



**House of Lords Public Services Committee
Inquiry into Interpretation and Translation Services in the Courts
Bar Council written evidence**

About Us

The Bar Council represents approximately 18,000 barristers in England and Wales. It is also the Approved Regulator for the Bar of England and Wales. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

Scope of Response

1. This submission addresses the questions upon which the Committee has sought evidence insofar as it is within our expertise.

Executive Summary

2. Whilst there are many competent interpreters the standard is variable and needs to improve. The arrangement for booking interpreters is prone to problems and is not as reliable as it needs to be. We see little if any prospect of AI being a viable alternative to interpretation being done by a human.

Question 1: To what extent do the current interpreting and translation services provided in courts meet the needs of those involved in proceedings, including defendants, witnesses, prosecutors and legal professionals?

a) How have interpreting and translation services changed in recent years?

3. Since 31st October 2016, interpreting services have been provided by two suppliers – thebigword Group Ltd and Clarion UK Ltd which deal with non-spoken languages such as sign language.
4. A new independent quality assurance service has also started to be provided by The Language Shop (London Borough of Newham). Prior to this and since 2012, these services were provided under a contract with Capita Translation and Interpreting (CTI).
5. Interpreters working within the criminal justice system should be registered on the [National Register of Public Service Interpreters \(NRPSI\)](#). NRPSI are an independent, voluntary public interest body and their core role is to ensure that standards within the profession are maintained for the benefit of the public and interpreters.
6. Although there are committed and talented interpreters working in criminal proceedings, the overall standard is not acceptable and not delivering justice. The general view is that there has been a significant decline in the quality of service, both in the quality of individual interpreters and the administration of the services (i.e. in ensuring that an interpreter is present at court, on the day, and for as long as, they need to be there), over the past few years. There has been some improvement recently, but matters have not gone far enough.

7. The feedback from one practitioner deserves anxious consideration:

“In many of the cases I do there is a need to go outside the current service provision. Only this week a Sylveti Bangla court interpreter was needed in Manchester and a special request was made as there was no provision under the service. The interpreter man travelled from the Home Counties. In the same case there were issues with translated documents. The quality of interpreters, especially Urdu is hit and miss. Recent examples are of a court interpreter having to be stood down as he simply couldn't be understood. The Mother in the case then had the services of her solicitor provided interpreter who told her what to say and what not to answer. This was confirmed by other interpreters in the courtroom. As a general rule female Urdu interpreters provide better quality than male counterparts, although there are of course some very good male interpreters. Tamil speaking interpreters are hard to obtain and some languages impossible in the UK. One of the issues which often arises is the level of education the person needing an interpreter has. The need to use language which will be understood is essential.”

Question 2: What are the key issues in the provision of interpreting and translation services and what impact do they have on the running of the courts, public trust, interpreters and translators.

8. The primary issue is the failure to book interpreters. On too many occasions one isn't booked and the impact is very significant. If an interpreter cannot be found on the day, and that rarely happens, then the case will be adjourned. This is a waste of court time when time is of the essence not to mention the problems for the advocates. If the defendant is in custody, then there is that added expense and a drain on its resources.
9. A more common problem is that an interpreter is not booked for an appropriate time slot. Although a case may be listed at 10am it may compete with many other cases. It may be delayed by a defendant not being produced from prison – a problem which happens on a regular basis. There is no point in booking an interpreter for a narrow slot in the morning. On too many occasions that is unrealistic and yet the practice continues of booking people for a short slot who then insist they cannot stay at court beyond the term of their booking. If an interpreter is booked for a hearing at 10am they need to be available to attend all morning – to cover the hearing and any conference thereafter. That is currently not happening.
10. There can also be an unfairness for other cases where a need for an interpreter means they get delayed even if they involve vulnerable defendants or witnesses.
11. The failure to understand these commonplace delays in cases being called on, dealt with and the need to be available for an entire morning even if the hearing itself may be short is disappointing. The supplier should be familiar with these issues by now and have reacted accordingly.
12. Unfortunately, there are also a large number of interpreters who lack the ability to interpret to the standard required for court. There have been problems with the interpreters' own command of English, avoidable problems with particular dialects that the system should catch before the interpreter is at court or, most often, interpreters who do not have a solid grasp of the particular interpretation style required for court proceedings i.e. interpreting *exactly* what is said on both sides without summarising, commenting, asking their own questions, advising etc. Those examples are discovered frequently but, given the fact that normally no-one else in court speaks the language, there will undoubtedly be many more that occur that are not caught. Finally, too often interpreters (particularly translating for defendants in docks) simply fail to translate huge portions of court proceedings out of (what

appears to be) a lack of effort. Too often although the court have been told an interpreter is essential they sit silent when important evidence is given or law is argued.

13. An example of the problems which can arise is contained in the Law Gazette article¹ dated 21st June 2024:

“In short interpreters assert there are problems with a new booking system. According to the document, seen by the Gazette, once a job is accepted it disappears from the app, leaving interpreters without access to critical information. Interpreters often find themselves in court without a timesheet, reference number, or knowing where they need to go. A ‘confusing’ interface makes it difficult to distinguish between booked jobs and offers. Interpreters say remote assignments lack timesheets, making critical information about job timings and details difficult to obtain. Cancellations are misclassified as curtailments, affecting interpreters’ income. Distance calculations and payments are inaccurate, and the app appears to be draining phone batteries. ‘We strongly request that, rather than delivering a downgrade that wasn’t properly tested before launch, improvements be made to the current app to mirror and include the previous features,’ the interpreters say in the document. At present, ‘the interpreter is burdened with resolving their issues, despite [thebigword] creating problems that were not previously present.”

14. It is important to note the response from thebigword which may put the difficulties in context but as a minimum there have been significant difficulties.

a) Is there data on the number of miscarriages of justice due to ITS error?

15. No – such matters would not be amenable to ‘data’ analysis.
16. Proceedings are not recorded in the Magistrates’ Court and therefore there is no objective evidence of whether language is being accurately interpreted. We are not aware of any case in the Court of Appeal where problems with interpretation have been a ground of appeal.
17. In any event, translation for defendants often happens quietly, at the back of the court, whilst others are speaking and so would not be recorded. It can be very difficult to uncover miscarriages of justice for those reasons.

Question 3: Are the required qualifications and experience of interpreting and translation services in the courts consistent?

a) Are the recommended requirements standardised across all governing bodies, contractors, and institutions?

b) Are the current requirements fit for purpose?

18. The qualifications required by thebigword group are contained in the welcome pack². In light of what we have said about the quality of interpreters, either the current requirements are not fit for purpose or are not being applied when recruitment takes place.

Question 4: What quality assurance and complaints procedures are in place in relation to interpreting and translation services in the courts?

a) How easy is it for people to report or submit a complaint?

b) What data exists on the number and types of complaints made?

¹ [Court interpreters raise grievances with thebigword over new booking system | Law Gazette](#)

² [2117 TBW Welcome Pack 15082016.pdf \(thebigword.com\)](#)

19. We are not aware of how a complaint would be made beyond emailing thebigword.
20. Unless an advocate or solicitor speaks the same language as an interpreter it is not easy to see how a defendant would know he was not getting a good service. If there have been few complaints, we anticipate that is either a consequence of a desire to keep a case on track or because of a sense of resignation caused by the many problems in the criminal justice system.

Question 5: How easy is it to recruit and retain skilled interpreters and translators to work in the courts?

a) What opportunities, barriers and pitfalls exist and how might these be addressed?

21. This is an issue for those who recruit and retain interpreters to address albeit the problems which are referred to above which may well deter potential applicants from applying. We are aware that some interpreters have left the service due to the reduction in pay since 2016.

Question 6: What is the potential role of new technology (such as artificial intelligence, machine translation and the digitisation of court proceedings) in the future of interpreting or translation services in the courts?

a) Would adoption of this technology in the courts be an appropriate use?

b) What tools are already in use in ITS, what form do they take and in what situations are they used?

c) Is the current and future ITS workforce being prepared to work with technology? If so, how?

22. There may be some value in machine translation for documents, but it would need to be subject to stringent checks in relation to quality control.
23. There is at best very little potential in the family and criminal field for the reasons given above. For example:
 - a. How does AI adjust for the lack of education in the language?
 - b. How does AI adjust for dialect? (There are 27 different dialects in Bangla).
 - c. How does AI adjust to the myriad of differences in people?
 - d. How can the legal professionals/Judge know when a question is misunderstood/mistranslated?
 - e. Will AI be programmed to alert if the answers received indicate a lack of understanding?
 - f. If parties and the court are dependent on AI systems what does the court do when it becomes apparent that these issues are arising?
 - g. Worse still, how can we guarantee a fair hearing?
24. The problems may be less acute (but still give rise to issues) in the Business and Property Courts. We have seen machine translations used to keep costs down in extensive civil litigation, where documents need to be translated for the purposes of disclosure, and in the event to be used (by agreement of the parties) in trial bundles. The issue, though, is knowing whether they are sufficiently accurate.
25. Machine transcriptions (not *translations*), or more often, machine transcriptions edited by a human operator, are fairly common now in civil litigation, and real-time transcriptions seem likely to be accurate (though we would query whether that is the case in certain foreign

languages). This might assist human translators, who have the difficult job of listening to what is being said, recalling it, and then translating it.

Question 7: What is the current capability and accuracy of market leading artificial intelligence and machine translation tools in relation to ITS?

a) How does this vary between languages (e.g. low resource languages or languages with relatively few written language samples), interpreting (speech to text) and translation (text to text)?

b) What capability do these tools have to deal with dialects, nuance and colloquial use of language?

26. This is more a question for those with expertise in AI. However, there are academic measures of accuracy of machine translations.³ We would hope that the Ministry of Justice would require some sort of objective metric and a certain level of observable accuracy before deployment, rather than a mere assertion by a supplier.

**The Bar Council
September 2024**

³ Graham, Y. and T. Baldwin. (2014) "Testing for Significance of Increased Correlation with Human Judgment". Proceedings of EMNLP 2014, Doha, Qatar; <https://aclanthology.org/D14-1020.pdf>