

Public Services Committee

Corrected oral evidence: Interpreting and translation services in the courts

Wednesday 6 November 2024

11.10 am

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Members present: Baroness Morris of Yardley (The Chair); Lord Bach; Lord Carter of Coles; Lord Laming; Lord Mott; Lord Porter of Spalding; Lord Prentis of Leeds; Lord Shipley; Baroness Stedman-Scott; Lord Willis of Knaresborough.

Evidence Session No. 3

Heard in Public

Questions 41 - 58

Examination of witnesses

Mike Orlov, John Worne and Sara Robertson.

Q41 **The Chair:** Welcome to this public session in our inquiry into interpreting and translation services. I start by thanking our witnesses for attending and asking them to briefly introduce themselves.

Mike Orlov: I am the executive director and registrar at the National Register of Public Service Interpreters, the NRPSI or even sometimes “nurpsy” as a forced mnemonic to make it easier.

John Worne: I am chief executive at the Chartered Institute of Linguists.

Sara Robertson: I am the chief executive of ITI, which is the Institute of Translation and Interpreting.

The Chair: We will come to terms with all those initials at some point.

Q42 **Lord Prentis of Leeds:** Good morning, everybody. First, thank you for your written evidence; it is excellent. Obviously, everything that we do has to be based on evidence, and you have helped us. It leads to the first question. Your evidence is dominated by working conditions, changes to working conditions and the improvements that may be made, which is what we are looking for to find how we can improve the service in the courts.

The first question is a general one: what are the key issues that interpreters face when engaging with interpreting and translation systems in the courts? I think we will go the other way around this time and start with Sara.

Sara Robertson: We can probably tag team a bit because, as you have seen from the evidence, there is strong correlation across what we are saying. I think top of everyone's list is the issue of fees, remuneration and the working conditions of interpreters in the courts. There is a real challenge with people's professionalism not being recognised and sufficiently rewarded. The fallout from all that is the very real risk that incredibly talented, hard-working, dedicated public service interpreters give up and leave the system. Then we are left with an even bigger gap than we already have.

There are the practical issues as well: the mechanics of booking systems and payment arrangements and all those things that hamper good and efficient working. From my point of view as chief executive of ITI, the professional development angle concerns me greatly. The idea that we have people [interpreters] who are not able to access sufficient levels of training, support and mentoring—all those things that help them to be good professionals—seems a huge issue with the current system. Perhaps I might let the others join in.

John Worne: To build on that, I will give you four Ps. The first P is pay, and that is probably the biggest and most significant of them. The second P is professionalism and the recognition thereof. The third P is the pipeline, which is how many people are coming into the profession. The fourth P is public money and how we are spending the public's money for the best effect. I think that is something we will want to get into.

Mike Orlov: I would like to pick up on John's point about professionalism and Sara's point, developing something that she said there, and take us a step deeper on this question. We use the word "interpreters" and we are basically covering all the interpreters the Ministry of Justice deploys. It is very happy calling all its interpreters professionals. What it has admitted in its evidence is that fewer than half of the 1,700 interpreters who are active have a level 6 vocational qualification. Fewer than half are equipped to work.

They face different issues to the other half. The other half face the issue of understanding what to do. If you have a level 1 qualification, which is the equivalent of—I am old enough to remember CSEs—a CSE pass, and you are expected to walk into a bail hearing and act as an interpreter, it will not work. You face very different problems from those of somebody who has a level 6 qualification with many, many, many, many hours of experience.

If you take that number of 1,700 who the Ministry of Justice admitted were on its active list, fewer than half have a level 6 qualification. For those who have level 6 qualification experience, their biggest issue—picking up on professionalism—is this lack of recognition of status.

These people often have three or four degrees. They may have a DPSI in health and a DPSI in law, they may well have a master's degree, a DipTrans, and they probably have a couple of language degrees thrown in as well. They are then offered an engagement at absolutely knockdown

rates, without their travel being paid, and then asked to stand in a public line to come to work, and then have to be dragged in by a court official because, "You are running late". "I am not running late; I am standing here". This lack of recognition of their professionalism has only got worse rather than better.

Q43 **Lord Prentis of Leeds:** I understand the lack of recognition. It could be a major issue in this area, but pay and various other employment rights have been mentioned categorically in your evidence. What changes do you seek to improve things? It cannot just be—and I am saying this as a negotiator—to increase the pay by 15%. What reforms do you believe should go with that? It is the reform that we are looking at.

Sara Robertson: Can we pick up the point about employment rights? I think that is quite crucial here and there is a bit of a misunderstanding about the realities. The interpreters are freelancers and have no employment rights. One of the issues with the system is that you have the contractor who is bringing in freelancers. The freelancers are not supported by the things that [employed] people like me have—pensions, benefits, holiday pay, sickness, training, health and safety. None of that stuff is there. The issue about the working conditions is as important as remuneration, and certainly we need to tackle those together.

John Worne: On your point that it cannot be 15% more on pay, it is a naive question but why not? If you look at the actual amount, the fees that people take home, and bear in mind that in many instances they are getting only a fraction of their day paid for, it is simply not a living wage. The wages are too low.

Add to that the phenomenon that was pulled out in the evidence last week about dynamic pricing; it is very hard for a person to know what they will be paid. Basically we are on a Deliveroo and Uber model of prices being driven down and no transparency or clarity as to the fees or prices being charged. That means there is no career for people in this work. There is no ability to earn a stable living and commit to this as a profession. Unless you tackle pay, at least to some degree, we will continue to have a problem with pipeline.

Mike Orlov: Plus the condition that if I am called to the court for 10 am, I travel to the court, I am at the court, I am there on time, I have stood in the public line, I have got in, and then I am waiting for two hours before the case begins—which is quite often—why am I paid only from when the case begins? What have I been doing for the two hours while I have been waiting and the hour that I travelled?

It is not just the money. John is absolutely right that we have to do something about the money, but we also have to do something about the conditions, and that is down to respect and recognition of status. We come back again to the sense of professionalism. A mother nurses their baby but is not a state-registered nurse. I can interpret on behalf of my mother and father in broken Russian in Belarus, but that does not make me a public service interpreter who can work in the courts.

We need to give recognition to these individuals who are highly experienced, have their level 6 qualifications and have the hours; their profession needs to be recognised. How do we do that? We make sure that it is regulated and that it is mandated that only people with level 6 are engaged. It is not "should" but "must". It is not that you should engage with somebody who has level 6. No, you must engage with somebody who has level 6 and who is regulated and registered. That is how you add some elements around the pay.

It is not just pay. It is about conditions, status and recognition. If you are treated roughly you will walk away, and that is exactly what we have been seeing in the last decade.

Q44 Lord Bach: Talking about the last decade, the question of outsourcing—it is referred to in all statements and in other witnesses' statements that we have read before today's meeting—seems to be quite an issue. It is not to say that outsourcing in every regard is wrong. Of course it is not. If the ministry had kept to the position that it had before 2012, would there have been a better system than the one that exists at present, or is it that—putting it crudely—if you were outsourced, you would want a better outsourcer than you have now? I am asking you not from any particular point of view, but it seems to be quite central to everything that all three of you say.

Mike Orlov: In its evidence last week, the Ministry of Justice basically said that the court officials know people and give them a ring to bring them in. I think that is an unfair description of what was going on prior to 2012. There was something called the national agreement, which gave true guidance as to how the Ministry of Justice, and individual courts, should go about engaging with registered, regulated public service interpreters. Then there was a list of registered and regulated interpreters, independently checked. There were nearly 2,400 of those with level 6 or with 400 hours. It was working. The Ministry of Justice then outsourced the engagement function, but not just the engagement function; it outsourced the list.

If I am running a commercial agency, my main responsibility is to earn profits and pay dividends to shareholders. How can I, running an agency, maximise this contract? I want to engage with people who are less qualified, because I can pay them less. If I can persuade the Ministry of Justice to take not just level 6 but level 3, level 2, level 1 and perhaps people with a degree in philology, let us invite them to interpret in the courts, which they do today. It is on the list. There was an email sent yesterday by somebody at thebigword on behalf of the Ministry of Justice saying, "If you have a degree in philology, you can come and do this job". That is happening today.

If you have to outsource, just outsource the engagement function but do not outsource the list. We do not outsource a list of doctors or nurses. Treat public service interpreters as true professionals and, therefore, let them be regulated and registered separately.

John Worne: We have the entire Civil Service and 20 or 30 years of public service reform experience to draw on. I will not give you a lecture on delivery models and the efficiency thereof. Fundamentally, you have a supply and demand problem. There are too few people coming forward to do the work because the price being paid is too low. Until you address the price that is being paid—how much a person gets in their pocket for doing this work—you will have a supply problem. That is the fundamental.

Obviously, we all want an efficient and high-quality delivery mechanism. I think we all want the vast majority of the public money that is pumped into it to go to the people who are delivering the service. It may be that there are more efficient ways of doing that, but ultimately not enough money is getting into the pockets of the people sitting behind me.

Sara Robertson: We are at an interesting moment because there is a live tender out there for the next framework. As you have heard from various people, there are many flaws, problems, challenges and issues that have arisen out of the last framework. I find myself thinking: has the MoJ learned from all that? Has it understood where the problems are? Has it listened to—as John said—my colleagues behind us, got to the nub of the problem and then built the solutions to all those problems into this new framework?

I do not know the answer to that. I have not waded through the hundreds of pages of the tender, but that is the question that someone probably ought to be asking: are the solutions in there or will we be stuck with many more years of issues and the problem spiralling even further out of control?

Q45 **Lord Porter of Spalding:** I have a couple of things. The standing in line bit is an easy fix. I am sure we have got that as a recommendation at some point—that if somebody is coming to do part of the court work, they are treated like all the court staff and come through the staff line. That is a no-brainer fix, but this service costs the taxpayer a fortune that the taxpayer sees no or limited benefit from. If I went out to the street and asked the first 10 people I bumped into, where I live in Lincolnshire, “Should I spend any sum or some more on this service?”, they would say, “I’m not sure you should spend any but, if you are spending any, don’t spend any more”, because of the competing priorities that people have. You have mentioned doctors and nurses. For some people—not in my world—train drivers are a competitive force against what you can have out of the national cake.

Given that the cake is the size that it is for your profession and that somebody is taking that—either people at the coalface doing the doing bit or people behind a desk somewhere in London, or abroad or wherever, organising that—how much of the cake do you think the front line gets? If the cake is restricted to the size it is, because we have an oven that is only this big and it can be baked only that big, how much more of it should go to the people at the coalface rather than the people who are co-ordinating that on behalf of the Civil Service, who love to do co-ordination normally but love it even more when somebody else is doing

the co-ordination?

John Worne: Transparency on that would be very helpful, if we could see in a comprehensive dataset exactly what is being paid by language and what the variations are. It is very difficult if you have dynamic pricing, as we were told last week, to know what the rate is. It is very difficult for you to be confident in the advice you give or the questions you ask the next people along if you do not have a clear picture of what the rate of pay is, and we do not.

Q46 **The Chair:** Can I be clear on that, because we struggled on this? We know what the rate of pay is, because we have had a lot of people tell us. You do not know, I assume, what amount of money goes to the person who holds the contract. You do not know what that percentage split-up is.

John Worne: No.

The Chair: Okay. That is what I thought. I just wanted to be clear, because that has been in our minds.

Mike Orlov: I think this is an ethical question rather than one about money. Somebody who needs the help of sign language is invariably British born. The way in which sign language interpreting is viewed by public sector organisations is quite different from foreign language interpreting. I wonder why that is—because the people who need the foreign language service are clearly not British born; otherwise, they would be speaking English.

I think this comes down to ethics. We are duty bound. There is a law that says that if any individual wishes to access any public sector service, there should be no hindrance to them accessing it. Not speaking English is a hindrance, so on that basis we are duty bound to offer interpreting to the public sector.

Lord Porter of Spalding: That is an interpretation in itself.

Mike Orlov: It is an interpretation that I take on because I think, as a nation, that is how we have been. We have greeted and welcomed foreigners who come to this land and we have made life easier for them to settle into that. If there is a witness to a crime who does not speak—

The Chair: There is a shortage of time. We could go on for the rest of the morning about this. We are not going to look at that bit of the law. It is there. Someone else can look at whether they want to change or improve that. Let us just leave that one as it is, but I understand the arguments that have been made on both sides. It cannot be part of our report because it is not what we are looking at.

Lord Porter of Spalding: That is telling me off.

The Chair: No, I was not at all. I think I was drawing it to the attention of those engaged in the conversation. Patrick, help us out of this one.

Q47 Lord Carter of Coles: For the record, I have no interests to declare in this inquiry. Perhaps I have missed this: how much does the average interpreter earn a year? We hear about all the barriers and all these things, but do you have a sense of what the number is and, to bring forth more supply, what the number should be?

Sara Robertson: I know where some data exists but it is broader than necessarily just public services data. I can think of research by some colleagues.

Lord Carter of Coles: I am surprised we do not have a clear answer. We know that minimum wage is £12.21 an hour.

John Worne: Let me give you some figures. Basically, two or three years ago we came together as a group of stakeholders to try to give some advice in the context of the criminal justice system. We said that anything less than £30 an hour clearly is not acceptable. That is a lot less than was paid in the past and much less than is paid in a number of European countries, but let us say, for argument's sake, that we would aspire to £30 an hour. What are people actually getting? Suggestive evidence is £25 to £27 in good circumstances, and in other public service interpreting contexts it can go down as low as £17 to £12.

The Chair: That is for the hours worked?

John Worne: Yes.

Lord Carter of Coles: I am after the annual.

John Worne: The annual is tricky because it is about how many times your particular language comes up in a court setting where, with dynamic pricing and an Uber model, you get called.

Lord Carter of Coles: Forgive me, but you are arguing about pay. I will cut this short, but perhaps you can write to us. You are saying that it is not well paid, so we need to know what the pay should go to. We know about other countries—I think that in California interpreters in the courts get an average of \$77,000 a year. Could you have a look for us and try to get an annual rate for the average hours worked? Then perhaps you can supply us with international data.

Mike Orlov: The Ministry of Justice has those numbers.

Lord Carter of Coles: Good, we will get them from it—but perhaps you might like to give us some as well.

The Chair: If you could send them in to us, that would be great.

Q48 Baroness Stedman-Scott: I have no interests to declare for this inquiry. How far do the current and upcoming MoJ approaches ensure high-quality interpreting and translation services in the courts?

Sara Robertson: That is a big question.

Baroness Stedman-Scott: It is. I have two more as well.

Sara Robertson: I suppose some of this hinges on the commitment to the level 6. That is the most straightforward way of being able to say that the person in the court doing the interpreting knows what they need to know to do that job well. If there was an absolute commitment to always using a level 6 qualified interpreter in those court settings, that would get us a pretty good distance down that road.

I think there is a role for quality assurance as well, and there is always room for improvement and professional development. I guess my colleagues will agree with me that that is the benchmark line.

Baroness Stedman-Scott: Do you all agree with that?

John Worne: Yes. It is sometimes portrayed that level 6 is a very elevated, gilded standard. I will read out what you would have to do to fail DPSI, the diploma in public service interpreting, so that you have a sense of what you would be wanting to screen out.

You fail if you have serious inaccuracies, omissions or distortions that affect comprehension, demonstrate inadequate grasp of language or subject matter, cannot switch between languages, make excessive requests for clarification, use excessive and inaccurate paraphrasing, or have an accent, intonation or stress patterns that make it hard to understand what you are saying. Those are the things that you need to not be demonstrating to work in a court.

It is very difficult to feel confident, if you are a witness, that you would be well supported if you had someone who was demonstrating less than that benchmark level of competence. That is why we always say the level 6 is a baseline, not an aspirational target.

Q49 **Baroness Stedman-Scott:** That is helpful because my next question, which I think you have already answered, is: what qualification should be required for interpreters in the court system? Does the system currently meet this? I think the answer is that it is level 6 and it does not—not that I am putting words in your mouth. Please help me out.

Mike Orlov: You have it. There is one element that we need to address on this: the levels of experience. Currently, where less than 50% of the Ministry of Justice's list has a level 6, the Ministry of Justice does not demand any check on evidence of hours already worked. I may have come straight out of getting my level 6, and I am still on P-plates. I am still wearing provisional plates, but I can be deployed as a level 6. There is no stipulation about experience.

The national register insists on a minimum of 400 hours evidenced experience, and the police do that now too. Through the PAIT scheme, the London Met absolutely insists on 400 hours. It is a profession norm. In this new scheme, the Ministry of Justice—it is great that it is going for a default at level 6 and we would lobby it to hold to that—is asking for a

level of experience of 200 hours. Does the Ministry of Justice believe it needs less-experienced interpreters than the police?

Q50 Baroness Stedman-Scott: Let me move on, because there is another question that I am sure you will all want to pipe in on. What is your view on the quality assurance work provided by the Language Shop?

Mike Orlov: It is less than useful and is dangerous. It is a tick-box exercise. Even in the contract, 1% will be mystery shopped. You have already heard how difficult that would be, and the 1%—really? It is about having KPIs to show that it is doing the job, but it is not doing the job. These are the KPIs we think we can achieve, so let us have them to measure what is going on. We have seen it a thousand times before in a hundred different companies and organisations.

Quality assurance is all about getting it right on the way in. Have we sent the right person to do the job? Do they have the right qualification and experience? Have they signed up to the code of professional conduct? Therefore, you have some belief that they will do a decent job. It is then about having a very effective professional conduct process so that it is easy to make a complaint, not difficult, and if there is a complaint it is followed through independently with people who are trained in handling complaints.

John Worne: I have one tiny point there. I make the distinction between that set of issues and the Language Shop itself. The Language Shop is a spin-out from Newham local authority and has very ethical, very professional, very sensible, very good people. I certainly do not criticise it as an organisation. It is just fulfilling what is required in its contract.

Mike Orlov: It is the contract that is wrong.

Baroness Stedman-Scott: Understood.

Sara Robertson: Probably a slightly different aspect is that the other side of quality assurance is looking back to professionalism. If you have interpreters who have voluntarily chosen to be a member of CIOL or ITI, they are committing to continuing professional development and following a code of conduct. They have an ethical practice and, therefore, they should be and will be moderating themselves as well. You have the personal quality assurance that comes of being professional in any walk of life. Then there is a value in that external perspective too, as long as it is not just quantitative and there is some qualitative element in it.

Lord Porter of Spalding: I did not realise the Language Shop was a council-owned spin-off.

The Chair: Who owns it now?

John Worne: It is a social enterprise spun out of Newham.

Lord Porter of Spalding: For the sake of not being on the wrong side of the fence, I need to declare that I am a vice-president of the Local

Government Association and Newham is a member of the Local Government Association. I had not realised it had spun out into—

The Chair: I had not either. Is that your only interest?

Lord Porter of Spalding: Yes, as far as I am aware at the moment, but who knows? Every time we ask somebody another question, something else turns up.

Q51 **The Chair:** We have to declare our interests at the start of an inquiry and Gary has not done his yet, so he is doing it now.

Can I just go back to the level 6? I do not suppose anybody will say, “No, we don’t want people with a level 6”; obviously that is the best thing. Would it be fair to interpret what you said as that you would be looking for that to be mandatory in the new tender document, without any get-out? My understanding of the present one is that it is said but not enforced. Would you be looking for that in the new contract tendering process?

Sara Robertson: It should be mandatory. I can understand why there is a desire to have a get-out clause, because that is the issue of supply and demand. If you cannot fulfil the contract and find those interpreters, you want a way of solving that problem, except that it is not the right way to solve the problem.

The two things are interconnected. If we absolutely commit to level 6, we also have to absolutely commit to managing the pipeline and bringing people through the training scheme. That is a bit that is missing.

The Chair: That is the lever, in a way, if you put it in as mandatory.

Q52 **Lord Laming:** Thank you for your written evidence, and the evidence this morning. It has been most helpful. We all understand the issues about fees, status and the points that you have made. I am not clear about whether you think that the current structure works efficiently. If it does, fine. If it does not, can you tell us why it does not work well?

Sara Robertson: Some of that is what I was saying earlier about the fact that you have one big contractor, which is [operating at scale], and then this pool of freelance interpreters. There is not much between the two—no real dialogue, partnership or buy-in. Therefore, the problems arise and people struggle to find solutions to them, and the MoJ sits somewhere in this. It does try to help pick up and resolve issues, but there is fundamentally a communication problem in all this. The power imbalance does not help to resolve that.

Lord Laming: We can understand that there is one big organisation that has overall responsibility for the service being delivered and that it relies on a whole range of contributors to that. What I am not clear about is why that is a problem.

John Worne: I think there is a pipeline problem. Who is joining the profession? The nature of migration to the UK has changed. The number

of people coming from EU accession countries has changed, so the demographics of what is required in the court and criminal justice system has changed. The pull-through of people to service that demand is broken. The higher education colleges and training providers that used to do these things no longer provide them because they are uneconomic to provide. Demand is so fragmented because you do not have the large numbers of Polish, Romanian and other groups migrating into this country.

Lord Laming: Are you seeking a different structure?

John Worne: We need to restart the pipeline and the training and education system that produces interpreters, because at the moment people are not coming through the system. That is where the problem occurs for whoever, whatever delivery model you choose—whether it is wholly outsourced, wholly insourced or however you do it. If you do not have enough bodies with the skills, you cannot deliver the service effectively. I think that is what we are seeing. This is the “Are we waving or drowning” thing we have been saying for a little while.

Lord Laming: Insisting on level 6 might reduce the pool.

Mike Orlov: Counterintuitively, I disagree. I think it is the opposite. I think there are people sitting on their level 6 who have left the profession and are now working in bakeries or somewhere else because they can earn more money, and they are getting more respect sitting in the baker’s shop.

Were they to see that the profession has been registered, regulated and approved, it is recognised, there is protection of title, you have your status and you do not have to stand in a queue any more, these level 6s would dust down their degrees and come back in. I am convinced that there are hundreds, if not a thousand or so, out there who are prepared to do that.

I want to pick up your point about whether the way it works is broken and give a little history for some context. In 2012 a contract went to a commercial organisation called ALS. ALS went bust and is not there any more. It was picked up by Capita, a huge group, which set up a division called Capita Translation and Interpreting, which has gone bust. It was broken, not working, and sold off its assets. Thebigword picked up the contract. I think we have all heard enough about what has been happening since June, since the launch of its new technology, where people are not getting paid, jobs are not being filled and chaos is being caused. That is an exaggeration of what had been going on anyway.

It is broken; it is not working. I will give you a forecast about going with another national contract to outsource again. Notwithstanding a default of level 6, it will still break because we have a situation where we are caring for individual people who do not speak English and need help. They are either a witness, a victim or somebody who has been accused. There has to be a way to get the right interpreter to them. With the system now,

that is not working because you have agencies that are taking profit out and that is their number one priority. That is why it is not working. ALS did not work; Capita did not work; thebigword is not working. If we go ahead again with outsourcing for the totality, we will end up with trouble. That will not fix it.

Baroness Stedman-Scott: Very quickly, do you have evidence that if it were changed, people would come back?

Mike Orlov: I could get it quite quickly by writing some letters and asking them.

Q53 **The Chair:** I have a question at this point on something that I have not quite understood from the evidence. You described the model with thebigword. We all call them freelancers, and I know they are freelancers but there are also companies out there. In some of the evidence we have, people say it is subcontracted. It is not just a relationship between thebigword and every individual; there is a relationship between thebigword and some companies I do not know anything about in the supply chain. Could you explain that bit to us, please?

Mike Orlov: I am the main contractor, thebigword. I cannot fulfil the job and I will then subcontract to another agency, which is not checked by the Ministry of Justice. That company then finds people who I have not been able to find to deploy. One of the worst examples of that was a company called Debonair.

The Chair: Yes, we have information about that one.

Mike Orlov: It went down owing a great deal of money. It went into voluntary liquidation and still has not paid the people. The Ministry of Justice has had its work, thebigword got its commission, the owners of Debonair have taken the money and run, and the people who did the work have not been paid.

The Chair: When thebigword says it wants a translator or an interpreter, it is speaking to two groups, the individuals and the companies.

Mike Orlov: And/or other companies.

The Chair: The individual could go through the company if they wanted, or they could apply directly on the website. Okay, thanks. I have a better understanding of that now.

Q54 **Lord Willis of Knaresborough:** Thank you very much. My apologies for appearing a little late this morning, but I have had things on. I am fascinated by what has been said this morning, and so far you have explained very carefully, and I think very passionately if I might say, just how short we are of people, how we are underpaying and how disillusioned many people working in the profession are. You have also said that it has changed quite radically, particularly since we have started to have different groups of people coming into the UK. I understand all that.

But John made the point that we need to restart the pipeline—those were his exact words—to create the level of skills required to meet current needs. I could not agree with John more. Not once has any of you mentioned the idea of new technology. What do you think is the role of technology in improving and enhancing interpreting and translation services to the courts?

The Chair: Let us start with John, since you were quoted back there.

John Worne: Having seen the last two evidence sessions, I will disappoint you here because I do not think it will be that helpful in the foreseeable future. The main problem is the diversity of languages that are required.

As we know, AI performs very differently according to the language and the datasets it is being fed. In simple terms, if we had a court system that had only, let us say, two languages—if we were the US and we had Spanish and a couple of other languages—maybe you could deploy something. Given the sheer volume, variety and range of languages that the UK has and the court system requires, and the attitude to risk, necessarily, that we have in the criminal justice system, it is very difficult to see right now how, even with significant further improvements in technologies, you will have a consistently good enough standard across languages. I could bore for Britain on this topic if you want, but I think it is a bit of a cul-de-sac.

Lord Willis of Knaresborough: Does anybody else perhaps have a different view?

Mike Orlov: When it comes to new technology, I still use blood for ink and papyrus.

Lord Willis of Knaresborough: I find it incredibly disappointing that that is your response. Here we are in the 21st century. We are going massively into the area of using not simply AI but other technologies to do an awful lot of what I call groundwork, which enables the professionals to be used appropriately for what they are doing. I spent a day in hospital being treated yesterday, and who was treating me? Virtually all the work of examining is now being done by AI. It was done quite remotely, but the people then had exactly the right information to carry out particular treatments.

I find it quite disappointing that every week we hear people who are involved with it, be it the Law Society, the Ministry of Justice, the Bar Council and now you, all saying, "Oh, we can't have this".

I spoke last week in a university and had an earphone on and could speak 270 different languages just there. The ability to do that is quite remarkable, and yet you do not seem remotely interested in it to allow the people you are bringing in, the brilliant experts who do the high-quality interpreting, to be able to use their skills to the whole.

Sara Robertson: Yes, there are systems that will, in theory, allegedly, do that interpreting for you, but because you do not speak any of those 200 languages, or not all of them, you do not know that what it [AI] has done is correct. There is no—

Lord Willis of Knaresborough: Excuse me. I do not when you are doing it either. When you are speaking a branch of Urdu, I do not know whether it is right. All I know is that you have a level 6 qualification and therefore you should be speaking it right. I do not know whether you are interpreting it right. I do not know whether you are understanding the nuances of a dialect in Urdu.

Sara Robertson: That is where the ethics and the professionalism come in. Human beings, because they are highly skilled and behaving ethically, aim to certain quality standards. Certainly within the linguistic professions, the aspiration for perfection is unlike anything I have ever seen elsewhere. There is a desire to be accurate, truthful and faithful to what is being rendered.

The challenge with AI is that it is not listening to what anyone is saying; it is a statistical engine. It works very well in a medical scenario where you are looking for patterns. Computers are very good with patterns. Language looks as if it has patterns to a degree, but there is an awful lot more complexity in there. If you have someone in a courtroom who is perhaps jumping between different dialects, using slang or Multicultural London English (MLE), the systems that we have today cannot cope with that. They cannot read body language. They do not pick up all the other contextual clues that exist.

Somewhere in the future there is definitely a possible role for that technology, and certainly assistive technology. There are things we can use that make the day job a bit easier. It is absolutely worth exploring, but we are talking about a huge investment of money to get to a system that has the robust layers in it and the ability to do what you would like it to do. I am sorry it is bad news. I am normally an optimist, but not so much on this one.

Lord Prentis of Leeds: It is not bad news; it is realistic news. I am quite interested in the NRPSI's view in paragraphs 23 and 24 of your evidence. You do not turn your face against AI, but you set out all the different problems that are associated with it.

Mike Orlov: You never set your face against anything; we are not luddites or diggers. If it is there and can be used, we should find ways to do it. As an example, thebigword launched a brand-new app with amazing technology—a wonderful piece of work—on 3 June. Within two days the court interpreting system had collapsed. By the end of three months, there were people not getting paid and so many days of cases lost. Some £10,000 or £20,000 a day was lost because the interpreter did not turn up, because the system had failed. Technology is grand when it works; it is awful and destroys us when it does not.

I had a session earlier this week when my computer froze for half an hour and it was such an annoyance. We want technology to work and to embrace it, but it has to be proven. People's freedom is at stake in the courts. If the witness is not understood, if the accused is not understood, if the victim is not understood, somebody's life is at stake. If we have young technology that is not proven, we should be very careful before we deploy it.

Lord Porter of Spalding: I probably should not come in because I was going to agree with Phil, and that is never a good thing in an inquiry. We are supposed to take contrapositions to each other. I will save my thoughts on my agreement with Phil for something else.

Q55 **Lord Shipley:** I had a number of questions that I wanted to secure answers to and the session has gone well from my perspective, but I am still not clear about one thing, which is level 6. I think I heard that of the 1,700 interpreters, only half have level 6.

We have just had mentioned the dangers: somebody's life is at stake if there is poor interpretation. What evidence does anybody have in claiming that if we got everybody at level 6, there would be no miscarriages of justice and that justice would be properly done? Put another way around, since half the interpreters do not have level 6, what evidence of miscarriages of justice do we have to consider? What level might it be at?

Mike Orlov: You have had the evidence from barristers and solicitors about how chaotic it can be in a courtroom when there is a poor interpreter. You are not quite sure who will be turning up—somebody who is rude, somebody who is late, somebody who is dressed badly, somebody who is clearly not a professional. Then you are worried about whether they are doing their job well.

How do we know unless there has been some follow-up to that, and we say, "That went wrong and it is a miscarriage of justice"? There are so many solicitors and barristers who are prepared to send information through to us about when they have been involved in a case and they have been very concerned, but they have never made a complaint. They have not raised it because, as the point was made, they are busy and need to get on with their next job.

When issues are raised, and there is a major upturn to review, the findings always are that if you do not have somebody who is highly qualified, regulated and registered, things will go wrong. Nobody will guarantee 100%. It is mad to say that you will have 100% success, of course, but the odds are pretty good that it will be better than if you are deploying somebody with a CSE in a language rather than somebody with a level 6.

In 1993 there was a royal commission that said we needed a national register with a regulator. In 2001 Lord Auld said we had to stop people who are underqualified. Why are they saying this? Because they

absolutely believe that is the case. There will be so much anecdotal evidence. As to hard numbers, again I can only imagine that the Ministry of Justice has that data somewhere.

The Chair: Or we do not have the mechanism to collect it.

Mike Orlov: Or we do not have the mechanism to collect it.

John Worne: That was what I wanted to say. It was so helpful last week to see the evidence because we just do not have the evidence. There seems to be a certain amount of dissonance between the picture that some of the submissions paint and what the statistics tell you. I urge you to ask also, as you did last week, about breakdowns by language, because there is so much variance. We tend to treat this as though it is one blob of “foreign”, when it is 30 or 40 different languages, some of which, as Lord Willis pointed out, will be more amenable to solutions than others.

I think we have to break the issue down a bit and give ourselves some more transparency. To Lord Carter’s point, it would be amazing if we knew what the average strike rate was for an interpreter by language—is it the case that Albanians get paid far more than Romanians?—but we do not have the information so we cannot guide you. What we have is what we have given you, which is what people tell us, but we do not have the stats.

The Chair: That is very clear and helpful.

Sara Robertson: We do what we can with the anecdotes and we are very fortunate in that our members will come forward and tell us about individual stories, but the ability to take that and put it into something robust is not there, unfortunately.

The Chair: I assume that John and Sara agree with Mike about the need for a register. Do you all agree that that would be a good part of a future structure?

John Worne: Yes, I think it would be a good thing to have a clear and unambiguous list or register. At the moment there are several. Much like the qualifications paradigm, there are different routes around them, so we need something that clarifies that, is quality controlled, everybody signs up to and is then enforced.

Q56 **Lord Laming:** I am all for organisational simplicity. One of the things that has come out of your written evidence and this morning is the high level of agreement between the three of you about the analysis of what is wrong with the system, how it could be improved, et cetera. What I am not sure of is why we have to have three organisations doing what you are doing. Why is it not one organisation that can do all the things that you are doing?

Mike Orlov: Interestingly enough, the Chartered Institute of Linguists is the mother-lode. When the national register was launched in 1993, it was

launched under the auspices of what was then the Institute of Linguists, and it was one of the divisions of the chartered institute. It became a separate body in 2011. It had become too big a beast within the chartered institute. It deserved its own focus, and I believe it is something not too dissimilar with the ITI and CIOL.

Sara Robertson: I will let John answer, because he is the “parent-body” here.

John Worne: There is no simple answer to that. If you go back to the prior point, where is the public accountability? That is the crucial thing. If you are going to have a register, where is the public accountability? Who is held to account? I think that is the thing. We are all independent bodies trying to help, but we are not publicly funded. We are all not-for-profits trying to improve the situation. What you need here is a register and public accountability.

The Chair: Do you think you fill the gap that is not there in the structure? Yes, I can see that.

Sara Robertson: Some of it is the point about recognition, too. John is the head of the Chartered Institute of Linguists. My organisation, very specifically on the door, says translation and interpreting because it is about raising the profile of those particular professions. Like others, they are a bit hidden behind the scenes. If you cannot see it, you take it for granted. Trying to raise the bar and act as professionals, whether they are interpreters or translators, is the work that we are very much engaged in.

Mike Orlov: The national register, of course, is very singly focused on public service interpreting and translation, nothing else.

Q57 **Lord Bach:** The list you want, the change you want—we are talking about crime and justice. Surely the MoJ is central in this whole argument and has to continue to be, because it is a matter of public service and public record. Do you agree with that? Am I making too simple a point? It cannot be anybody else.

Mike Orlov: The interface between the police and the Ministry of Justice is very clear. The police have prepared their case and used interpreters, and then it should be as good an interpreting service in the Ministry of Justice. The London Met Police draws down only from the national register because it knows that individual interpreters have been checked by a private body that has no political or commercial angle at all. One of the main reasons it uses the national register is that it is then very easy from a discipline point of view to handle complaints, because it gets passed into an independent complaint procedure. Our aim is that the Ministry of Justice joins doing exactly what the London Met does. The London Met is an exemplar in this world.

Lord Carter of Coles: It is a profession, is it not?

Mike Orlov: It depends on how you define profession.

Lord Carter of Coles: Let me take that as a working assumption for a minute, but it is a profession without a regulator. You are the regulator.

The Chair: It is a voluntary regulator.

Lord Carter of Coles: You are a voluntary regulator.

Mike Orlov: Yes.

Lord Carter of Coles: Do you have the power to suspend?

Mike Orlov: We have the power to suspend, but then another organisation can pick people up. I will give you an example, and it is a dreadful example. In 2017 there was a registrant with complaints against them. The complaint procedure went through and the individual was suspended from the national register but the agency continued to engage with this individual.

Lord Carter of Coles: I am sure there are examples.

Mike Orlov: It was absolutely dreadful.

Q58 **The Chair:** I am galloping along a bit because I have my eye on the time. I will go along the line now and ask you to give us one recommendation. At the end of the day, we will do our report and the recommendations are the things that, to some extent, dictate the discussions that will go on after that. Of everything we have talked about, could you each pick one thing that you would like to see us include as a recommendation to government, because all our recommendations are to government?

Sara Robertson: We will try to cover everything between us. I will start with the easy one; it is the qualification point. That comes to the level 6 qualification and ensuring that there are steps in place, largely training, to make sure that we are keeping that pipeline flowing—restarting it is probably closer to the truth. Stick with the level 6, put in place the mechanisms that encourage, enable and empower people to reach that, and so invest in training.

John Worne: I am a stuck record, I am afraid. I will say pay—fundamentally, what the interpreters are paid.

The Chair: You would attach that to the contract, presumably?

John Worne: Yes, and transparency would be a first move towards that. If we could see what people were being paid, we would know what the situation really was. Secondly, I think the pay rate will need to be higher.

Mike Orlov: I will follow that by focusing on recognition of status and the work done by interpreters, who are professional, have the right qualifications and are getting paid properly. There should be protection of title for interpreters, so that being a public service interpreter means something and is then a profession, and an independent regulator that is recognised and mandated across all Ministry of Justice operations.

The Chair: We will bring this session to an end there, but thank you all for the evidence you have given us. It has been excellent, both the written evidence you sent in advance and the things you have spoken to us about today. It has certainly helped us. I now close this public session of our committee.