

AMICUS RESPONSE TO:

Consultation Paper on the use of Interpreters in Publicly Funded Immigration and Asylum Cases.

Since the year 2000 Amicus has enjoyed providing a service to a group of members who offer interpreting and translating services to the wider community – NUPIT (National Union of Professional Interpreters and Translators) Amicus respects and acknowledges the role that interpreters and translators play in our multi-cultural and multi-lingual society. Clear and accurate communication in our everyday lives is something those of us with English as a first language take for granted. For those whose command of English is rudimentary or non-existent, meeting with people in authority, pursuing justice or trying to access medical treatment can be a traumatic, hazardous and potentially lethal experience.

Amicus has been working hard to ensure that terms of employment, standardised rates of pay and the use only of qualified interpreters and translators should be implemented and best practice for both the member and the service provider should be followed. Amicus has formulated codes of conduct, standard terms of appointment and standard pay rates for our members to use when negotiating with service providers.

We are extremely pleased to have been asked to respond to the consultation paper and consulted fully with our members in NUPIT. The responses are those of our members, some of which we have quoted. We hope our comments and proposals will be useful.

Key Problems

Part A: Quality Assurance

Question A1: Are the qualifications listed at Annex A, the appropriate ones for this purpose and if not what alternatives may be considered appropriate?

- Membership of NRPSI - Amicus has always advocated the use of trained and qualified interpreters and translators. The NRPSI is a recognised register of qualified interpreters and translators and membership of the organisation shows service providers that an individual is highly qualified, professional and experienced.
- The Diploma of Public Service Interpreting (DPSI) is an acceptable qualification to ensure that service providers recognise that holders of the diploma have reached a required standard in reading, writing and speaking.
- The Metropolitan Police Test is also an acceptable guide to proficiency.
- The Certificate in Community Interpreting from the IOL is now obsolete as it no longer reflects the needs of non-English speakers.

- MA in Translating and Interpreting is appropriate.
- Postgraduate Diploma from University of Bradford is appropriate
- Diploma in Legal Interpreting from USA, we are not aware of this qualification so we are unable to comment on whether it is appropriate.
- Postgraduate Diploma in Conference Interpreting is appropriate.
- A degree from a recognised university with an interpreting and translating component is not appropriate as it is not sufficient to test language proficiency.
- IAA Assessment, appropriate.
- IND Assessment, not appropriate as it only tests oral knowledge of a language.
- DPSI-Oral only, not appropriate, a full certificate is necessary.
- NVQ/SVQ level 3 or higher, is not appropriate: the level should be 5 or higher.
- Amicus advocates a system of statutory regulation of interpreters and translators. The body responsible for registering the interpreters and translators should be completely separate from any of the professional or commercial bodies involved in training or accreditation of interpreters and translators.
- Interpreters and translators working for the police, courts, immigration & asylum, health and other public services should be obliged to register under a statutory system.
- There should be little or no cost for registration to those who are undergoing training, and bursaries and grants should be made available to assist those taking time out to qualify.

Question A2: Are there enough interpreters to meet current demand without the provision of transitional arrangements?

- There are an estimated 40,000 interpreters and translators currently working in the UK. Amicus believes that a more regulated system would provide a more professional and cohesive service, making the best use of the interpreters available.
- A statutory register would ensure that there is a full record of all the interpreters available for work across all the UK regions and covering most languages, discouraging the use of unqualified, unregulated interpreters.

- There is a problem in that some languages are poorly represented, however this could be overcome by encouraging interpreters with these language skills to access training and registration at minimal cost.
- A system of standard fees, fair terms of appointment and a prompt payment system would also encourage those interpreters with the appropriate skills to register for work.

Question A3: Are there exceptional circumstances where an interpreter who did not hold a listed qualification would have to be used, for example may a language be so rare that the opportunity to obtain formal qualifications in that language does not exist?

- Yes this situation could occur, however it is not to be encouraged and should only be used as a last resort.

Question A4: Which registers and panels, including those maintained by any regional or local language providers, most comprehensively guarantee that an interpreter is suitably competent to undertake work in immigration and asylum cases?

- As far as Amicus members are concerned only three are worthy of mention; the Metropolitan Police Service list, the National Register for Public Service Interpreters (NRPSI) and Central Interpreters Unit Immigration panel.

Question A5: What initiatives could be introduced by the LSC to improve access to such registers or panels?

- For interpreters and translators low training and membership costs would improve their motivation to join.
- Increased security around access to the information held on the registers would also encourage interpreters and translators to be included in the registers.
- For service providers, registers need to be accessible via email, not sold at exorbitant rates (as happens at present).
- The register would need to be statutory to ensure service providers were clear about the quality and professional status of the members.
- An employment framework would also assist both groups.

Question A6: Are there circumstances where it may be appropriate for an unqualified interpreter who is for example a family member, friend or member of the applicant's local community, to provide interpreting services between the

applicant and their representative (or indeed not to use an interpreter if the representative is fluent in the client's mother tongue) in an informal setting where no critical decision about the application is to be made e.g. at the suppliers office when initial instructions are taken?

- Amicus would not see this as appropriate. A professionally trained independent interpreter should always be used. The Victoria Climbié case is a prime example of a vulnerable person not having access to an interpreter. The only communication she had with public sector professionals was through her great aunt interpreting for her, the very person who was abusing her. Amicus believes that no person should be in a position where he or she is prevented from explaining personally the circumstances of his or her medical condition, because a doctor, solicitor or court chooses to rely on a relative or some other person rather than a professionally qualified, independent interpreter.
- Article 6 of the European Convention on Human Rights guarantees an individual the right to a fair trial, 'in the determination of civil rights and obligations'. It is fundamental to the exercise of that right that an individual must be understood. The only way this can be ensured is by using a qualified, registered professional interpreter.
- In the case of Regina v Iqbal Begum (1991) (Criminal Appeal Reports 93) the defendant killed her husband after many years of brutal domestic violence. At her trial an interpreter was used who it later transpired was not professionally qualified and did not even speak the language of the defendant. Through the whole trial it appears that no one appreciated that the reason the defendant was silent was because she had not understood a single word of the proceedings. This case demonstrates that there are serious human and public interest issues at stake in the quality and reliability of the interpreting and translating service provided to members of the public.

Question A7: Are there any circumstances in which an interpreter may require special skills which have not been dealt with by these proposals?

- Yes, when dealing with clients who may have mental health issues or severe learning disabilities. Dealing with delicate matters such as rape, torture, domestic violence or child abuse.

Question A8: What could the LSC do to encourage bilingual in-house staff to work towards obtaining a formal interpreting qualification?

- Amicus would not support this initiative. A client's privacy could be compromised by using LSC staff rather than a professional, qualified interpreter who would be completely independent.
- If the LSC were to decide to go ahead with this proposal Amicus would envisage problems arising if staff were only available 9-5. We would not want

to see staff at the LSC put under pressure to work extra hours just to save money as the LSC may view them as freely available.

Question A9: Are these proposals, combined with the proposal that interpreters must be instructed on standard terms as outlined in Section C, sufficient to discourage the practice of ‘touting’?

- Amicus would say that the regulation of the sector would go some way to control the practice of ‘touting’, however we have evidence from members of solicitors colluding with the touts by encouraging them to bring clients to their organisation.
- Our evidence also shows that many solicitors are failing their clients by using unqualified interpreters who provide a very poor service. Solicitors have a duty of care to their clients to provide them with the best possible service, at present this is not happening.

Part B: Fees

Question B1: Will setting the the maximum rate for interpreters at £25 an hour, without paying for the time spent travelling to and from appointment, enable suppliers in all locations to instruct qualified interpreters as per the proposals in Section A of this paper?

- The answer to this question is no, it will have a detrimental effect. If travelling and waiting time payments are not paid qualified interpreters will not take on the work. A standard payment schedule should be set so that everyone knows what the process is. We have evidence from a member travelling from London to Bradford after instructions from a solicitor, only to be told the meeting at the solicitors had been cancelled (no-one thought to telephone the member and tell him). This member therefore did not get paid, had to pay £67 rail costs and lost out on other work because he had committed himself to this appointment.
- Amicus advocates the following minimum rates as a guideline for our members to charge service providers:

Hourly rate £30 – minimum 3 hours plus travelling time.

Day rate £200 – no more than 7.5 hours with one hour break for lunch.

Travelling time: 75% of the hourly rate – minimum 3 hours.

Waiting time: Charged at the full rate from the time an interpreter arrives at the appointment to when they leave.

Travel costs: Full cost of public transport or 25p per mile. Taxi costs after 9pm, if the assignment is in a remote area (such as prisons) where there is no public transport available or if called out through the night.

Question B2: Do you think that this approach is the right one to bring the cost of interpreting in immigration and asylum cases under control, especially the cost of fees paid for travelling time of interpreters?

- A regulated system would go some way to controlling fees, a comprehensive register of interpreters across the country would ensure that service users would have access to a list of interpreters in all regions and cities. This should go some way to alleviating the problem of interpreters having to travel long distances and claiming back expensive transport costs.
- Encouraging interpreters to undertake training and to register with the NRPSI regardless of where they live in the country would also widen the range of interpreters available to service providers.
- Amicus members also said that one of the reasons for high travelling time was the way solicitors conducted their business. They often had to find people at short notice so could not ensure someone reasonably local would be used.
- Amicus agrees that there should be a degree of control over costs, however this control should not be a reason to provide a poor service and we are concerned that severe restrictions will encourage solicitors to use unregulated, unqualified interpreters.
- The high cost of waiting fees are caused as a direct result of an unregulated system and solicitors not communicating effectively with all parties in the judicial process. Interpreters do not like spending time waiting at police stations, immigration offices, solicitors offices or courts. This situation is beyond the control of interpreters and they should not be financially penalised for it. Our members say that it is something solicitors should answer for.

Question B3: Are interpreters likely to refuse instructions if there was a risk that they would have to travel to the attendance location unpaid and then only be instructed for a short time? If so, what incentives could be offered that would allow the LSC to control the costs of travelling time (for example a front loaded payment of £45 for the first hour and £15 per subsequent hour)

- Our members said that it was highly likely that interpreters would refuse instructions. This is why so many unqualified interpreters are being used at present, a situation that Amicus members are bitterly opposed to.
- The proposal of £45 and £15 payments are not sufficient. The rates set by the Immigration department are already £48 for the first hour and then £16 up to 6pm and £20 per hour after 6pm, Monday to Friday. Saturday and Sunday attract a higher rate.

Question B4: In what circumstances may it be necessary to exceed the maximum rate?

- As we have previously stated we would not advocate a maximum rate, however what we would envisage is an exceptional rate for interpreters who are asked to travel very long distances and may require overnight accommodation, interpreters who are often called to work at night, or someone with a very rare language who is in exceptional demand.

Question B5: Is it reasonable that time waiting at a solicitor's office is not funded?

- Our members have said that it is unreasonable to expect them not to be paid for waiting time at solicitor's offices. All waiting time should be paid.
- Evidence from our members shows us that solicitors are as lax about instructions with clients as they are about communicating with interpreters. Why should interpreters waste time and money waiting at solicitors' offices when they could be working elsewhere. As one of our members told us "solicitors need to get their act together, I have waited all morning at one solicitor's office only to be told they had forgotten to inform the client of the time of the appointment".

Question B6: Are there circumstances arising regularly in which an interpreter is unpreventably required to wait for considerable periods of time at the solicitor's office?

- Our members have informed us that with hindsight and experience many of them only wait half an hour unless given a reasonable explanation by the solicitor. Many of them told us the same story, that they had been kept waiting for hours with no explanation only to be told after a number of hours what the problem was. This is a profligate waste of an interpreter's time, they deserve to be treated with respect and solicitors should behave in a more professional manner.
- The biggest issue around waiting time is the lack of communication with all parties involved.

Question B7: Is it reasonable to set a maximum rate of one half of the rate paid for interpreting for waiting time?

- Our members said that it is exceptionally unreasonable. Waiting time should be paid at the full rate. Waiting time inconveniences interpreters through no fault of their own and effectively stops them earning money elsewhere.

Part C: Procedures

Question C1: Are the Draft Terms of Appointment at Annex B the right ones?

- Our members looked at the draft terms and felt they could not comment on whether the terms were ‘the right ones’ without consulting our legal department.
- Amicus members have a set of terms of appointment that Amicus has formulated on their behalf and in negotiation with the members. We have provided a copy of these terms with this response.

Question C2: Do these terms clarify, simplify and control the procedures relating to the instruction of and payment for interpreters without creating unnecessary bureaucracy?

- We felt that the terms were not clear at all. They complicate the issue, there are a number of points we would take issue with and the document needs to be much clearer in its framework and expressing greater clarity in the terms.

Question C3: What other provisions, if any, should be included in the draft terms?

- Please see the Amicus terms of appointment document, particularly headings: Integrity, Conditions, Disagreements, Duration, Improper influence, Multiplicity, Substitution and Tax.

Question C4: Would it be practical to extend the requirements so that the interpreter’s costs at different stages of a case are recorded in the running costs record for that case?

- Although Amicus would agree with fiscal prudence, we would not advocate changes whereby our member received payment for their services **only** once the case had ended (some cases can take years to resolve). The self employed position of many interpreters must be considered when making financial decisions such as this.

Conclusion:

Amicus agrees with the three key aims of the LSC, however we are not entirely happy with the implied assumption contained in this document that the high cost of waiting payments, travelling costs and interpreters’ fees are an exorbitant expense that is purely the result of profligate charging by interpreters and translators. We can assure the LSC that we have evidence that this is not the case. Our members are hard working, highly qualified individuals trying to earn a living. It is the other agencies involved that often cause most of the problems which result in the high costs and our

members are seriously concerned that they are not seen by the wider community as providing an excellent service under very difficult circumstances, which they have little or no control over. Amicus hopes to work in partnership with the LSC in ensuring that these problems are overcome and best practice is followed in the interests of our members.