The ALS/Capita case: how much longer?

The granting of a legal monopoly on the provision of interpreting services across UK’s justice sector bodies is looking more and more like a needless mistake.

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Published: October 7, 2012 Last updated: December 2, 2015

Following a flurry of media reports and parliamentary questions about the contract between the UK’s Ministry of Justice and Applied Language Solutions (ALS), court interpreting has finally moved up a notch on the political agenda, becoming the focus of investigations by the National Audit Office (NAO) and two prominent parliamentary committees.

The NAO investigation

The NAO, which conducted its enquiry in June and July, has already published its conclusions. They vindicate many of the criticisms raised by interpreters and others: the company – now owned by Capita – was too small to handle such a complex contract; rules on due diligence were not followed; the government underestimated the strength of feeling among professional interpreters who refused to engage with the company and did not take their concerns on board.

Most shocking of all, however, was the finding that some of the MoJ staff understood that ALS would be unable to comply with the mandatory quality requirement of the contract in time for the ‘go live’ date, and therefore “agreed with ALS in December 2011 that, on a temporary basis, un-assessed and unmarked interpreters could be used in the justice system as a last resort.”

It was also noted that “Only 280 out of an estimated 1,200 required interpreters were ready in line with the contract”. The NAO concluded that “The consequence of going live with 280 interpreters was that un-assessed and unmarked interpreters would have to work in the justice system.”

One could reasonably ask why the Ministry of Justice was keen to implement the project in one go all over the country rather than wait until ALS had more interpreters on their books, or maybe implement the project gradually region by region. The NAO report states: “The Ministry wanted to show a clear commitment to the new arrangements, when many interpreters and translators were still strongly objecting to them publicly. Switching to the new system in a single step, it felt, would oblige more interpreters and translators to accept it.” Clearly, the project was not just about the savings, but also about bringing interpreters who refused to be treated as objects to heel.

Parliamentary committee public hearings

Rt Hon Margaret Hodge MP, Chair of the Public Accounts Committee, was quick to react to the NAO report by issuing this statement. While the NAO mostly focused on the value for money perspective, she noted that other intangible aspects such as distress for victims, defendants and witnesses, as well as damage to the reputation of the justice system are equally important. Her Committee will now hold a public hearing about the contract on 15 October 2012.

Just a week later on 23 October there will be another interpreter-related hearing in front of the Justice Select Committee. The Committee issued a call for written evidence in July, so it will be fascinating to read the submissions as – unlike in the NAO’s investigation - under the terms of this inquiry the Committee will make public much of the evidence received. AIIC was among those making submissions.

So far the only visible consequences of the contract failures are personnel changes at both ALS/Capita and at the MoJ. All the senior ALS staff that worked on the initial stages of the project have now left the company, with former CEO Gavin Wheeldon moving away from the language sector completely. Following the recent cabinet reshuffle there are now also new people at the MoJ.
The NAO acknowledges that at the time it concluded its report ALS/Capita still did not have the requisite number of previously assessed and security-checked interpreters on their books. This will come as no surprise to anyone who has followed the saga in the media. Just before the NAO report was published, the press reported on a lack of checks for ALS interpreters and a husband who stood in for his interpreter wife. Graciously, Capita has now been given three more months to complete all the procedures that should have been completed before the project went live on 30 January 2012.

The MoJ seems to be impressed by Capita’s size – it relies on Capita's experience in handling public services contracts. And to impress the MoJ even further the company has promised an additional £3.5m investment. The money is to go into recruiting more staff for the service centre, providing an additional portal, and increasing pay and benefits for interpreters in order to see “the average drop in remuneration over the old system reduced from 20 per cent to 8 per cent”.

Clearly, the NAO has failed to fully grasp the reasons why qualified interpreters refuse to work for ALS/Capita. A recent survey carried out among police and court interpreters shows that the lowering of professional standards and damage to professional reputation are as important as the money.

Persistent Problems

Meanwhile, systemic problems are not being addressed. The provision of court interpreters is more chaotic now than before the changes were introduced on 30 January 2012. On any given day there might be several interpreters working in the same court building, all booked under different provisions and working under different T&C:

- Interpreters engaged by ALS working to its T&C.
- Additional ones working for other agencies either subcontracted by ALS or instructed directly by courts in the case of ALS failure to supply an interpreter.
- Yet more engaged directly by (1) the court, or (2) the Criminal Prosecution Service (CPS), or (3) the police if it is an overnight custody case – all of them working to the old T&C.
- And finally interpreters engaged directly by solicitors to assist with the defence of their clients.

Although ultimately all these interpreters are paid from public funds, the payments are accounted for under different budgets – that of ALS, court central funds, the CPS and the Legal Services Commission, which oversees Legal Aid for publicly funded legal representation.

The MoJ had hoped that all Criminal Justice agencies, including police forces which all have independent budgets, would sign a framework agreement with ALS, and in that way all spending on CJS interpreters would come under one roof. That would have provided an easy audit trail; with various cost centres the government never really knew what the total expenditure was, and the projected savings from the ALS contract were based on estimates. So far this plan has not worked. As the NAO report has noted, too few police forces decided to do business with ALS, and the CPS, which originally expressed an interest, has now pulled out and continues to source interpreters directly.

The news is not all bad however. Court and police interpreters have emerged from the shadows and are subject to scrutiny and research as never before. This in turn has encouraged unity and a vigorous campaign to promote better recognition of the hard and honest work that previously went on quietly and without proper appreciation.

Also, a spotlight has now been put on interpreter qualifications. LLAS (Centre for languages, linguistics and area studies) published a report into training provision of public service interpreting and translation in the UK. It notes that due to language diversity and the dispersal of potential students, it is more difficult to organise training for public service interpreters than it is for conference interpreters, and remarks that it is becoming morally questionable to offer such courses if students burdened with high tuition/exam fees cannot possibly hope for a viable future in the profession.

A university tutor quoted by the report really said it all: “As a result of this crisis with ALS, we have a brilliant opportunity to quantify the loss that is being generated by the lack of qualified interpreters”.

This might also be a brilliant opportunity to promote better working conditions for interpreters in this sector. Indeed, some court judges are beginning to question the existing arrangements under which a single interpreter is expected to work alone for a whole day. When examining one of many ALS’s failures, Lord Justice Thomas commented: “[...] obviously a break costs money to the court and it's a question of balancing whether it is better to have a break or to have two interpreters”.

Hopefully, all this scrutiny and the parliamentary inquiries will expose the real cost – financial and non-financial – of using inexperienced, unqualified and unvetted individuals as interpreters. The NAO in its report encourages creative thinking “about how to attract additional, adequately qualified interpreters to the work”. Maybe it is time for the MoJ to
give up creativity and return to plain and simple round-the-table talks with people who actually do the interpreting, or maybe even to look around and learn how interpreting is successfully organised in other sectors.

Editor's note:

- The HOC Public Accounts Committee (PAC) held a hearing on 15 October in which they heard from and questioned representatives of the Association of Police and Court Interpreters and the Ministry of Justice respectively. This video of the meeting is posted on the parliament's website, as is the corrected transcript of oral evidence of that hearing and written evidence received by the PAC.
- The PAC followed up on 29 October with representatives of Capita: view video.
- The Justice Select Committee (JSC) held a hearing on 23 October with the presence of representatives of interpreters' professional bodies, the Law Society and the Magistrates' Association. The video of the meeting can be viewed here.
- The JSC then heard from representatives of Capita and the former CEO of ALS, as well as representatives of HM Courts and Tribunals Service and the MoJ: view video.

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