

Prison Reform Trust response to Justice Committee Inquiry on Interpretation and Translation services and the Applied Language Solutions contract

The Prison Reform Trust is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families

We welcome the opportunity to contribute to this inquiry. Whilst much has been made of the issues concerning the delivery of the new interpretation and translation contract by Applied Language Solutions in the courts and tribunal service, our comments are focused primarily on the implications for prisoners and the prison system, and recommendations for improving access to language services, understanding of prison rules, and access to services.

1. The rationale for changing arrangements for the provision of interpreter services

When the Ministry of Justice published proposals for a new centralised system to provide interpretation and translation services in the criminal justice system the Prison Reform Trust welcomed the review. We believed that this was an opportunity to improve access to translation, interpretation and language services, particularly for marginalised groups including foreign national prisoners, the deaf and deaf/blind.

During the consultation we raised a number of problems within the existing arrangements at the time and expressed concern that there was a lack of clarity on how the new framework agreement would be delivered operationally within prisons.

The existing system was criticised by the Inspectorate of Prisons, highlighting that the national language service was consistently underused, and that there was an *“over-reliance on using other prisoners to translate, sometimes in situations where professional interpreting services would have been more appropriate”*.¹ Access to interpreters for particular languages was also cited as an issue.

*“Getting interpreters is difficult, especially in Vietnamese. I am Language Line trained, but I have been told it is too expensive – you have to get permission from the Governor to use it. This causes difficulties when dealing with confidential issues – you can’t use another prisoner.”*²

¹ HMIP (2007) Foreign national prisoners: A follow-up report, London: HMIP

² HMIP (2006) Foreign national prisoners: a thematic review, London: HMIP

This is something that our own *No Way Out* briefing paper on foreign national women in prison supported. The paper, jointly published with Hibiscus, a charity working with foreign national women imprisoned in the UK, found that there had been a large rise in the number of women in prison from Eastern Europe, China and Vietnam. They were found to be the least likely to speak English or have basic literacy, and that an over reliance on other prisoners as interpreters was fraught with difficulties in terms of trust and confidentiality.³

There are clear benefits from providing a centralised system which allows individual prison establishments to access translation services for prisoners directly from a prime contractor. However, unless the service is easily accessible and seen as good value by prison staff, the problems that foreign national prisoners face in accessing the support they need and are entitled to will continue.

At a time when the Ministry of Justice is facing significant reductions in its budget and prisons are forced to make difficult financial decisions, issues such as the one highlighted above become even more of a risk. There are numerous individual establishment reports from Independent Monitoring Boards, and the Inspectorate of Prisons that demonstrate that expense is a considerable deterrent for prison staff, and that the permissions needed to access language line also acted as a deterrent.

Much was made of the expected savings that the new contract with Applied Language Solutions was likely to realise. However, the initial £18m was quickly revised to £12m, before the Minister of State, Lord McNally announced that it was unlikely that these savings would be achieved in the first year of delivery.

We believe that a centralised system for accessing interpreters and translators is potentially a good effective use of resources. However, this has to be properly resourced as the existing levels of funding available for this within the prison service are too low. A robust needs assessment would demonstrate that the current service is not adequately funded. It is difficult to see how this could happen without mandatory requirements or ring fenced budgets.

Any cost savings must come from centralisation, lessening the administrative burden and economies of scale.

2. The experience of courts and prisons in receiving interpretation services that meet their needs

Despite the significant number of parliamentary questions, media coverage, and statistical information on ALS's performance in the first few months of operation, there is currently no reliable information available in the public domain on the experience that prisoners, either sentenced or remand, have had in receiving the new service. Much has focused on the use of interpreters at the court stage of criminal proceedings, rather than further down the line, however there have been a number of particularly concerning individual cases being reported.

³ Prison Reform Trust and Hibiscus (2012) *No Way Out: A briefing paper on foreign national women in prison in England and Wales*, London: Prison Reform Trust

There have been reports of some interpreters failing to turn up to court hearings, either on time, or at all. Ministry of Justice statistics show that in the first three months of operation there were 2,455 instances where despite a request being made by the court to Applied Language Solutions, they were unable to meet the request, and a further 217 instances where an interpreter was assigned and booked for a court hearing, but failed to attend.⁴

Problems such as these not only lead to delays in court proceedings and increased costs, but also have the possibility of defendants being remanded into custody pending the arrival of an interpreter, as was seen in the case of Latvian national Ivans Karanovs.⁵ For someone to be deprived of their liberty as a result of a provider failing to meet their contractual obligations is a gross misuse of custody, and we sincerely hope that this was an isolated incident.

The absence of suitably trained professionals during court cases could have the potential for miscarriages of justice if more extreme and unsuitable alternatives are used. Recent press reports have highlighted one case, in which it was alleged that a court had to resort to Google's online computer translation because no Lithuanian interpreter could be found.⁶

Whilst there is a lack of information currently available on the performance of Applied Language Solutions within prisons we would like to take this opportunity to outline a number of recommendations to improve communication and understanding with prisoners who don't speak English, are deaf, or deaf/blind.

Prison life

There are particular examples of situations in prison where people should have automatic access to an interpreter to explain what is happening to them. These include (but are not limited to) any time in segregation, health care appointments, adjudications, categorisation, breach processes, parole applications, immigration status, bail information, and any internal prison meetings that have an impact on sentence progression.

Information provision

Many prison staff individually spend time putting together standard information that could be centrally provided and adapted for individual establishments. In particular 'easy read' information both in English and other languages should be centrally commissioned for induction and reception. Templates could be used by prison staff to complete the detail for their prison.

⁴ Table 1, Ministry of Justice (2012) Statistics on the use of language services in courts and tribunals, London: Ministry of Justice

⁵ Briggs, S. (2012) Anger after interpreter problems delay hearing of man accused of assaulting MP, *Peterborough Telegraph* [online] 2 August. Available at <http://www.peterboroughtoday.co.uk/news/local/anger-after-interpreter-problems-delay-hearing-of-man-accused-of-assaulting-mp-1-4118055> [Accessed 3 September 2012]

⁶ Boycott, O. (2012) MPs to investigate 'underperforming' firm awarded £300m court monopoly, *Guardian* [online] 20 July. Available at <http://www.guardian.co.uk/law/2012/jul/20/mps-investigate-firm-court-monopoly> [Accessed 3 September 2012]

Literacy

The PRT/Hibiscus briefing paper *No Way Out* explains that population of female prisoners from Eastern Europe, China and Vietnam has grown. Some will not be literate in their first language and therefore reliance on translated material in language of origin is not always the solution.

As part of a new study published by Liz Hales and Loraine Gelsthorpe, *The Criminalisation of Migrant Women*, a number of foreign national women in prison were interviewed who had been victims of trafficking and work under servitude and whose entry into the UK was facilitated by smugglers. The report found that within this group 76% of those interviewed did not have English as their first language, and that 71% needed some interpreter support, with evidence of limited literacy.⁷

Diversion

Poor access to translation services can mean asylum seekers and victims of trafficking are not identified and diverted out of the criminal justice system and into more appropriate services.

Easy read

We would encourage the Ministry of Justice to use as much information as possible in easy read, irrespective of the language. This would ensure that all written material was as widely accessible as possible.

Equality Impact Assessment

We are concerned that there is no mention of using female interpreters within the current framework agreement. Interpreters need to be trained to identify the sensitive situations in which women have a right to have a female interpreter. This is a matter re-inforced by the new Bangkok rules, recently ratified by the UN, which apply to women in custody and those serving community penalties.

Protocols

Although there is no mention of protocols for disclosing information about individuals who are harming themselves or threatening to harm others, this should be part of the code of conduct for interpreters/translators.

Conclusion

Whilst we appreciate that it is still early in the delivery of the new contract, and that teething problems do happen, any problems with the contract and delivery of the service need to be ironed out and further progress monitored to ensure access to justice, particularly for vulnerable people. There has been limited performance data made publicly available, with nothing published on the delivery of translation and interpretation services in prisons, we believe that the government should also publish this data routinely. There has been some

⁷ Hales, L. And Gelsthorpe, L (2012) *The Criminalisation of Migrant Women*, Cambridge: Institute of Criminology, University of Cambridge.

encouraging progress in improving compliance since the contract began, but it is still too early to make firm conclusions on the effectiveness of delivery.