiring process via an evaluation of qualifications, experience in public service interpreting, security checks and the results of an individual assessment. The assessment has since been discontinued.

However, those consulted for this Review expressed dissatisfaction with the evaluation procedures currently in place, i.e. 70% (N=570) of standard language interpreters consulted indicated to be 'Very Dissatisfied' or 'Dissatisfied' with the current procedures in terms of the evaluation of skills and experience required for face-to-face interpreters.<sup>43</sup> From their perspective, not enough focus is placed on either qualifications or experience.

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<sup>43</sup> Supply survey question 35.

- 70% (N=770) of respondents stated that the current system does not focus enough on qualifications.
- 76% (N=769) of respondents stated that the current system does not focus enough on experience.

Not surprisingly there was a higher level of satisfaction amongst those currently working under the FA. However, even in this group almost half (49%) were not satisfied with the current procedures in terms of the evaluation of the skills and experience at the hiring stage.

### Interpreters of Rare Languages

The lack of formal qualifications for rare language interpreters and the inherent difficulty of assessing interpreters in rare languages was acknowledged as an industry wide issue. In this respect, the current requirements were considered as the 'norm' by those in the field. However, there is movement to address this issue. NRPSI have recently introduced a requirement that all interpreters in their rare language category must annually provide proof that they have attempted to obtain a relevant qualification and IoLET have stated a willingness to provide relevant qualifications in a greater range of languages.

As part of the survey, interpreters were given the opportunity to provide comments on how skills can be evidenced or assessed for rare languages.<sup>44</sup> A number of suggestions were put forward, including:

- (a) The use of technology alongside international cooperation to assess the quality of an interpreter.
- (b) A tailor made course on the ethics and values of the justice system for those whose assistance is sought for rare languages.
- (c) An assessment of the demand for particular languages with a view to the development of an increased range of qualifications – it was further stated that these qualifications should be based on the standards outlined in the NOS for Interpreting and Translation.

Experts consulted for the Review also commended these ideas, adding that certain skills and knowledge, such as the interpreting skill set and awareness of the code of conduct, can be tested without specific knowledge of the rare language. Additionally, they noted that if technology was used, and the assessor was in a different country, steps would need to be taken to ensure their validity. They further stressed that any assessment should be carried out by an independent assessor with IoLET the logical first point of contact.

It was also suggested that there is reluctance from some rare language interpreters to request the development of appropriate qualifications due to the linked requirement of paying for the development of exams, and then the subsequent need to pay for the exam.

### Telephone interpreters, interpreters for the deaf and deafblind and translators

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<sup>44</sup> Supply survey questions 22 (N=79) and 27 (N=343)



Those consulted for this Review expressed dissatisfaction with the evaluation procedures currently in place for telephone interpreters (78% dissatisfied to very dissatisfied; N=297), interpreters for the deaf and deafblind (73% dissatisfied to very dissatisfied; N=175) and translators (72% dissatisfied to very dissatisfied; N=317).<sup>45</sup> Again, there was a much higher level of satisfaction amongst those currently working under the FA, compared to those that are not.

### 3.3.2 Assuring Ongoing Quality

In addition to issues relating to relevant qualifications and experience at the hiring stage, experts also suggested that mechanisms should be in place to assure ongoing quality during the time spent working in the justice sector, such as a system of spot-checks; utilisation of CPD for interpreter and translator development; and a robust complaints procedure.

#### Monitoring (Spot Checks)

Experts interviewed as part of this Review voiced the importance of independent monitoring of the quality of the language services provided in the justice system, for example through spot-checks on interpreters in the courtroom. A mechanism already in place in the interpretation sector is the employment of so called 'heads of interpreting' within an agency or service provider. These individuals are tasked with monitoring and evaluating the performance of interpreters, however this is one of few examples demonstrating the implementation of ongoing evaluation.<sup>46</sup> However, some respondents consulted felt that such monitoring should not be carried out by the service provider. Instead, they suggested that a regulatory body, or independent monitoring body, would be best placed to implement such a mechanism.<sup>47</sup>

In addition, experts suggested that if a process of appraisals and spot-checks was to be implemented as part of the FA, it would be important to learn from the procedures already in place at NRPSI. In particular two experts further stated that spot checks would not be as necessary if the initial evaluation of quality at the hiring stage was carried out thoroughly.

#### Continuous Professional Development

CPD programmes for interpreters aim to maintain and develop the specific skill set of interpreters, including specific language and interpreting skills. CPD programmes for interpreters working in the justice system may also aim at maintaining and developing the general knowledge and understanding of the code of conduct and working in the justice system. It has been found that CPD programmes for interpreters and translators are quite common and their benefits are widely acknowledged.

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<sup>45</sup> Supply survey question 38 (N=702)

<sup>46</sup> Stakeholder interview

<sup>47</sup> Consideration of the potential role of regulation or a regulatory body was outside the scope of this current Review.

The importance of CPD was noted in the FA as it includes a requirement for the contractor to provide CPD for all interpreters and translators. This CPD programme was set out to include five steps:<sup>48</sup>

- A baseline assessment.
- Individual CPD programmes, including appraisals on an annual basis to ensure that language service professionals continue to demonstrate 'fitness to practice' as a language specialist.
- CJS-led customised training provision.
- Active feedback processes (as a quality control mechanism, such as feedback gathered from front-line CJS staff, evaluations of live interpreting recordings, direct observation by Applied Language Solutions staff, self-evaluation, and peer-to-peer observation by interpreters).
- External referral and sponsorship.

In practice, however, no CPD is currently offered by Capita TI.<sup>49</sup> In this respect, it is not surprising that nearly all interpreters and translators (92%) consulted as part of this Review were 'Dissatisfied' with; 'Very dissatisfied' with; or did not know of any training provided under the FA.<sup>50</sup>

Across the industry, however, a number of interpreter and translator organisations and commercial agencies offer or support CPD: e.g.

- NRCPD and NRPSI (in development) have a system which requires its registrants to provide evidence of CPD for registration.
- The Institute for Translation and Interpreting (ITI) offers all its members support and guidance with their CPD and encourages members to complete a minimum of five CPD days per year (the equivalent of 30 hours in total).<sup>51</sup> In this regard, ITI members have a dedicated area on their website where members can access resources; recommendations for training; their own CPD recording booklet; and can log their training hours.
- Sign Solutions (commercial agency) offer many CPD courses to their members, such as an introduction to police or court interpreting.<sup>52</sup>
- Clarion (commercial agency) provide funding for external referral and sponsorship instead of an internally run CPD programme.

Moreover, some educational and academic organisations, as well as end users and government entities also offer CPD. CioL, for example, provide CPD workshops and professional development courses, and interpreters working for the Home Office and Police receive CPD through these organisations. An example held in high regard by one respondent were the

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<sup>48</sup> Framework Agreement

<sup>49</sup> Interview representative Capita TI

<sup>50</sup> Supply survey question 43 (N=742)

<sup>51</sup> Institute of Translation and Interpretation website. Available at: <http://www.iti.org.uk/professional-development-events/cpd>

<sup>52</sup> Sign Solutions UK website. Available at: <http://www.signsolutions.uk.com/training/cpd-courses/>

regular meetings held by the Cambridgeshire Police Force to discuss CPD provision, among other things, with representatives of the interpreter community.

Experience of interpreting in the justice sector is another key aspect that can be developed and gained through CPD. Stakeholders consulted for this Review suggested that newly qualified interpreters could be included in a mentoring or shadowing system or partake in question and answer sessions with experienced interpreters to gain experience.

Our findings indicate that most respondents believed the responsibility for providing a CPD programme for interpreters working in the justice sector should either fall with the MoJ (40%) or the Chartered Institute of Linguists (39%), while only 21% believed it should be provided by Capita TI.<sup>53</sup> Furthermore, experts consulted claimed that the running of a CPD programme should not be left to commercial agencies, and that it should be the responsibility of educational institutes (such as CIoL). Additionally, the more frequent use of technology and greater cooperation with educational institutes were earmarked by respondents as mechanisms to improve the supply of CPD. Furthermore, the experts consulted stated that the government could encourage CPD as this indicates that there is a will to use qualified interpreters and to invest in their professional development.

### Dealing with Complaints

Overall, those consulted as part of this Review believed a complaints procedure should include a properly structured complaints process that facilitates a thorough investigation and resolution of issues that arise. Moreover, they stated that the process should allow for dialogue between supplier and service user, include an escalation facility and should be bound by realistic timescales. Most interpreter agencies and registers have similar procedures in place, often requiring that their complaints procedure is aligned to ISO (International Organisation for Standardisation) certification.

Furthermore, many mentioned the inherent difficulty for individuals to judge and therefore complain about the interpretation services provided, as knowledge and understanding of both languages are needed. In economic terms, this issue is referred to as the 'principal-agent problem'. This issue reinforces the importance of having professional standards for complaints. Finally, a number of those consulted for the Review indicated that complaints and feedback would be best handled by an independent body and not the service provider.

It is important to note that the current FA requires Capita TI to have robust and auditable procedures in place for managing complaints, to acknowledge these within one hour, to provide feedback within 24 hours and to resolve complaints within three working days.<sup>54</sup> Accordingly, the FA prescribes that Capita TI retrain, suspends or dismisses any interpreters that fail to meet the required standards, as part of a disciplinary process.<sup>55</sup>

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<sup>53</sup> Survey question 44 (N=629) These percentages however differ heavily depending on the respondent group: 36% of those working for Capita TI believe Capita TI should be responsible for providing CPD, compared to 10% of those that do not work for Capita TI.

<sup>54</sup> Framework Agreement, pp. 98-99.

<sup>55</sup> Framework Agreement, p. 138.

Complaints from customers, such as courts and police, can be raised via an online portal. Capita TI stated that complaints regarding quality amount to only 0.1% of the jobs filled.<sup>56</sup> The Review Team are unaware of how frequently Capita TI has applied its disciplinary sanctions.

Those interpreters consulted who work for Capita TI appeared divided when it came to satisfaction with the complaints procedure currently in place. 22% indicated that they were either 'Satisfied' or 'Very Satisfied', while 23% were either 'Dissatisfied' or 'Very Dissatisfied'.<sup>57</sup> In addition, 55% responded 'I don't know' or 'Not applicable'. They mentioned the following reasons for dissatisfaction:

- A lack of information on the right to complain for Court users and a lack of a guidance document available on the complaints procedure.
- A lack of transparency in terms of complaints and follow-up action (sanctions) undertaken.
- Capita TI is not an independent body.

Moreover, it was apparent that many of the interpreters consulted were unsure as to whether follow-up action was being taken after a complaint, with many outlining an apparent lack of knowledge that such procedures existed.

Some representatives of the police indicated that they were satisfied with the current complaints procedures. However, other justice sector and end user representatives consulted for this Review were largely aware of the existing complaints procedures but the majority (56%; N=18) indicated that they were either 'Dissatisfied' or 'Very Dissatisfied' with the current system.<sup>58</sup> A number of respondents indicated that their complaints had not been addressed.

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<sup>56</sup> Interview representative Capita TI.

<sup>57</sup> Supply survey question 40 (N=266)

<sup>58</sup> Demand survey question 29 (N=18)

## 4.0 Recommendations

The Review Team has identified a number of recommendations that build on the Optimality Matrix Review findings and recommendations made in the previous reports by the NAO, PAC and JC.

Whilst the Review Team is not making any direct recommendations about interpreter remuneration, in exploring the trade-off between quality, supply and cost, our recommendations may have an impact on the level of interpreter remuneration required in the future to secure sufficient supply of suitably qualified interpreters and translators. Given the complexity of the subject matter, there is not a single solution to the current issues, however, the Review has considered both, potential short term and longer term options.

While it has not been possible to calculate the cost of these recommendations, where possible estimates of the potential scale of the impact have been provided.

Overall, it is recommended that the MoJ keep an open attitude towards, and continue dialogue with, all relevant stakeholders (such as CIoL, NRPSI, the interpreter associations and academic institutions) in its ongoing consultations regarding the provision of language services in the justice sector. Only with the buy-in from these types of organisations can current issues related to the supply of quality interpreting and translation services be overcome.

### 4.1 Recommendation 1: Use of qualifications and experience as an indicator of quality, combined with a simplified tiered system to improve transparency in the allocation of interpreters to jobs.

The tiered system of job allocation is intrinsically linked with the quality standards (the quality requirements differ according to the tier of the interpreter). This recommendation will cover both of these aspects.

It should be noted that this recommendation only affects face-to-face interpreters in standard languages.

#### 4.1.1 Re-profiling the tiered system of job allocation

The purpose of the tiered system of job allocation is for the most challenging work to be attributed to the most appropriately qualified interpreters. Although those consulted for this review did not show a clear preference for a tiered system or agree on how many Tiers interpreters should be split into, they did identify different needs across justice sector organisations with regard to skill and experience levels. As outlined above, a high level of skill and experience is required in all justice sector organisations. In addition, those consulted further noted that certain jobs especially need a high level of quality, namely jobs with greater perceived complexity, importance or greater risk.

According to the parameters of those consulted, such cases would include the following types of jobs (see also section 3.2.1 of this Review):

- a) High risk: jobs in the CJS (police, criminal courts, CPS, prison and probation).
- b) High importance/complexity: jobs in the Senior Courts (the Court of Appeal, the High Court and the Crown Court).

Thus, based on these parameters, this Review recommends using a two tier system to match language service professionals and justice sector work:

- **Tier A interpreters** would be allocated to those jobs that need a higher level of quality of interpretation, i.e. cases dealt with in the CJS and Senior Courts.
- **Tier B interpreters** would be allocated to those jobs that do not need this higher level of quality (other cases).

Although cases outside the CJS might also carry an element of risk (such as custody or deportation cases), defining and differentiating the level of risk on a case-by-case basis for the purpose of job allocation is viewed as impractical and considered difficult to implement. The CJS however, has an unambiguous definition, which allows for a practical differentiation between civil and criminal cases when allocating interpreters, making implementation of this recommendation feasible. However, it is still recommended that the MoJ undertakes further research into the additional types of jobs that may carry a similar type of risk for defendants.

The quality requirements for the recommended two tier system (Tier A and Tier B respectively) are discussed in the following paragraphs.

#### 4.1.2 Re-profiling of Quality Standards

In section 3.1 of the findings, this Review found that there is a perception that the current quality requirements under the FA do not adequately reflect the requirements for face-to-face interpreters in standard languages working across the justice system. In this regard, the current quality requirements do not ensure that the quality of interpreters is sufficient to safeguard the fairness of proceedings.

Thus, this Review recommends re-profiling the quality standards for interpretation.<sup>59</sup> This means that face-to-face interpreters should ideally hold one of the top ten qualifications identified by study participants as most appropriately reflecting the requirements in order to work in the justice system.

In terms of experience, the findings show that the majority of justice sector organisations are perceived to require a minimum of 100 hours of experience. In addition, it has been found that

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<sup>59</sup> As defined under Annex A of the Framework Agreement and its amendments through the QDT.

the Senior Courts are perceived to require even greater levels of experience (i.e. at least 400 hours).

This change in quality standards could, in the short term, result in difficulties regarding the sufficient supply of interpreters due to the fact that not all interpreters currently hold one of the ten qualifications.<sup>60</sup>

Therefore, this Review recommends a pragmatic approach is adopted in which the use of face-to-face interpreters in standard languages on the Capita TI register that hold the recommended qualifications, are prioritised to fulfil those jobs with greater perceived importance, complexity and/or risk (i.e. those defined above as Tier A jobs).

According to this pragmatic approach, interpreters should as a minimum have:

- **Tier A:** One of the ten qualifications identified by this Review and at least 400 hours of public service interpreting experience (of which some must be gained within the justice sector);
- **Tier B:** A qualification assessed as meeting the NOS, representing the basic level of requirements of skills and knowledge of interpreters, and a minimum of 100 hours of public service interpreting experience (either inside or outside the justice sector).

The rationale behind the quality requirements for Tier B is that this would recognise the need for system and end users to have access to the same quality of language services as might be expected in any other part of the public sector.

It is recommended that the two levels represent the minimum standards for interpreting in the justice sector and replace the current three tier system. Specifying the standards, as above, would enable a clear audit of whether these requirements are met.

#### 4.1.3 Practical implementation of this recommendation – necessary actions

To aid the implementation of this recommendation, and to ensure the supply of interpreters continues to meet demand, the following further actions should be undertaken:

1. **Reallocation of jobs among the current pool of Capita TI interpreters:** in practice, this means assigning Tier A jobs to the current Tier 1 interpreters and some Tier 2 interpreters. Tier B jobs would be fulfilled by the remaining Tier 2 and Tier 3 interpreters that meet the Tier B standards.
2. **Training of the current pool of inadequately qualified Capita TI interpreters:** in practice this means that the interpreters currently not meeting the Tier A standards would need to take action to reach these requirements. Two types of interpreters who could quickly reach the Tier A requirements are:

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<sup>60</sup> Some of those currently classified as Tier 2 and all of Tier 3 under the FA.

- a. Interpreters who hold a partial DPSI or partial Metropolitan Police Test<sup>61</sup> - these interpreters would only need to pass the translation module.
  - b. Interpreters who are qualified in the context of the requirements for Tier A but do not have sufficient public service interpreting experience - these interpreters would only need to reach the 400 hour threshold.
3. **Expanding the current pool of interpreters participating in the FA:** Finally, new and existing adequately qualified interpreters should be encouraged to actively participate in the FA. Responses to our survey suggest that the perception of low quality standards in tandem with the terms and conditions on offer are the main reasons for a number of interpreters choosing not to work under the FA. Changing the quality standards (as recommended in the long term) might attract interpreters to join the FA again.

The three actions mentioned above are not mutually exclusive, and could be implemented simultaneously in order to ensure a sufficient balance between supply and demand.

It is not possible to reliably estimate the cost impact of this recommendation because the available data does not provide a sufficient breakdown of qualifications and hours of experience held by interpreters. Moreover, the remuneration of interpreters was outside of the scope of this Review.

However, the Review Team has been able to examine the current supply of interpreters who would qualify as Tier A under the new definition and, if matched to CSJ and Senior Court jobs, there should be sufficient interpreters to meet the demand. Further details are provided in Appendix 7.

## 4.2 Recommendation 2: Improving the efficient use of qualified interpreters

Increasing the efficiency of the current provision of language services would allow for more frequent use of adequately 'qualified' interpreters as outlined in Recommendation 1 above. It is recommended that MoJ undertake further work to explore the potential under the current and any new FA to:

- Increase the use of remote interpreting through video conference technology.
- Increase efficiency in the booking process.

Video conference interpreting is widely considered as a potential solution for gaining cost-effective and timely access to qualified legal interpreters.<sup>62</sup> The introduction and/or increased remote interpreting through the use of video interpreting technology within the justice sector

<sup>61</sup> These partial degrees are currently held by some interpreters classified as Tier 2 under the FA.

<sup>62</sup> Braun, S. & J. L. Taylor (2011). Introduction. In Braun, S. & J. L. Taylor (Eds.), Videoconference and remote interpreting in criminal proceedings. Guildford: University of Surrey, 1-4. Braun, S. (2012). Recommendations for the use of video-mediated interpreting in criminal proceedings. In Braun, S. & J. Taylor (Eds), 301-328.



could provide an opportunity to reduce travel expenses while increasing the availability of interpreting in more challenging geographical locations. Video conference technology is used in connection with both spoken-language and sign-language interpreting in both the European Union and the US. The European AVIDICUS projects have assessed the quality and viability of remote interpreting in criminal proceedings and have provided guidance as to the implementation of video interpreting.<sup>63</sup>

Taking into account the digital courts programme being developed and introduced later this year as part of the 'Criminal Justice System efficiency programme'<sup>64</sup>, this Review recommends that consultation with experts on remote interpreting, should be held by MoJ/Capita TI with a view to implementing, where possible and appropriate, video conference interpreting in the justice sector.

Second, although increasing efficiency is part of a wider MoJ policy, those consulted as part of this Review have noted that inefficiencies still exist in the way interpreters are booked and jobs are allocated. Where these booking inefficiencies are the result of a lack of communication, this Review recommends that cooperation and consultation between justice sector organisations booking interpreters and Capita TI should be facilitated. Moreover a smarter booking system/job allocation system could be introduced. For example when a court requires an interpreter of the same language in two consecutive cases, the same interpreter could be used for both cases, cutting travel time and travel expenses. In some areas of interpreting a cancellation rate above the industry norm was noted. In this regard, the review recommends for the MoJ to consider the introduction of a cancellation fee for courts.

We are unable to calculate the net cost of this recommendation as insufficient information is available.

### 4.3 Recommendation 3: Improve Continuous Professional Development (CPD)

The findings of the Review highlight the importance of CPD and training due to its potential to raise quality through the maintenance and development of the interpreter skill set.<sup>65</sup> Moreover, a CPD programme could be used as a tool to facilitate the appraisal of interpreters and could contribute to the movement of interpreters from Tier B to Tier A.

Therefore this Review recommends the implementation of a CPD programme. For entry level interpreters and translators, such a programme would ensure a similar level of basic, necessary knowledge and would teach new interpreters about the professional norms in place in the different justice sector organisations. It could also reflect on the Code of Conduct. The purpose of such a programme would be for these norms to be equally understood and applied by justice professionals and interpreters alike.

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<sup>63</sup> Available at: [http://www.videoconference-interpreting.net/?page\\_id=162](http://www.videoconference-interpreting.net/?page_id=162)

<sup>64</sup> <http://www.justice.gov.uk/about/criminal-justice-system-efficiency-programme>

<sup>65</sup> This includes specific language and interpreting skills, as well as general knowledge and understanding of the code of conduct and working in the justice system.

For more experienced interpreters and translators the CPD could further develop existing skills. Additionally, there is scope for the CPD programme to include training for the purpose of gaining experience in courts and tribunals, for example through a mentoring or shadowing system for newly qualified interpreters. This type of training could count towards the hours of experience required for Tier A interpreters (400 hours of public service interpreting, of which some in the justice sector).

The current FA already includes a suitable programme for delivering CPD to language service professionals working in the justice sector. The CPD required under the FA includes “training in specialist areas relevant to the provision of Tier 1 and Tier 2 requirements” and “in specialist areas of the justice sector”, including “CJS-led customised training”.<sup>66</sup> Furthermore, the FA also requires the service provider to take all reasonable steps to employ Apprentices<sup>67</sup> or Trainees, in order to “allow the worker to obtain a National Vocational Qualification, or other industry-wide recognised qualification, through paid study away from the workplace, and to obtain the competencies required by working under the direction of experienced workers”.<sup>68</sup>

However, it does not appear to have been implemented. The review therefore recommends the implementation of the FA. However, it would be beneficial if the MoJ could introduce a requirement for a certain amount of hours of CPD per interpreter. Moreover, further cooperation and consultation is needed regarding the development of mentoring and shadowing procedures.

More generally, those consulted found that NRPSI, CIoL/IoLET or other educational bodies are well placed to develop and set up such a CPD Programme. Under the FA, Capita TI is required to work with the interpreting community and the education community to continually assure that “[the MoJ] are getting the best quality of interpreting for the assignment in question”.<sup>69</sup> Therefore, this Review recommends that Capita TI should consult these organisations on the development of an appropriate CPD programme for interpreters working in the justice sector. In this regard, lessons should be learned from other professional CPD programmes, and the possibilities that technology can offer should be explored.

#### 4.4 Recommendation 4: Improve assessment of rare language interpreters (at the hiring stage)

As previously outlined, the Review findings suggest that qualifications are the most robust and reliable measure to assess interpreter quality. However, rare languages are defined as such because of the lack of formal qualifications. This inherent difficulty in assessing interpreters in rare languages is acknowledged as an industry wide issue.

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<sup>66</sup> Framework Agreement p. 11 and p. 102, p. 129.

<sup>67</sup> A worker who is party to an apprenticeship agreement as defined in section 32 of the Apprenticeships, Skills, Children and Learning Act 2009.

<sup>68</sup> Framework Agreement, p. 100.

<sup>69</sup> Framework Agreement, p.105

In this regard, a short term recommendation of this Review is to make better use of technology by using remote assessors. Using technology, such as video conferencing, would circumvent the problem of the unavailability of assessors in a particular rare language required in a certain geographical area. The Review however recognises that steps should be taken to ensure the validity of an assessor.

Furthermore, there is agreement among experts consulted for this Review that the testing of certain aspects of the interpreter skill set does not necessarily need to be language specific. Additionally, the same is true for the examination of understanding and knowledge of the Code of Conduct. Therefore, these non-language specific aspects could be tested in English.

With a more long-term view, the Review recommends an assessment of the demand for particular languages in the justice sector, as well as the demand for qualifications in rare languages<sup>70</sup>, in order to develop appropriate qualifications<sup>71</sup> for the most in-demand rare languages. IoLET has already stated its willingness to provide qualifications in a greater range of languages and such a measure would ensure that certain languages would no longer be considered 'rare'.

An immediate step should therefore be for the MoJ to encourage closer working partnerships with IoLET in order to promote development of appropriate qualifications.

## 4.5 Recommendation 5: Improve the ongoing quality assessment of interpreters

In order for Capita TI and the MoJ to assure that language services in the justice sector are of an appropriate quality, the Review findings suggest that interpreters need to be subjected to ongoing assessment not only at the hiring stage, but throughout their time undertaking assignments in the justice sector. Based on the findings, this Review recommends the implementation of spot checks and an improvement in the complaints procedure.

### 4.5.1 Introduction of spot checks

Respondents to this Review have identified and recognised the usefulness of spot checks in helping to ensure quality. Moreover, ongoing evaluations provide an incentive for interpreters and translators to perform well.

Under the current FA, an 'active feedback procedure' is supposed to be in place. In this procedure feedback is gathered from front-line CJS staff, as well as through the evaluation of recorded live interpreting episodes, direct observation, self-evaluation, and peer-to-peer observation by interpreters.<sup>72</sup> However, this does not appear to have been implemented. Therefore, this Review

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<sup>70</sup> The number of rare language interpreters that are willing to pass a formal qualification.

<sup>71</sup> These qualifications should be similar to the DPSI, and could be based on the standards outlined in the NOS for Interpreting and Translation.

<sup>72</sup> Framework Agreement p. 130.

recommends the implementation of – in line with the NAO report from January 2014 - a requirement for ongoing evaluation of quality, including spot checks, be properly implemented.

#### 4.5.2 Improve the complaints procedure

Under the FA, a complaints procedure is already in place.<sup>73</sup> However, this Review recommends that Capita TI amends its current complaints procedure to include the possibility for all participants in the justice system to file complaints on its interpreters. This should include the provision of information on the right to complain, as well as information on the workings of the complaints procedure. In addition, close attention should be paid to the difficulty for the person in need of language services to complain, as the individual may have to rely on the interpreter for assistance or guidance on filing the complaint.

In this context, both the MoJ and Capita TI need to pay closer attention to the issue described in the findings as the 'principal-agent problem'. This is the inability, inherent to interpretation and translation, for persons on the receiving end to judge whether the interpretation provided is of an adequate standard or quality, as an understanding of both languages is necessary in order to evaluate the service. This issue reinforces the importance of having professional standards and spot checks for quality compliance.

Finally, this Review recommends an increase in the transparency with regard to disciplinary procedures.

## 4.6 Review Observation: Independent Regulation

It is acknowledged that discussions regarding changes to the regulatory system under the current system fall outside the scope of this Review. However, the following observation outlines suggestions that could be applied by the MoJ in the long term.

Experts consulted consider it acceptable for a commercial entity to continue the provision of language services as long as an independent regulator is used to set the quality standards for language service professionals and monitor compliance with these standards.

Within the UK, NRPSI currently plays the role of an independent regulator of, and register for, public service interpreters. In this regard, there is a general consensus that NRPSI is in the best position to set the appropriate quality standards for these professionals and cooperate with relevant stakeholders such as CIOI/IOLET and other educational bodies. Numerous study participants stated that NRPSI is regarded as a good practice example in Europe.

This Review therefore recommends that NRPSI is given a more vital role (at least within the justice system) as they could provide incentives for interpreters to acquire relevant qualifications

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<sup>73</sup> Page 104 of the Framework Agreement requires "The Contractor shall have in place robust and auditable procedures for managing complaints or problems initiated by the collaborative partners, its representatives and its customers including , but not limited to, suspects, witnesses and accused persons"

in order to reach the Tier A quality requirements. This would also send a positive signal that the MoJ holds the interpreting profession in high regard and demonstrates a will to ensure the profession's regulation. Regarding interpreting for deaf and deaf blind people, the NRCPD should take a similar role to that of NRPSI.

## Appendix 1: Research Objectives and Method

### Optimality Matrix Approach and Methodology

The MoJ commissioned Optimality Matrix to conduct an independent and balanced assessment of the current interpreter services in terms of quality standards under the Framework Agreement. In assessing the standards, the MoJ asked that the Optimality Matrix Review take specific account of the need to achieve a balance between the needs of the justice system, end users, interpreters and providing value for money to the taxpayer. They further outlined the need for recommendations to:

- Identify those areas of the Framework Agreement that need closer focus.
- Be practical and implementable.
- Pertain to changes to the current arrangement or with a view to future commissioning of the Framework Agreement.

The MoJ also asked that, where possible, the Review take into account and highlight all possible impacts and risks upon service delivery and contract management resources and consider the impact or risks on compliance with the EU Directive, if any exist.

The MoJ identified the following eleven lines of inquiry for the review.

**Table 6: Lines of Inquiry**

Lines of enquiry
1) Does the current system ensure an appropriate balance between quality, cost and supply?
2) How would any recommended changes impact upon quality, cost and supply?
3) Are skills appropriately evaluated? <ul style="list-style-type: none"> <li>a. Is there sufficient focus on qualifications and experience and the balance between them?</li> <li>b. Do the current quality criteria ensure access to the widest possible pool of interpreters?</li> </ul>
4) Which qualifications (including international equivalents) adequately reflect the requirements of working in the various areas and jurisdictions of the justice sector? (Police, CPS, Legal Aid, Tribunals, Probation, Criminal Courts, Civil & Family Courts and Prisons)
5) What experience is relevant and how much is needed? <ul style="list-style-type: none"> <li>a. How can interpreters gain experience and how should it be evidenced?</li> </ul>
6) Should qualifications / experience be weighted?
7) Is the current system of tiering right for the justice sector? <ul style="list-style-type: none"> <li>a. Does it enable matching of the best interpreters to the most challenging</li> </ul>

### Lines of enquiry

- work (ensuring adequate quality for all jobs?)
- b. Is it beneficial to enabling progression of talented people?
- 8) How should rare languages be assessed?
- a. What are suitable criteria for assessment?
- 9) What should the approach be for additional languages?
- a. Should qualifications and experience requirements be the same as for the first language?
- 10) How should we approach on-going assessment and continuing professional development?
- a. Should there be a system of appraisal and spot checks?
- 11) How should complaints regarding quality be dealt with?
- a. What disciplinary processes should be in place?

The following areas fall **outside** the scope of this assessment: Interpreter pay; terms and conditions; procurement of the framework contract and the management thereof; and potential for a regulatory framework.

The Review has been undertaken over a relatively short timescale with the main research being undertaken between March and May 2014. Information was collected for the Review by a combination of:

1. **Desk research** of existing documentation and material to draw out and map the range of quality issues and requirements;
2. **Online questionnaires:**
  - a. Targeted at professionals working in the justice system, and end users. This sought to gather insight on issues around satisfaction with the quality, cost and supply of the interpreting service, as well as problems and challenges encountered. A total number of 82 responses were collected, though a number of responses had to be excluded from the analysis as they did not fall into the original target group for the online questionnaire.
  - b. Targeted at interpreters in order to take into account their views and perceptions. This included all contacts for interpreters and translators registered under the Framework, as well as other interpreter registers and representatives. A total number of 1,008 responses were collected.

3. **Interviews**, allowing for more in-depth discussions on the current quality, cost and supply of the interpreting service. This consultation included 22 interviews with different groups, as well as a half-day workshop with selected stakeholders and experts<sup>74</sup>.

All Review participants were advised that whilst their individual contributions would be kept confidential, their collective views and issues would be used to inform the Review. The main findings of the Review are presented in this report as responses to the MoJ lines of inquiry.

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<sup>74</sup> For the purpose of this study, experts specialised in the area of interpretation and translation have been consulted who are independent and do not provide language services under the FA, for Capita TI or as part of the Ministry of Justice.



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## Appendix 2: Reports of Interpreter Services

### Reports on the MoJ language services contract

**Table 7: Timeline, and specific conclusions and recommendations, of the reports and responses, regarding the Ministry of Justice’s language services contract.**

Date	Investigations into the Provision of Language Services
September 2012	<p>The National Audit Office (NAO) published its report <i>The Ministry of Justice’s language services contract</i>.<sup>75</sup> In summary, the NAO conclusions indicate that the implementation failures stemmed from a combination of underestimation from the MoJ and shortcomings in delivery (quality and quantity) by ALS at the post-procurement stage, including:</p> <ul style="list-style-type: none"> <li>• Insufficient weight being given by the MoJ to the concerns and dissatisfaction that many interpreters expressed (paras.1.14-1.16).</li> <li>• Problems reported by a range of stakeholders regarding the quality of some ALS interpreters, including their familiarity with the justice system. Capita TI had introduced familiarisation training, but more can be done (paras. 3.11).</li> <li>• Inconsistent application of the new quality standards (paras. 2.13-3.18)</li> </ul>
December 2012	<p>The House of Commons’ Committee of Public Accounts (CPA) published its report <i>The Ministry of Justice’s language services contract</i>.<sup>76</sup> Its findings were largely in line with the NAO findings adding that the Capita-ALS performance had somewhat improved but was still struggling to fulfil all obligations.</p> <p>Regarding quality the CPA concluded that it remained unclear whether all interpreters working under the contract have the required skills, experience and character. The MoJ could not confirm this, partly because the MoJ was not at that time inspecting Capita-ALS and did not have robust processes in place to ensure that Capita-ALS checked and recorded qualifications, evidence of experience and enhanced CRB checks - as required under the contract.</p>
February 2013	<p>The Ministry of Justice responded to the Committee of Public Accounts report in the <i>Treasury Minutes of the 25<sup>th</sup> February 2013</i>.<sup>77</sup> The MoJ agreed with all the recommendations from the CPA report and sets target implementation dates for all changes suggested. The MoJ also stated that contingency arrangements were in place to deal with insufficient numbers of interpreters, and discussions were ongoing, with both interpreter groups and Capita, to increase recruitment of interpreters.</p>

<sup>75</sup> Ibid.

<sup>76</sup> House of Commons, Committee of Public Accounts, *The Ministry of Justice’s language services contract*, Twenty-first Report of Session 2012-13 (HC620), 6 December 2012. London: The Stationery Office Limited.

<sup>77</sup> Treasury Minutes, February 2013, Cm 8556.

Date	Investigations into the Provision of Language Services
February 2013	<p>The House of Commons' Justice Committee (JC) published its report <i>Interpretation and translation services and the Applied Language Solutions contract</i>.<sup>78</sup> Again, its findings were largely in line with previous investigations. It suggested that <i>the top priority for the MoJ is to establish whether the strengthening of quality assurance arrangements [...] are sufficient to improve the quality of interpreting services</i>. More specifically it noted:</p> <ul style="list-style-type: none"> <li>• Regarding the pre-2012 arrangements: 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 (NRPSI), with interpreters qualified with the Diploma in Public Service Interpreting, and under the terms set out by the National Agreement.</li> <li>• A diminution of quality is an inevitable product of implementing a new system which does not accurately evaluate the skill levels of professional interpreters. (p. 80)</li> <li>• 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. (p. 83)</li> <li>• There are not sufficient safeguards currently in place to ensure that only suitably qualified interpreters are providing services to HMCTS. (p. 83)</li> <li>• 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. (p. 84)</li> </ul>
October 2013	Entry into force of EU Directive on the right to interpretation and translation in criminal proceedings (see further described below)
January 2014	Peter Handcock CBE (Chief Executive of HMCTS) gave oral evidence before the Committee of Public Accounts. Issues raised included the failure to meet KPIs, costs related to the contract variation, quality and use of different tiered interpreters, and lessons learned.
January 2014	<p>The National Audit Office publishes its report <i>The Ministry of Justice's language services contract: Progress update</i>.<sup>79</sup> This memorandum covers a number of matters including performance against KPIs; number of interpreters; interpreter quality; and accuracy of data provided by Capita. More specifically:</p> <ul style="list-style-type: none"> <li>• There are variations by language and geographical area within the overall</li> </ul>

<sup>78</sup> House of Commons Justice Committee Interpreting and translation services and the Applied Language Solutions contract Sixth Report of Session 2012–13, 6 February 2013.

<sup>79</sup> National Audit Office, *The Ministry of Justice's language services contract: Progress update*, Session 2013-14 (HC995), 22 January 2014. London: The Stationery Office Limited.

Date	Investigations into the Provision of Language Services
	<p>performance figures. It notes that, for example, only 77% of bookings in Northern Ireland were fulfilled and that for 60 different languages Capita TI fulfilled under 90% of bookings. (p. 8)</p> <ul style="list-style-type: none"> <li>• The number of interpreters able to work under the contract has increased to 1,821 in November 2013; however, most have not been assessed as the original contract required. (p. 9 - related Figures can be found in Annex 7)</li> <li>• The MoJ should perform audit checks on other aspects of the data, for example the deployment of Tier 3 interpreters, and examine the control environment around Capita's support for the delivery of the contract. (p. 15)</li> </ul> <p>Regarding interpreter quality:</p> <ul style="list-style-type: none"> <li>• The report noted that Capita TI needs to ensure that the quality of all interpreters are checked against the qualities set out in the contract. It also states that the Ministry should put in place an alternative to the initial assessment alongside carrying out a programme of <i>audits and spot checks on individual interpreters</i>. (p. 11)</li> <li>• There has been an increase of Tier 3 interpreters being used in courts (3% to 10%) and 21 of 23 (91%)<sup>80</sup> court booking staff contacted stated that this was always because Capita TI <i>could not provide the level of interpreter they wanted</i>. This use of Tier 3 interpreters should only happen after approval by a judge; however 52% of courts said they had never consulted a judge before the hearing. (p.12 - related Figures can be found in Annex 7)</li> <li>• Whilst the MoJ has conducted nine checks of interpreter security clearance only the first three and the last of these included a qualification check. Over the first three checks only 63% of interpreters were suitably qualified. This led to a review of acceptable qualifications. Subsequently, in the final audit 96% of interpreters checked were appropriately qualified. (p.13 - related Figures can be found in Annex 7)</li> <li>• It notes that the target date for the replacement of the assessment regime was not met. The MoJ stated in its Treasury Minutes response of February 2013 that discussions were ongoing, through workshops and direct cooperation with interpreter groups, to contract an independent assessment to review the quality standards (p. 14).</li> </ul>

<sup>80</sup> It is important to note that this is a small sample size regarding courts contacted so it should not be seen as wholly representative.

## Appendix 3: European and International Legislation

### International and European Law

With regard to international law, the right to a fair trial was established in 1966 with the signing of the **UN International Covenant on Civil and Political Rights (ICCPR)**.<sup>81</sup> Article 14 (3) ICCPR establishes the right to interpretation and translation where the defendant does not speak the language of the trial.

At European level, Article 5 (2) of the **European Convention of Human Rights (ECHR)** provides the right to liberty, including that those arrested are informed promptly of the reasons for their arrest and of any charge against them in a language which they understand (pre-trial stage).<sup>82</sup> Moreover, the ECHR provides the right to a fair trial, requiring that everyone charged with a criminal offence (trial stage) has the right:

- To be informed promptly, in a language which he/she understands and in detail, of the nature and cause of the accusation against him/her [Article 6 (3)(a) ECHR].
- To have the free assistance of an interpreter if he/she cannot understand or speak the language used in court [Article 6 (3)(e) ECHR].

Neither the ICCPR nor the ECHR specify that the interpretation or translation must be of a certain quality. Moreover, it is important to note that Article 14 (3) of the ICCPR as well as Article 5 (2) and 6 (3) ECHR only apply to criminal cases and therefore do not apply to all types of court and tribunal cases.

Although the ECHR does not mention any quality standards, the European Court of Human Rights (ECtHR) does require a certain degree of quality assurance: *"In view of the need for the right guaranteed by para 3e to be practical and effective, the obligation of the competent authorities is not limited to the appointment of an interpreter, but [...] may also extend to a degree of subsequent control over the adequacy of the interpretation provided."*<sup>83</sup> Referring to the latter point, the ECtHR ruled in another case that **"an interpreter must be competent in order for the applicant's right under Article 3 (6)(3) to be practical and effective"**.<sup>84</sup>

Thus, if a translator or interpreter is provided, but the accused complains about a lack of quality, the authorities will generally be required to address the problem (unless of course the complaint is improper or belated). However, the ECtHR does not clarify what the appropriate level of quality is nor what a "competent" interpreter looks like.

According to **EU law**, Member States are required to put in place different mechanisms for ensuring that the right to interpretation and translation is adhered to, including a mechanism

<sup>81</sup> Article 14, UN International Covenant on Civil and Political Rights, 1966.

<sup>82</sup> Article 5 (2) European Convention of Human Rights

<sup>83</sup> ECtHR case Kamasinki v. Austria (judgment 19/12/1289), para 74. See also Khatchadourian v. Belgium (decision 12/01/2010)

<sup>84</sup> Osmani and Others v. Former Yugoslav Republic of Macedonia (decision 2000)

for quality control. **EU Directive 2010/64/EU**<sup>85</sup>, in force since October 2013, requires Member States to take concrete measures to ensure that interpreting and translation meet the quality required under Article 2 (8) and 3 (9). The quality required under these Articles is *"a quality sufficient to safeguard the fairness of proceedings, in particular by ensuring that suspected or accused persons have knowledge of the case against them and are able to exercise their right of defence"*.<sup>86</sup>

The Directive also states that Member States should *"endeavour to establish a register or registers of independent translators and interpreters, who are appropriately qualified"*.<sup>87</sup> These registers should be made available to legal counsel and relevant authorities. However, it does not further specify or define the meaning of the term *"appropriately qualified"*. The Directive notes that interpreters and translators must be required to observe confidentiality.<sup>88</sup> Finally, the preamble to the Directive states that the interpretation and implementation of the Directive should be consistent with ECtHR case law.<sup>89</sup>

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<sup>85</sup> Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings [2010] OJ L280/1.

<sup>86</sup> Article 2 (8) and Article 3 (9) EU Directive 2010/64/EU.

<sup>87</sup> Article 5 EU Directive 2010/64/EU

<sup>88</sup> Article 5 (3), EU Directive 2010/64/EU

<sup>89</sup> Preamble 33, EU Directive 2010/64/EU

## Appendix 4: National Occupational Standards

### National Occupational Standards (NOS)

The National Occupational Standards (NOS) for interpreting and translation were composed by the National Centre for Languages (CiLT), and were first published in 2001 before being revised in 2006 and 2007 respectively. They were the result of a lengthy consultation process, involving employers, language service providers, stakeholders and the Skills for Business Network, which preceded the composition of the NOS. The NOS are not justice specific, but rather apply to all public service interpreters and translators, not just those working in the justice system. Nonetheless, they are of importance in understanding the quality requirements in terms of the skills/characteristics an interpreter/translator should have to practise an appropriate level in general.

In this regard, both the NOS in Interpreting and the NOS in Translation specifically outline the skills and knowledge that are a requirement for professionals working in the respective language services. In addition, they state the principles of professional practice that should be followed. Importantly, these set the minimum standards for the development of professional and Higher Education qualifications, which form the basis of the requirements set out in the National Agreement. They outline these standards by stating the National Vocational Qualification (NVQ) level these qualifications should be at, as well as setting out specific units under which performance criteria and skill and knowledge requirements are described, as will be further outlined below.

The NOS define interpreting as *"the process where one spoken or signed language is transferred into another spoken or signed language"*.<sup>90</sup> Additionally, they define the role of the interpreter, noting that the professional interpreter should be able to:<sup>91</sup>

- Interpret between two languages in such a way that **effective communication** takes place.
- Interpret **one-way and / or two-way**.
- Interpret **consecutively or simultaneously**.
- Have **full command** of the spoken / signed languages, thereby accurately reflecting the information, ideas, cultural context and intention of the speaker/signer.
- Also, on occasion, support the assignment by producing a sight or written **translation** of written documents.
- Be **impartial** and should not act as advocate for the client.
- Have good knowledge of the **subject areas** they work in and decline any work outside their professional expertise.
- Treat any information exchanged as **confidential**.
- Regularly engage in **continuous professional development**.
- Adhere to a common **code of conduct** as stipulated by the organisation they are registered with.

<sup>90</sup> CiLT, (2006), National Occupational Standards in Interpreting, London, UK, p.11

<sup>91</sup> Ibid, p.11



The above mentioned also states the interpreter should have “good knowledge of the subject areas they work in and decline any work outside their professional expertise”, therefore reinforcing the idea that interpretation and translation work is specific to an area (such as justice).

The NOS also outline the **principles of professional practice regarding interpreting**. These confirm a number of the key responsibilities of a professional interpreter, including the need for impartiality, confidentiality and continuous professional development. Additionally, they add that an interpreter must:<sup>92</sup>

- Meet the performance standards set out in the NOS.
- Support colleague interpreters in the course of their duties.
- Not accept an assignment which is beyond their competence.
- Disclose any conflicts of interest or information that may make them unsuitable for an assignment.
- Explain the principles of professional practice if unethical demands are made of them.
- Respect the ethics and working practices of other professions.
- Not discriminate against parties on any grounds or bring the profession into disrepute.

The NOS in Interpreting state that the minimum level of qualification for entry into the profession is **Level 6 of the National Qualifications Framework (NQF)**, which is equivalent to Level 4 of the National / Scottish Vocational Qualifications and Level 10 of the Scottish Credit and Qualifications Framework. NQF Level 6 is equivalent to a Bachelor’s degree under the Framework for Higher Education Qualifications (FHEQ).<sup>93</sup>

The NOS in Interpreting further distinguish the skills and knowledge required by a professional interpreter into four overarching sections, which contain more specific units:

**Table 8: Overview of the National Occupational Standards in Interpreting and the composite units<sup>94</sup>**

Overview of the National Occupational Standards in Interpreting
<p><b>Preparation units -</b></p> <ul style="list-style-type: none"> <li><b>A1</b> – Prepare for interpreting assignments</li> <li><b>A2</b> – Extend existing skills to prepare for interpreting assignments</li> </ul> <p><b>Interpreting performance units –</b></p> <ul style="list-style-type: none"> <li><b>B1</b> – Interpret one-way as a professional interpreter</li> <li><b>B2</b> – Interpret one-way as an advanced professional interpreter</li> <li><b>C1</b> – Interpret two-way as a professional interpreter</li> </ul>

<sup>92</sup> Ibid

<sup>93</sup> Ibid

<sup>94</sup> Ibid

### Overview of the National Occupational Standards in Interpreting

**C2** – Interpret two-way as an advanced professional interpreter

**Professional development units -**

**D1** – Develop your performance as an interpreter

- i. Evaluate your performance as an interpreter
- ii. Plan and implement professional development

**D2** – Enhance your performance as an advanced interpreter

- i. Evaluate your performance as an interpreter
- ii. Plan and implement professional development

**Support function units -**

**E1** – Support interpreting through sight translations of routine written documents

**E2** – Support interpreting through sight translations of complex written documents

**F1** – Support interpreting through draft written translations of routine written documents

**F2** – Support interpreting through draft written translations of complex written documents

**G** – Work with other interpreters

- i. Plan for interpreting assignments as part of a team of interpreters
- ii. Deliver interpreting services as part of a team of interpreters

**H** – Evaluate and improve language services to meet clients and user needs

- i. Implement and maintain quality assurance systems
- ii. Identify improvements to meet user requirements
- iii. Implement improvements to language services

**I** – Act as a mentor to trainee and colleague interpreters

Within each of these units, the NOS indicate **specific performance criteria alongside knowledge and skill requirements**. The former outlines the level to which a professional interpreter must perform, and the latter outlines the knowledge and skills required to achieve the necessary level of performance.

The performance criteria for professional interpreters include *inter alia* how to prepare and create the best environment to facilitate effective communication between the parties involved; to ensure the provision of an accurate interpretation which conveys the intended meaning; to know when you are unable to provide the desired service; to regularly self-evaluate; to set development goals; and to be aware of developments throughout the profession.<sup>95</sup>

<sup>95</sup> Ibid

The knowledge and skills required to fulfil these performance criteria include *inter alia* attaining the appropriate level of language qualification required in each language; knowledge of the cultural differences of the languages; the ability to carry out the various modes of interpreting and translation required; knowledge and understanding of the code of conduct; techniques and methods for personal development and self-evaluation; the means to understand the needs of the parties involved; and comprehensive knowledge of the subject matter being discussed.<sup>96</sup>

The NOS define **translation** as “the process whereby written text is transferred from one language into the written form of another”.<sup>97</sup> Additionally, they state that a professional translation should reflect the meaning of the source text accurately, ensuring that account information, ideas, opinions and cultural aspects are reflected. Professional translators must also have the ability to use technology and engage in continuous professional development. Furthermore, confidentiality, a good knowledge of the subject areas, and an adherence to a code of conduct are essential.

As in the NOS in interpreting, the NOS in translation also set out the principles of professional practice which all professionals should abide by. These, again, include confidentiality, impartiality and adherence to the code of conduct. In addition, the standard of performance must meet the national occupational standards in translation and professional translators should not accept an assignment beyond their competence.

The performance criteria for professional translators and the knowledge and skill requirements are set out under five sections reflecting different levels of translators. These sections and their composite units are set out below.

**Table 9: Overview of the 4 overarching sections of the National Occupational Standards in Translation and their composite units.**<sup>98</sup>

Overview of the National Occupational Standards in Translation
<p><b>I Professional translator</b></p> <p><i>Essential skills are those described in:</i></p> <ul style="list-style-type: none"> <li>Unit PTra1 Maintain skills and systems for managing translation tasks</li> <li>Unit PTra2 Manage new translation assignments</li> <li>Unit PTra3 Translate written texts from one language to another</li> <li>Unit PTra4 Develop your performance as a professional translator</li> </ul> <p><i>Desirable skills are those described in:</i></p> <ul style="list-style-type: none"> <li>Unit SFTra2 Evaluate and improve translation services to meet client needs</li> </ul>

<sup>96</sup> Ibid

<sup>97</sup> CiLT, (2007), National Occupational Standards in Translation, London, UK, p. 1

<sup>98</sup> Ibid, p.3

**Overview of the National Occupational Standards in Translation**

**II Senior translator**

*Essential skills are the same as those above, with the addition of:*

Unit APTra5 Act as a mentor to trainee and colleague translators

**III Translator operating at an advanced level**

*Essential skills are those covered by:*

Unit APTra1 Maintain skills and systems for managing translation tasks

Unit APTra2 Manage new translation assignments

Unit APTra3 Translate written texts from one language to another

Unit APTra4 Develop your performance as an advanced professional translator

*Desirable skills:*

Unit SFTra1 Manage translation projects

Unit APTra5 Act as a mentor to trainee and colleague translators

**IV Translator operating as senior project manager of a translation team**

*Essential skills:*

Unit APTra1 Maintain skills and systems for managing translation tasks

Unit APTra2 Manage new translation assignments

Unit APTra3 Translate written texts from one language to another

Unit APTra4 Develop your performance as an advanced professional translator

*Desirable skills:*

Unit SFTra1 Manage translation projects

Unit SFTra2 Evaluate and improve translation services to meet client needs

The **performance criteria for professional translators are listed under the above mentioned units**. These include *inter alia* the continued use and compilation of a glossary of terms; the maintenance of knowledge of all languages worked in; the maintenance of quality assurance systems for self-evaluation; thorough preparation and familiarisation with each assignment; and commitment to develop, record and evaluate skills and knowledge.

The knowledge and skill requirements listed under these units include *inter alia* the ability to function at a particular level in all languages; the understanding and knowledge of research techniques and methods, ethics and working practices, and quality assurance techniques; and the ability to assess the degree of difficulty of the translation and their ability to carry out that translation.

## Appendix 5: National Agreement

### National Agreement (NA)

Further guidance for the courts was given in the NA on arrangements for the use of interpreters, translators and language service professionals in investigations and proceedings within the criminal justice system.<sup>99</sup> This agreement aimed to “provide guidance on arranging suitably qualified interpreters and Language Service Professionals (LSPs)”<sup>100</sup> to the criminal justice system specifically.

The NA was revised in 2007, replacing the agreement issued by the Trials Issues Group in 2002 and the Home Office Circular 17 of 2006<sup>101</sup>. It was revised by the Office for Criminal Justice Reform in consultation with the Interpreters Working Group, which includes representatives from the Association of Chief Police Officers, Crown Prosecution Service, H.M. Courts Service, the Probation Service, Home Office, Magistrates’ Association, the Bar Council and the Law Society as well as representatives of interpreter bodies.

Paragraph 1.3 of the NA stated that it “emphasises that face-to-face interpreters used in this context should be registered with NRPSI, and LSPs used should be registered with CACDP”. NRPSI (the National Register of Public Service Interpreters) is the independent regulator of professional face-to-face interpreters in spoken languages. CACDP (the Council for the Advancement of Communication with Deaf People) is now called Signature and is a charity and leading awarding body for qualifications in deaf and deafblind communication techniques. It also runs the NRCPD. The NA noted that these registers ‘provide a number of important safeguards as to interpreters’ competence, reliability and security vetting’<sup>102</sup>.

The quality requirements for these registers are stated below.

### National Register of Public Service Interpreters (NRPSI)

The NRPSI was formed in 1994 after the development of a project supported by the Institute of Linguists (now the Chartered Institute of Linguists) and the Nuffield Foundation. NRPSI has since become independent of the Chartered Institute of Linguists (CIoL) and performs the role of an **independent, voluntary, public interest body that aims to ensure the maintenance of good standards within the interpreting profession in the UK.**<sup>103</sup> Other responsibilities include keeping the UK register of public service interpreters; recognising the qualifications needed to become a professional interpreter; ensuring that all registrants meet NRPSI standards for

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<sup>99</sup> National Agreement on the arrangements for the use of Interpreters, translators and language service professionals in investigations and proceedings within the criminal justice system, as revised 2007.

<sup>100</sup> Ibid p.2

<sup>101</sup> National Agreement on the arrangements for the use of Interpreters, translators and language service professionals in investigations and proceedings within the criminal justice system, as revised 2007.

<sup>102</sup> Ibid p.4

<sup>103</sup> Information taken from the official website of the National Register of Public Service Interpreters. Accessed on 14/05/2014 at: <http://www.nrpsi.org.uk/about-us.html>

professional conduct and practice; and investigating complaints about interpreter performance.<sup>104</sup>

NRPSI registrants can be classed as (1) Full Status, (2) Interim Status (Option A) or (Option B), or (3) Rare Languages<sup>105</sup>. Additionally, NRPSI requires that members at Interim Status upgrade to Full Status within five (Option a) or three (Option b) years. The requirements for NRPSI registration, as further outlined below, include checks of the relevant security clearance and apply to each language an interpreter wishes to work in:

**Table 10: Requirements for registration with NRPSI<sup>106</sup>**

Category	Qualification	Hours of experience
<b>Full Status</b>	<ul style="list-style-type: none"> <li>Diploma in Public Service Interpreting (DPSI); and / or</li> <li>Metropolitan Police Test; and / or</li> <li>Equivalent Level Interpreting Qualification at Honours Degree level.<sup>107</sup></li> </ul>	More than 400 hours of proven PSI experience in the UK
<b>Interim Status</b>	<ul style="list-style-type: none"> <li>Option (a) – DPSI; and / or Metropolitan Police Test; and / or equivalent level Interpreting Qualification at Honours Degree level.</li> </ul>	None
	<ul style="list-style-type: none"> <li>Option (b) – A degree partly studied in English with at least one interpreting and one translation component.</li> </ul>	400 hours of proven PSI experience in the UK
<b>Rare Languages<sup>108</sup></b>	<ul style="list-style-type: none"> <li>Cambridge Proficiency in English or equivalent qualification.</li> <li>Annual review including evidence of CPD.</li> </ul>	100 hours of proven PSI experience in the UK.

For NRPSI interpreters working in the criminal justice sector, **the National Agreement stipulated that the Law option of the DPSI must be held.**<sup>109</sup>

### Signature (formerly the CACDP)

Since the last revision of the NA, the Council for the Advancement of Communication with Deaf People (CACDP) has been renamed 'Signature'. CACDP run the NRCPPD, alongside the accredited qualifications for interpreters for deaf and deafblind people.

<sup>104</sup> Information taken from the official website of the National Register of Public Service Interpreters. Accessed on 14/05/2014 at: <http://www.nrpsi.org.uk/about-us.html>

<sup>105</sup> Criteria for Entry onto the National Register for Public Service Interpreters. Accessed on 20/02/2014 at: <http://www.nrpsi.co.uk/pdf/CriteriaforEntry.pdf>

<sup>106</sup> Ibid

<sup>107</sup> For example, a degree level qualification (or higher) with at least two interpreting components and two translation components. The qualification must include consecutive and simultaneous interpreting and sight translation. A syllabus must accompany your certificate; if this is written in a language other than English a certified translation of both the syllabus and certificate must be submitted as well.

<sup>108</sup> Rare languages are defined as those languages where there is no qualification available however there is a demand for the language. If the language applied for is not currently listed on the National Register then the Language Definition Committee (LDC) of the Chartered Institute of Linguists will determine whether the language can be listed on the register.

<sup>109</sup> National Agreement on the arrangements for the use of Interpreters, translators and language service professionals in investigations and proceedings within the criminal justice system, as revised 2007. P.4

Under the NA, only those qualified to Level 4 in the National Vocational Qualification Framework at the time (now Level 6) in BSL / English, and Level 3 in Lip-speaking and Speech to Text Reporting can interpret in the criminal justice system.<sup>110</sup>

There were additional CACDP registration categories – Trainee BSL / English Interpreter, Junior Trainee BSL / English Interpreter and Level 2 Lipspeaker – however these were noted in the NA as not acceptable for use in the criminal justice system.

### Other interpreter sources

If an interpreter could not be sourced from the recommended Registers, the NA outlined the procedure in Annex B for communicating with non-English speakers, and Annex C for communicating with deaf and deafblind people. Table 7 notes the following places to source interpreters for foreign languages, alongside the qualification and experience requirements of that source.<sup>111</sup>

**Table 11: Additional sources for face-to-face interpreters communicating with non-English speakers found in Annex B of the National Agreement<sup>112</sup>**

Source	Qualification	Experience
NRPSI Full Status either: a) Local Govt b) Health	Diploma in Public Service Interpreting or equivalent such as Metropolitan Police Test	400+ hours
NRPSI Interim (option a or b): a) Local Govt b) Health	Option (a) – DPSI or equivalent Option (b) – other relevant qualification with 400+ hours of PSI experience	Option (a) – 0-399 hours Option (b) – 400+ hours
DPSI-qualified but not NRPSI registered nor member of APCI or ITI	DPSI	Need to check
NRPSI Limited Assessment category <sup>113</sup>	DPSI ORAL/ AIT/ IND attainment only or equivalent	400
“Find a Linguist” <a href="http://www.iol.org.uk/linguist">www.iol.org.uk/linguist</a>	Need to check	Need to check
AIT Assessment (formerly IAA assessment)	AIT Test, equivalent to NRPSI Limited Assessment category	Need to check
IND Assessment	IND Test, which covers only oral – consecutive interpretation	Need to check
DPSI Oral only	DPSI Oral only	-

<sup>110</sup> Ibid

<sup>111</sup> National Agreement on the arrangements for the use of Interpreters, translators and language service professionals in investigations and proceedings within the criminal justice system, as revised 2007.

<sup>112</sup> Ibid

<sup>113</sup> This NRPSI category embraces AIT (formerly IAA) assessment; IND assessment; Met Police Test pre-1977; DPSI – Oral only; Met Police Test post-1997 – Oral only.

If these sources were not available, the NA stated that it may be necessary to consider the following (however, it stated that they should not be used for the broad range of evidential purposes):

- Known local interpreters who appear to have delivered satisfactory interpretation in the past.
- Staff at university language departments.
- Video interpreting services.
- Telephone interpreting services.
- Own staff who speak the language in question.

Regarding interpreters for deaf and deafblind people, the NA outlined a number of additional registers, in Annex C. These included the Agency Steering Group (ASG), the Association of Sign Language Interpreters (ASLI), the Association of Lipspeakers and the Association of Verbatim Speech to Text Reporters. Annex C also provided the following guidelines for the acceptable qualification and experience levels for the different types of interpreters for deaf and deafblind people working in the CJS.

**Table 12: Additional sources for face-to-face interpreters communicating with deaf or deafblind people found in Annex C of the National Agreement<sup>114</sup>**

Category	Qualification	Experience
Member of the Register of BSL/English Interpreters	<ul style="list-style-type: none"> <li>• CACDP Level 4 (6) NVQ in Interpreting (BSL/English) plus Level 4 NVQ in BSL or a university BSL module mapped at this level for registration purposes, or</li> <li>• UCLan Postgraduate Diploma in BSL/English Interpreting, or Leeds University MA/Postgraduate Diploma in Interpreting Studies: BSL-English</li> </ul>	None stipulated
Member of the Register of Level 3 Lipspeakers	<ul style="list-style-type: none"> <li>• CACDP Level 3 Certificate in Lipspeaking (To 31 Dec 2006) or</li> <li>• CACDP Level 3 Certificate for Lipspeakers (From Spring 2007).</li> </ul>	None stipulated
Member of the Register of Speech to Text Reporters	<ul style="list-style-type: none"> <li>• Two endorsements by a deaf user of STTRs and CACDP Level 1 Certificate in Deaf Awareness (To 31 Dec 2006), or</li> <li>• CACDP Level 3 Certificate for Speech to Text Reporters (From Spring 2007).</li> </ul>	None stipulated
Member of the Register of Deafblind Interpreters	<ul style="list-style-type: none"> <li>• CACDP Level 4 Certificate in Deafblind Interpreting (Manual) (To 31 Dec 2006), or</li> <li>• CACDP Level 3 Certificate for LSPs with Deafblind People (Manual) (LDB3) (From Spring</li> </ul>	N/A

<sup>114</sup> National Agreement on the arrangements for the use of Interpreters, translators and language service professionals in investigations and proceedings within the criminal justice system, as revised 2007.



Category	Qualification	Experience
(Manual)	2007).	

In conclusion, the NA was set up so that registrants of the relevant registers were used for interpreting in the CJS as much as possible. Effectively, these organisations adopted the role of the independent regulator of the profession and assured relevant quality requirements and robust quality assurance mechanisms. If interpreters from these registers were not available, the NA outlined a list of contingency options with caveats to ensure these alternative options possess the correct level of quality for the work they would be carrying out (e.g. staff from a university language department should not be used for the broad range of evidential purposes).

## Appendix 6: Framework Agreement

### Framework Agreement (FA): Qualifications Decision Tree (QDT)

In addition, the QDT takes into account whether the first language of the interpreter is English or not and whether the language into which the interpreter interprets is a standard or rare language.<sup>115</sup> Whilst the QDT does not make reference to any internal assessment of interpreter quality, it includes a security decision tree and security exceptions process, which can be used to determine the required vetting actions and security checks.

In terms of the actual requirements for interpreters, the QDT largely reflects the original requirements set out in Appendix A of the FA with the exception that:

1. The QDT expands upon general terms found in Appendix A, examples include:
  - 'Degree in Linguistics' is now broken down into specific degrees such as BA in Interpreting and Masters in Linguistics.
  - 'Language Diploma' is now broken down into specific degrees such as BA in Modern Languages and Masters in Interpreting and Translation.
  - 'WEA programmes' is now broken down into specific degrees such as Community Interpreting Level 2 / 3 / 4.
2. Acceptability of the Metropolitan Police Test:
  - Appendix A - The Metropolitan Police Test qualifies an interpreter to work as Tier 1 but only if they hold another qualification (DPSI (Health or Local Govt) or Honours Degree or Higher in Interpreting).
  - QDT - The Metropolitan Police Test alone now qualifies an interpreter to work as Tier 1.
3. A list of linked languages was established and included in the QDT. This means, for example, that:
  - An interpreter speaking Arabic may be used for a case requiring Moroccan interpretation as they have been determined as linked languages.
  - If this is the case, the qualification held in the linked language is what the tier is based on.
4. A stringent 'Qualifications Exceptions Process' was developed. This is pertinent when, for example:
  - A qualification is not mentioned within the QDT but appears to be relevant to the tiering criteria and / or the language service professions. This qualification is then reviewed and the interpreter is tiered or refused registration based on this review.

In the case of rare languages, defined as where the DPSI or equivalent qualification is not available, the interpreter must have the Cambridge Proficiency in English Certificate, or NRPSI registration (rare language category), 100 hours of public sector interpreting experience, evidence of continuous professional development, references and a pass at the assessment

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<sup>115</sup> A list of which languages are regarded as "standard languages" and "rare languages" according to Capita TI and MoJ is included on page 1 of the Qualifications Decisions Tree.

centre. As set out in Appendix A of the FA, the assessment centres for face-to-face interpreters of foreign languages aim to mimic the structure of the DPSI exam. However, under the QDT this assessment is no longer in place.

It should be noted that **the QDT only applies to face-to-face interpreters**, meaning all other language service professionals are still bound by the requirements of Appendix A (telephone interpreters/interpreters for deaf and deafblind people/translators). Work for telephone interpreters and interpreters for deaf and deafblind people under the FA are subcontracted out to other language agencies. In this respect, these agencies must only use professionals who meet the following qualification requirements. Translation work is provided by either Capita TI registered face-to-face interpreters or Capita TI's in-house translation team.

## Appendix 7: Impact of Recommendation 1 on current demand and supply

It is not possible to estimate the impact of Recommendation 1 on cost with any reliability. This is because the available data does not provide a sufficient breakdown of individuals with the listed qualifications and hours of experience required by each Level. Moreover, the remuneration of interpreters is outside of the scope of this Review.

### Impact of the recommendation on current supply and demand

In the following section, this Review will assess the impact of this recommendation on the current supply and demand of interpreting services in the justice system. The Review thereby focuses on the reallocation of jobs among the current pool of interpreters, which could be implemented in the short term under the current FA.

Capita TI data on demand of jobs is not disaggregated by type of court, however, data on demand can be disaggregated between jobs demanded in the criminal justice system and jobs demanded outside the criminal justice system. The jobs within the CJS include the police, the Criminal Courts, the criminal cases dealt with in the Supreme and Senior Courts, prisons and probation. Thus, the civil cases dealt with by the Supreme Court and Senior Court are not included in this calculation. As a consequence, this Review is unable to calculate the impact on the demand and supply of interpreters in the CJS and the Supreme Court and Senior Courts in its totality, but can provide a calculation of the impact on supply and demand in the CJS (incl. the criminal cases dealt with by the Supreme Court and Senior Courts).

It is assumed that the number of jobs demanded in the CJS is far higher than the number of jobs demanded in civil cases of the Supreme Court and Senior Courts. Therefore, not including the latter should not have a large effect on the results of this calculation.

In addition, it has to be noted that this recommendation only affects face-to-face interpreters in standard languages, and excludes face-to-face interpreters in rare languages (current Tier rare) because jobs that require an interpreter in a rare language cannot be fulfilled by Tier 1, 2 or 3 interpreters in standard languages. The same applies to interpreters for the deaf and deafblind, telephone interpreters and translators.

In order to measure the impact of this recommendation on the **supply and demand of interpreters**, the following deduction needs to be made:

**Impact on supply** = Number of adequately qualified interpreters currently fulfilling demand of jobs that fall outside the CJS – (**MINUS**) Number of additional adequately qualified interpreters needed to cover the demand of jobs in the CJS currently fulfilled by not adequately qualified interpreters.

First, this Review will look at the supply of interpreters under the FA, i.e. the number of interpreters registered with Capita TI and those that would qualify as Tier A (see above). In a

next step, the Review will look at the demand of interpreters in the CJS. Finally, it will calculate whether under this Recommendation the supply of interpreters that would qualify as Tier A can meet the demand of the CJS.

### Supply of interpreters

The number of Tier 1, 2 and 3 interpreters registered with Capita TI has increased significantly since 2012. At the end of 2012, Capita TI had 1,200 interpreters (Tier 1, 2 and 3) registered with the company, whereas in November 2013 this number had increased to around 1,800 interpreters (Tier 1, 2 and 3).<sup>116</sup>

The following table shows the total number of face to face interpreters currently (June 2014) working for Capita TI, broken down by Tier.

**Table 13: Number of interpreters registered with Capita TI by Tier, as per June 2014.**

Face to face interpreter	Total
Tier 1	943
Tier 2	499
Tier 3	781
Tier rare	201
<b>Total</b>	<b>2,424</b>

Source: Capita TI data June 2014.

As can be seen in the table above, **2,223 interpreters** (Tier 1, 2 and 3 – excluding Tier rare) are currently registered with Capita TI.

The survey of interpreters showed that 70% of the Tier 2 respondents (N=125) do not hold an adequate qualification to be considered as a Tier A interpreter (as defined by this Review). This estimate was used as a proxy to calculate the total number of Tier 2 interpreters holding the necessary qualifications to be considered as a Tier A, thus assuming that 70% of the Tier 2 interpreters currently working for Capita TI are not adequately qualified, while 30% are adequately qualified.

Based on these assumptions, the following table shows the number of face-to-face interpreters working for Capita TI, broken down by those that do / do not qualify as Tier A, and broken down by current Tier.

**Table 14: Number of qualified vs not adequately qualified interpreters, per Tier.**

Face to face interpreter	Total	Percentage qualified as Tier A	Not adequately qualified as Tier A (Tier B)	Qualified as Tier A
Tier 1	943	100%	0	943
Tier 2	499	30%	349	149
Tier 3	781	0%	781	0

<sup>116</sup> NAO Report, January 21014, p. 10.

<b>Total</b>	<b>2223</b>	-	<b>1130</b>	<b>1093</b>
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Source: Total number of interpreter: Capita TI data June 2014. % qualified Tier 2 from supply survey data.

As can be seen in the table above, it is assumed that a total of 1130 face to face interpreters registered with Capita TI are not adequately qualified as Tier A, and would automatically fall into Tier B. This amounts to approximately 51% of all Tier 1, 2 and 3 interpreters currently registered with Capita TI.

As stated above, the percentages of Tier 2 interpreters that meet / do not meet the qualifications for Tier A were based on the supply survey (i.e. the responses of Tier 2 interpreters working for Capita TI). However, the respondents of this survey might not be representative for the entire pool of Tier 2 interpreters registered with Capita TI. A variation of this percentage, however, does not influence much the percentage of interpreters not adequately qualified as Tier A. Even if 50% of the Tier 2 interpreters would not hold the necessary qualifications, as opposed to 70%, the overall percentage of Tier B interpreters would still be 54%.

### Demand of interpreters

The table below presents the number of jobs demanded in the CJS in one year (data available for 2013), and those that fall outside the CJS. These jobs do not include the demand for telephone interpretation and translation.

**Table 15: Number of jobs demanded in 2013**

<b>Number of jobs demanded in 2013:</b>	<b>Jobs demanded</b>	<b>Percentage</b>
In the CJS*	108,200	57%
Outside CJS**	81,871	43%
<b>Total</b>	<b>190,071</b>	<b>100%</b>
<b>Total jobs face to face interpreting in standard language (Tier 1,2,3)</b>	<b>184,388</b>	<b>97%</b>

Source: Capita TI MI data of January 2014: Fulfilment per partner - Total Volume Due (Jan 2013-Dec 2013)

\*This includes jobs demanded in police, criminal courts<sup>117</sup>, CPS, HMP, probation.

\*\*This includes jobs demanded in civil courts and tribunals.

As can be seen in the table above, the total number of jobs to be fulfilled by Capita TI in 2013 were 190,071 jobs. Of these jobs, 97% were jobs requiring a face-to-face interpreter in a standard language (i.e. Tier 1, 2 or 3 interpreter), amounting to 184,388 jobs.

<sup>117</sup> Available data (Capita TI MI data of January 2014) includes the demand of jobs in courts, however it does not differentiate in which type of courts (criminal vs civil & family) for the period Jan 2013-Dec 2013. Other data, MoJ MI: Fulfilment by MOJ Court Type – Total Volume Due (January 2014), shows that in January 2014 87.7% of the jobs demanded in courts were demanded in criminal courts. This percentage was then applied to the available data on the demand in courts, to calculate the number of criminal court jobs demanded in the CJS.

The table further shows that the demand for interpreting jobs in the CJS (police, criminal courts, CPS, prisons, probation) in 2013 was **108,200 jobs**.

**Calculation of the impact of the recommendation on supply and demand**

In order to calculate the impact of this recommendation on the supply and demand, the Review will assume the total number of jobs demanded in 2013 (108,200) equals the number of CJS jobs to be fulfilled (i.e. a 100% fulfilment) per year.

The first two columns of the table below present the usage rates by interpreter type, applied to the total number of CJS jobs to be fulfilled by each Tier. The second two columns show the percentages and the number of jobs fulfilled in the CJS by interpreters not qualified as Tier A (Tier B interpreters), broken down per current Tier.

**Table 16: Usage rate and jobs fulfilled in the CJS per type of interpreter**

Current tier	Usage rate	Jobs fulfilled in CJS	Percentage of jobs fulfilled by interpreters not qualified as Tier A	Jobs fulfilled in CJS by interpreters not qualified as Tier A
Tier 1 interpreters	54.7%	59,145	0%	0
Tier 2 interpreters	32.0%	34,600	70%	24,220
Tier 3 interpreters	10.4%	11,220	100%	11,220
Interpreters in rare languages	2.8%	3,011	-	-
Interpreters for the deaf and deaf blind	0.2%	225	-	-
<b>TOTAL</b>	-	<b>108,200</b>	-	<b>35,440</b>

Source: Usage rates provided by Capita TI. The usage rate is an average rate covering the period February 2012 to June 2014. % qualified vs not adequately qualified Tier 2 from supply survey data.

As mentioned previously (and is illustrated in the table above), the Review Team assumes, based on the survey with interpreters, that 70% of the current Tier 2 interpreters are not adequately qualified for Tier A. It is further assumed that the number of CJS jobs fulfilled by these interpreters equates to 24,220.

Taking into account this number and the number of jobs fulfilled by Tier 3 interpreters (which do not hold the necessary qualifications for Tier A), the total number of jobs in the CJS that are currently fulfilled by interpreters not adequately qualified for Tier A is **35,440 jobs**.

In order to estimate the capacity per year of one interpreter (i.e. how many jobs an interpreter can fulfil on average per year), the Review Team looked at the figures of 2013. In this year, the total volume of jobs demanded was 184,388 for Tier 1, 2 and 3 jobs, both in the CJS and outside the CJS. These jobs were fulfilled by a pool of 2,223 Tier 1, 2 and 3 interpreters registered with Capita TI<sup>118</sup>. Thus, in 2013, one interpreter covered 83 jobs on average (184,388/2,223). This average will be taken forward in this calculation as the average capacity of one interpreter.

Thus, in order to fulfil the 35,440 CJS jobs currently fulfilled by Tier B interpreters, (35,440/83), a total of **427 interpreters that meet the qualifications for Tier A will need to be made available**.

However, jobs outside the CJS are currently being fulfilled by interpreters falling under Tier A. As outlined in Recommendation 1, these jobs should not be prioritised for Tier A interpreters and could be fulfilled by Tier B interpreters instead. Assuming the same usage rates as shown in the Table above, the Table below presents the number of jobs fulfilled outside the CJS by tier.

**Table 17: Usage rate and jobs fulfilled outside the CJS per type of interpreter**

	Jobs fulfilled outside CJS (civil/family)	Percentage of jobs fulfilled outside CJS by interpreters qualified as Tier A	Jobs fulfilled outside CJS fulfilled by interpreters qualified as Tier A
Tier 1 interpreters	44,753	1.00	44753
Tier 2 interpreters	26,180	0.30	7854
Tier 3 interpreters	8,490	0.00	0
Interpreters in rare languages	2,278	unknown	0
Interpreters for the deaf and deaf blind	170	unknown	0
<b>TOTAL</b>	<b>81,871</b>		<b>52,607</b>

Source: Usage rates provided by Capita TI. The usage rate is an average/blended rate covering the period February 2012 to June 2014. % qualified vs not adequately qualified Tier 2 from supply survey data.

As can be seen in the table above, the total number of jobs outside the CJS that are currently fulfilled by interpreters meeting the necessary qualifications for Tier A equals 52,607 jobs. Thus, a total of **634 (52,607/83) qualified interpreters could be freed/made available** from this pool to fulfil CJS jobs instead.

In summary:

- The total number of interpreters qualified as Tier A needed to fulfil CJS jobs is 427.

<sup>118</sup> NAO Report, January 2014, pp. 9-10. This only includes Tier 1, 2 and 3 interpreters. This reflects the number of interpreters registered as per the end of 2013 and is a point estimate for the whole of 2013.



- The total number of interpreters qualified as Tier A additionally available (when not used for jobs outside the CJS) is 634.

Therefore, according to this calculation, there is a surplus of 207 interpreters (634-427) that are qualified as Tier A when these interpreters are prioritised for CJS jobs. **It can be concluded that under this Recommendation, the supply of interpreters qualified as Tier A, is able to meet the demand of interpreter jobs in the CJS. Hence, the redistribution should not cause any difficulties regarding the current supply of language services under the FA.**

This surplus of 207 interpreters qualified as Tier A should be used to fulfil the remaining civil case jobs in the Supreme Court and the Senior Courts (Court of Appeal, High Court and Crown Court)<sup>119</sup> and other more complex/high risk non-CJS cases which we are unable to include in this calculation.

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<sup>119</sup> Capita TI data on demand of jobs is not disaggregated by type of court, therefore we are unable to calculate the number of jobs demanded in the Supreme Court and Senior Courts.