

THREE CENTURIES ON, IRELAND NONE THE WISER IN INTERPRETER PROVISION



The issue of interpreter provision for the police and courts has been around for a long time. From 1773, salaried Irish language interpreters were employed at assizes and from 1837 at quarter sessions courts. The solution for foreign languages was more haphazard, involving finding someone who spoke English and the language required. Unfortunately, the situation has not changed a whole lot since the eighteenth century says *Mary Phelan*.

A 2008 report funded by the Office of the Minister for Integration found that interpreter provision was characterised by a lack of regulation and an absence of formal and enforceable standards. A whole of government approach was recommended and the report highlighted the need for a national policy framework for accreditation, training, service provision, standards and quality control. None of the recommendations in the report have been implemented.

The right to an interpreter

There is legislation to guarantee the right to the free assistance of an interpreter in criminal proceedings in the European Convention on Human Rights Act 2003 and in EU Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings. Article 5 of the Directive provides that 'Member States shall take concrete measures to ensure that the interpretation and translation provided meets the quality required under Article 2(8) and Article 3(9)', i.e. 'of a quality sufficient to safeguard the fairness of the proceedings'. Sadly, to date, there has been no evidence of concrete measures being taken by Ireland.

To the casual onlooker, it could seem that we have a good system in place. We have the legislation, we pay for interpreting, and, on the whole, interpreters are provided to those who need them. The problem is that provision is based on the assumption that anyone who speaks English and another language can interpret information accurately. This assumption is pernicious because it has led to a situation where people who have little or no training in interpreting techniques and who have not been tested to establish if they can actually interpret, are working in garda stations and the courts.

“To the casual onlooker, it could seem that we have a good system in place.”

No guarantee of quality

In the absence of a state system to train and test legal interpreters, the responsibility for standards has been transferred to contractors. Public bodies such as the Courts Service and the Garda issue requests for tender for interpreters. Companies compete mainly on the basis of cost with the result that hourly rates of pay for interpreters have been reduced substantially in recent years. While large contracts ensure that interpreters can be provided nationwide, they do nothing to ensure that interpreting is of a high standard. For example, the 2013 Garda request for tender stipulates that interpreters should have FETAC level 5 standard of education as a minimum; seventy hours of interpreting experience;

be trained in interpreting techniques and should 'provide genuine and accurate interpretation'. FETAC level 5 is the equivalent of Leaving Certificate standard – and this is far from the standard that would be necessary for competent interpreting provision. Seventy hours of experience may be helpful but again, it is no guarantee of competent interpreting. It is highly unlikely that interpreters who are untrained and untested will be able to 'provide genuine and accurate interpretation'.

The appendix to the Courts Service request for tender for interpreters (2012) contained three levels. To understand what is meant by Level 1, one needs to know that in the previous request for tender (2010), Level 1 stipulated that 'The person can be shown to be competent in both English and the language concerned', i.e. the interpreter did not need to be a native speaker of either language. An Albanian could interpret for Spanish-English for example. No minimum standards of education (not even FETAC level 5) attach to levels 1 and 2 and level 3 could be a third level qualification in science or art or engineering.

Level 1 There is objectively verifiable evidence that the person is competent to interpret spoken words (including but not limited to sworn testimony by defendants and witnesses, submissions by lawyers, and judges' rulings) fully accurate (sic) so as to meet the standard of quality necessary to satisfy the requirements of due process. The relevant competency must apply to the activities of translation from (i) English to each relevant language concerned, and (ii) the relevant language concerned to English.

Level 2 The person is a Native Speaker of the language concerned and can be shown meet (sic) the above Level 1 competency standard regarding English, OR is a Native Speaker of English and can be shown to be competent in the language concerned.

Level 3 The person is a Native Speaker of English with a Third Level Qualification in the language concerned, OR a Native Speaker of the language concerned with a Third Level Qualification in English.

Tenderers were asked to provide 'Details of any systems or training programmes they have in place to verify compliance by interpreters utilised by the company with competency levels (as described in Appendix), professional standards and ethics.'

Ensuring there is justice in proceedings

Interpreters are provided to ensure that people, whether they are suspects, witnesses, victims or defendants can understand and be understood. Mere provision of 'interpreters' is not sufficient; interpreters must be trained and tested to ensure they can provide a competent service. It is time for Ireland to take concrete measures to ensure that interpreting 'is of a quality sufficient to safeguard the fairness of the proceedings'.

Mary Phelan is the Chairperson of the Irish Translators' and Interpreters' Association.