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Reforming the provision of interpretation and translation services

On 30 March Richard Mason wrote to interested parties seeking views on proposed new arrangements for the delivery of interpretation and translation services across the justice sector. We received over 130 responses to that letter. I am writing now to let you know that Ministers have made a decision, taking account of the comments received, to move to the new delivery model. That decision was announced in Parliament on 5 July. Please go to <http://www.publications.parliament.uk/pa/cm201011/cmhänsrd/cm110705/wmstext/110705m0001.htm#11070548000006> to see the full text of the Written Ministerial Statement. We expect implementation of the new arrangements to start later this summer.

I want to assure you that all the responses to the consultation exercise were given careful consideration and that the points made to us formed a key part of the advice we put to Ministers. There were a number of common themes to the responses and I have taken this opportunity to address the main concerns - please see the annex to this letter for details.

Yours sincerely

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Common themes from the consultation responses

Use of the competitive dialogue process: There was concern that this process meant prospective suppliers bid purely in their own commercial interest and without the interests of justice or the taxpayer in mind. It was also suggested that the charity or not for profit sector had been excluded from the dialogue process.

We used the Competitive Dialogue process because the participating authorities were unsure at the outset how best their requirements could be expressed or indeed how the interpretation and translation sector would respond to such requirements. In accordance with EU procurement directives, an advertisement placed in the Official Journal of the European Union (OJEU) initiating the Competitive Dialogue process in August 2010 enabled companies, organisations or groups in all sectors to consider whether they wished to participate in dialogue and, if so, to complete and submit a pre-qualification questionnaire.

Delivery of interpretation and translation services through a single commercial supplier: It was suggested that using a commercial provider would result in lower quality language services being provided, in the pursuit of profits for the supplier. It was felt that using a single supplier would create both a monopoly and an inherent conflict of interest if both the disciplinary and regulatory functions were in the supplier's hands. It was feared that if the supplier failed then the justice sector would be left without language services.

We understand these concerns but we do not share them. Many goods and services are provided successfully across the justice sector by commercial entities and in many cases this ensures a continued improvement in quality and standards. Opportunity for, and creation of, profit can be a useful tool in establishing greater quality standards. The prescribed standards within which the supplier must operate were set through a process led by the Ministry of Justice and involving all the collaborating authorities. We are not creating a monopoly. The UK market for language services is worth around £940m annually and the justice sector currently represents around 7% of that market.

Where disciplinary functions are concerned, these are generally a matter between the supplier and an individual. Where a complaint is made by a collaborating authority the authority will, of course, be kept informed of the progress of any disciplinary process and may have a view on any sanction to be imposed in respect of that individual's future involvement with justice sector assignments. Individuals can also complain to the MoJ or a collaborative partner as part of that process, but the level of any response would depend on a number of factors. In addition MoJ will maintain an overview of the number and types of complaints and work with the supplier to address any trends.

At key stages of the competitive dialogue process appropriate steps were taken to establish the financial, professional and technical capacity of the supplier to meet our requirements and we are satisfied that they will perform as expected. In the unlikely event that the supplier ceased to trade or was unable to provide services, the collaborating authorities would use the services of competing companies or revert to existing practices.

Rates of pay for interpreters: Concerns were expressed that rates of pay would fall and interpreters would leave the profession.

In common with remuneration in other occupations, rates will be paid which are commensurate with market forces. We believe the rates will ensure that appropriately skilled interpreters will want to provide services for the justice sector.

Assessment and tiering of foreign language interpreters: Many respondents felt assessment was unnecessary given that established interpreters already possessed qualifications recognised under the current approach. The introduction of tiering arrangements was seen as legitimising the use of unqualified interpreters and it was felt that it would be impossible to specify at the outset which tier would be required thereby creating confusion. It would also lead to a reduction in work for tier 1 interpreters, as most assignments would be at the tier 2 level.

The introduction of an assessment is a direct response by the supplier to address collaborative authorities' concerns that NRPSI registration does not necessarily guarantee quality. The evidence for this is anecdotal, but has been consistent enough to warrant action. It is a one-off assessment at the start of the contract, not annual as some respondents considered. No insult is intended and we would not want to see competent existing interpreters leaving the justice sector on this ground. However, on behalf of the public and of service users we must assure ourselves on quality.

Tiers will be introduced for foreign language interpreters as a result of advice from experts in the field, the experience of a number of suppliers operating under similar frameworks and in response to the need to expand the pool of experienced and skilled interpreters in some languages and in some parts of England and Wales. The tiers will allow better management of resources and provide opportunities for aspiring interpreters to target their learning and qualifying efforts. Interpreters' existing qualifications will be relevant to the tier into which they are placed. Collaborating authorities will develop protocols for determining which tier is required in any given circumstance. Providers will be expected to follow this protocol for each assignment and provide interpreters to the standard of the tier specified. Where doubt exists as to which tier is required, the higher standard will apply and an interpreter who meets the higher standard will be assigned.

Tier 1 interpreters will receive as many assignments as are required to satisfy the needs of the requesting organisations and are not prevented from carrying out tier 2 assignments. There will be no confusion, as operational staff will indicate the type of

assignment and the supplier will use technology to match the assignment to the agreed tier and identify an appropriate interpreter.

Different treatment of language services professionals for the deaf and deafblind:

Different treatment of language services professionals for the deaf and deafblind: Some respondents felt that language service professionals for the deaf and deafblind would be treated more favourably than foreign language interpreters as they would not be subject to tiering or assessment arrangements, and would receive higher rates of pay. Other respondents felt that services for the deaf and deafblind should be treated as a specialist area, and that their inclusion within the arrangements ignores their protected status under the Equality Act 2010.

As noted above, the introduction of an initial assessment for foreign language interpreters is a direct response by the supplier to address collaborative authorities' concerns that NRPSI registration does not necessarily guarantee quality. The evidence is anecdotal, but consistent enough to warrant action. There has been no such evidence in respect of language service provision for the deaf and deafblind. The assessment also allocates interpreters to the appropriate tier, which works for foreign language interpreters because there are clear demarcations in the type of work carried out. For example, the difference between tier 1 and tier 2 relates to the need for, and the ability to produce, an immediate written translation. For the deaf and deafblind, statements will be in English.

The supplier already has some experience of dealing with the language requirements of the deaf and deafblind and in practice these will be subcontracted to specialist agencies.

The consultation exercise: It was suggested that the consultation was not meaningful because insufficient time had been allowed for consideration and comment upon the proposals. It was also suggested that the papers were not detailed enough to allow proper comment to be made, and that consultation had taken place too late, with not all interpreters being informed of the exercise.

We believe that we undertook this consultation exercise at the most appropriate point in the process, namely at the stage at which it was clear what a final model might look like. We have engaged with the interpreter community before and throughout the life of the project. Our consultation package set out the essential features of the model, including quality standards, proposals for the content of a Code of Conduct, the management information to be collected and equality impacts.