



DATE **8 OCTOBER 2024**

RESPONSE **THE QUALITY OF INTERPRETING AND TRANSLATION**
TO **SERVICES**

ISSUED BY **HOUSE OF LORDS PUBLIC SERVICES COMMITTEE**

CONTACT **POLICY@MAGISTRATES-ASSOCIATION.ORG.UK**

ABOUT THE MAGISTRATES' ASSOCIATION

The Magistrates' Association (MA) is an independent charity and the membership body for the magistracy.

We work to promote the sound administration of the law, including by providing guidance, training and support for our members, informing the public about the courts and the role of magistrates, producing and publishing

research on key topics relevant to the magistracy, and contributing to the development and delivery of reforms to the courts and the broader justice system. With over 12,000 members across England and Wales, we are a unique source of information and insight and the only independent voice of the magistracy.

October 2024



BACKGROUND

This submission outlines evidence gathered from members' experiences regarding the provision of interpreting and translation services (ITS) in courts.

The responses reveal a range of issues concerning the adequacy of current services, challenges related to bookings, interpreter qualifications, recruitment barriers, and the potential role of technology in improving these services. This summary will address the inquiry's terms of reference and is structured around key themes that emerged from the responses. We also make several recommendations to reform the systems and processes that govern ITS in court.

THEMATIC SUMMARY

Do magistrates feel that ITS meets the needs of courts users?

Many contributors expressed that interpreting services generally meet the needs of defendants, witnesses, and legal professionals when interpreters are present. However, the most prominent issue identified was the frequent failure to book interpreters, leading to delays and adjournments.

One member highlighted a particularly frustrating experience:

"Our main problem with interpreters is failures of booking them. I saw a recent case that had been adjourned three times for an interpreter. It was a rareish language and Big Word [supplying agency] had said they couldn't supply that language—so it needed authorisation to get one directly outside the contract, and no one had sought that permission."

Such failures in booking interpreters lead to unnecessary delays, which can significantly impact the fairness and efficiency of the judicial process. For example, a member recounted, *"Recently had to remand a defendant who spoke no English at all because there was no interpreter for the second time."*

This occurred in a serious case involving a sexual offence, where it was essential that the defendant understood the proceedings fully.

Even when interpreters are booked, there are issues with the times they are allocated. Often, interpreters are only available for short windows, which may not align with court schedules. One respondent explained,

"Need to have them long enough to help the defence solicitor take instructions as well as interpret in court, and if necessary, go to probation office with them too."

This limited availability can create pressure on the court to hastily move through cases. This may affect the quality of interpretation and the court's ability to deliver justice efficiently.

This issue also butts up against the frequently delayed transfers of defendants from police stations, prisons, or custody suites. These delays often result in defendants arriving late, while interpreters are only contracted for a set time. This causes significant disruption to the entire process.

Impact of booking failures and incorrect language assignments

A recurring theme was the repeated failure to book interpreters or the booking of interpreters for the wrong language or dialect, which leads to adjournments or a lack of proper understanding during proceedings. In one striking example, a member mentioned, *“We ended up with a Romanian interpreter when what we needed was Roma—for the mother of a youth defendant. The defendant ended up interpreting himself, and nobody knew whether what he was telling her was anything like it should have been.”*

This particular case underscores the importance of ensuring the correct language or dialect is booked, as even small errors can lead to significant misunderstandings that impact the defendant’s case. There were multiple examples where the wrong language was booked, with one member recounting, *“An adult ended up with, I think, an Urdu interpreter when he needed something else—he said that would do, but it wasn’t his first language.”*

“There is a lack of interpretation services for some dialects. This is more obvious for defendants or witnesses of African descent.”

The difficulty in ensuring the right interpreter is booked, combined with administrative oversights, result in unnecessary delays and added frustrations for all involved parties, undermining public confidence in the system. One member described the frustration of court users: *“Unnecessary delays cause anxiety and stress to defendants and witnesses and huge frustration to court users.”*

Interpreter quality: variability in performance

While many respondents commended the professionalism and skill of the interpreters, concerns about the variability in quality were also frequent. One member remarked, *“Most interpreters are very good, but you get the impression sometimes that some are not directly translating but paraphrasing, which can be risky.”*

Such concerns are exacerbated in trials, where even slight alterations in translation can have significant consequences. Another member shared an instance where a foreign-language-speaking colleague noticed discrepancies, *“I’ve had foreign language-speaking colleagues point out that the interpreter is saying more than is required for direct translation, almost having a dialogue with the defendant, especially in trials.”*

There was also concern about the qualifications and training of interpreters. One respondent raised the issue of training inconsistency, saying, *“Either the training is not the same everywhere, or there is little training because the difference in the way it’s done by different people is stark.”*

Another member highlighted the differences in approach: *“Some interpreters take notes so that they can translate lengthy and complicated questions and answers accurately. Some just listen and interpret.”*

These differences in interpreter performance suggest that there is a need for standardised qualifications and more rigorous quality control processes.

Remote interpreting and challenges with technology

Another theme that emerged was the difficulty posed by remote interpreters, particularly when they are not physically present in the courtroom. Many respondents highlighted technical challenges that compromised the quality of remote interpreting.

For example, one member explained,

“When on video link, it is much trickier—they can be only available at a specific time while court business may not meet that. It is hard to link them to interview rooms to translate for lawyers, and the link often fails completely, so the whole case has to be adjourned.”

Another added that remote interpreting can *“take 2-3 times longer than if they were there in person,”* creating substantial delays and inefficiencies in court proceedings.

Additionally, there were concerns about the use of telephone translation services. While some respondents found them useful, others were unsure about the accreditation of these interpreters.

One member stated,

“Dial-up translation service has a real person—they are just on the other end of a phone. But not sure about their accreditation.”

The role of technology and AI in future ITS provision

The potential of AI and machine learning to support interpreting services in the future was discussed by several respondents, with a range of opinions on its efficacy. While some were open to exploring AI as a solution, many were sceptical about its current ability to handle complex legal language.

One member reflected,

“Machine learning AI could play a role, but only if we have confidence in the translation. We can see in court if there is a mismatch between what’s been said in court and what’s been said by the interpreter.”

The concern here is that machine translation may miss nuances or context, which could severely impact the outcome of legal proceedings.

There was, however, some support for using technology in less complex scenarios. One respondent noted,

“Machine translation might help to explain things to someone who has no understanding at all—e.g., that the case is being adjourned for an interpreter.”

This suggests that while AI might be useful for administrative or basic translation tasks, it is not yet suited for the intricacies of legal interpretation.

Impact on public trust

A number of respondents raised concerns that the current failings in ITS provision could lead to miscarriages of justice. For example, if an interpreter is not present or the wrong interpreter is

booked, defendants may not fully understand what they have been charged with, or their legal options.

One member highlighted the seriousness of this issue in youth courts, where the maturity of the defendant compounds the challenges:

"It is even more serious in the youth court given the age and maturity of the child."

We would also observe that the issues discussed above regarding interpreter availability have important procedural justice implications. Poor availability may result in a defendant being detained longer than the court deems necessary, as there is no reliable way to tell them when to return or next steps, such as a probation interview. The impact of these ITS failures on public trust was also a recurring theme. As one respondent put it,

"Failures in interpreter bookings lead to unnecessary delays, anxiety for defendants, and a lack of faith in the system."

The potential for procedural and administrative issues was also raised regarding future developments involving AI. One participant warned,

"I would be against using AI for this—it can be wildly wrong, and we wouldn't know that. This could be a strong basis for an appeal—for example, if a sentencing or bail requirement was breached but claimed to have been wrongly translated by AI."

Conclusion

The evidence provided by our members reveals significant challenges in the current provision of interpreting and translation services in courts. While many interpreters are skilled and provide valuable services when booked correctly, systemic failures in booking and managing interpreters, combined with inconsistencies in quality, undermine the efficacy of the ITS system. There is a clear need for reforms to address these administrative issues and improve recruitment, particularly for rarer languages.

Although there is potential for technology, particularly AI, to assist with interpreting services, it must be used cautiously and should not replace human interpreters in complex legal scenarios. Miscommunication or mistranslation due to unreliable AI could lead to serious miscarriages of justice.

Proposed recommendations for improving interpreting and translation services (ITS) in courts

1. Strengthen interpreter booking systems

- Implement more reliable and fail-safe systems for booking interpreters, ensuring that interpreters are booked well in advance of hearings. This is particularly important for first hearings where failure to have an interpreter booked leads to unnecessary delays and adjournments.

2. Improve identification of language and dialect needs

- Ensure that the correct languages and dialects are identified and booked at the earliest stage, particularly in rare or less common languages. Courts should establish clear communication protocols with agencies to avoid booking incorrect interpreters.

3. Expand interpreter availability and flexibility

- Extend the availability of interpreters beyond narrow time slots, allowing them to assist with pre-court consultations, probation discussions, and other necessary legal proceedings. This will reduce rushed proceedings and prevent interpreters from leaving before a case is heard.

4. Recruit and train interpreters for rarer languages

- Address gaps in interpreter services for rarer languages and dialects, particularly those spoken by African and minority communities. This can be achieved by targeted recruitment efforts and ensuring the wider availability of interpreters in these languages.

5. Standardise and enhance interpreter training

- Introduce a standardised national training and certification program for court interpreters to ensure consistent performance and adherence to best practices. Training should focus on both legal terminology and interpreting protocols.

6. Implement robust quality assurance and feedback systems

- Develop a formal quality assurance and complaints procedure to monitor interpreter performance. This should include feedback from legal professionals, defendants, and witnesses to identify issues such as paraphrasing or unprofessional conduct.

7. Minimise remote interpreting and improve remote technologies

- Limit the use of remote interpreters for complex cases due to technical challenges such as poor audio quality and delays. Where remote interpreting is necessary, invest in higher-quality technology to ensure interpreters can hear and communicate effectively in real time.

8. Explore new technologies with caution

- Investigate the potential role of AI and machine translation in supporting ITS, but ensure rigorous testing and oversight before implementation in legal proceedings. AI should not replace human interpreters in complex cases due to risks of mistranslation.

9. Introduce an “on-demand” and emergency interpreter services

- Establish an ‘on-call’ system for interpreters, where qualified interpreters can be accessed quickly via video or phone for last-minute or emergency cases. This could reduce delays when an interpreter is unexpectedly required.

10. Improve consistency in recording interpreter needs

- Interpreter needs should be identified and recorded fully before the defendant gets to court. The police system must be updated and standardised with a functionality to record a defendant’s interpretation and translation needs in court. This would ensure that language needs are adequately met throughout court proceedings.

11. Diversify interpreter service contracts

- The committee should encourage HMCTS to diversify its interpreter service providers, allowing for a broader range of languages and dialects to be covered and reducing instances where interpreters are unavailable.

12. Better information and data on interpreter needs

- Require an annual report from the supplying agency, containing information on the number of sessions requested by language by region, and the number of interpreters employed by language by region.

13. Revise fee structures to attract and retain interpreters

- HMCTS should review and increase interpreter fees, especially for rarer languages, to ensure a consistent supply of skilled interpreters who are vital to the smooth operation of the justice system.

14. Encourage cultural and linguistic sensitivity in courts

- Ensure that court staff, legal professionals, and interpreters are aware of the specific needs of non-English speakers, particularly in sensitive cases involving youth, vulnerable adults, or cultural minorities.

This includes using plain language and confirming the defendant's full understanding of proceedings.

