Notes for TRAFUT presentation 15 June 2012, Helsinki, Finland

Thank you so much Liese, for the privilege of speaking at this TRAFUT workshop.

I have a set of mixed feelings as I stand here; pride and humility in representing my profession and my association, anxiety at the calibre of my audience and their critical abilities. But above all I have a deep shame.

How can I or any British subject attend any meeting of this type and look you all in the eye?

You see, Justice interpreting in the UK is being wantonly dismembered before our eyes, in an act of vandalism never before seen; it is part of a systematic attack on the instruments of state in order to privatise them and sell them to the lowest bidder; Justice interpreting is one of the first, with the police and the National Health Service following soon. Standards of delivery are being ignored, qualifications are ignored, experience ignored, security vetting no longer necessary.

Let me start by an assessment of what Her Majesty's Government has done wrong. This may assist you in ensuring you and your governments do not repeat these mistakes.

1. The MoJ treated buying interpreters the same as buying paper clips or any other commodity
2. They put the 'Interpreting Project' in the hands of civil servants with no knowledge, understanding or experience of CJS interpreting
3. They awarded the contract to an undercapitalised firm with no knowledge of Court interpreting
4. They did not engage in meaningful consultation with interpreters (there was a 'nonsultation')
5. They did not listen to interpreters' representative bodies
6. They ignored representations from EULITA, FIT and even Viviane Reding
7. They sought to circumvent and subvert the NRPSI, an established and respected standard, seen by EU member states as the example to follow, the "gold standard", if you like. The contractor under the Framework Agreement is expected to set up their own register, which by implication will replace the National Register, which is the independent regulator
8. They did not put into practice the lessons of history, in particular the well-known case of *R-v-Begum.* This was a case where a lady who did not speak English was charged with murder of her husband following years of domestic violence. It was not clear until after her trial that she did not understand her interpreter, who was an accountant who spoke a different language, and had not understood the difference between murder and manslaughter. She was released after her successful appeal, but was ostracised by her family, rejected by her community and killed herself
9. They allowed the contractor to police itself
10. They paid lip service to the maintenance of standards, but there was never any proper assessment of quality nor any real expectation that the contractor would meet the required standards
11. They would not tolerate any criticism, being driven by political dogma

A tiny company called Applied Language Solutions, or ALS, which has barely ever made a profit, found itself the only remaining bidder at the end of a dangerously flawed process called a "Competitive Dialogue", and obtained a contract worth £300 million. They boasted of having over 3,000 interpreters, but now they call them linguists, since so few have any qualifications in the field of justice interpreting. However, that number includes pet animals, a dead dog, and a substantial

number of qualified professionals whose details were stolen by the company. Just prior to the contract going live, this tiny company was bought by a huge company called Capita on 23 December 2011. The timing may have been a coincidence. Likewise the unquestioned ease with which the purchase went through.

A framework agreement is an 'umbrella agreement' that sets out the terms, particularly relating to price, quality and quantity, under which individual contracts (call-offs) can be made throughout the period of the agreement, normally a maximum of 4 years. The contract was implemented nationally in the Courts on 30 January 2012. Since then there has been chaos all over the country. Professionals mostly will not work for ALS, whose standards and business practices are so dreadful, and when the Ministry of Justice issued instructions just two weeks later that their staff could book directly under the previous terms and conditions, we were faced with a choice. Do we take the work, or do we refuse it? If we took the work it would disguise the rate of ALS failures, and we would be conniving at our own extinction. Many colleagues have decided on an individual basis to refuse work, and some language groups have banded together and are maintaining effective boycotts.

We are involved in other actions too. We have held two demonstrations in London, on 15 March and 16 April, we have mobilised support from Members of Parliament, who have been of huge help. Then there is the campaign group "Interpreters for Justice", where the APCI has teamed up with the Society for Public Service Interpreting. We have enjoyed huge success, with 100+ articles in the press and even radio and TV appearances, and a twitter feed. Then there is the Freelance Interpreters and Translators-UK group on Facebook, which has banded colleagues together for concerted action, including the daily logging of ALS failure to supply at courts all over the country. We are also collaborating with solicitors and barristers in order to have claims for compensation brought for unlawful detention and discrimination, where people who speak no English have been kept in prison, sometimes for weeks, due to ALS failure to provide an interpreter, and looking to have fake interpreters prosecuted and even imprisoned for contempt of Court, as a result of failing to discharge their duties as defined in their oath. These and other measures are an escalation of the fight in the face of a Minister and a Ministry with their head in the sand, oblivious to the suffering of victims, witnesses or defendants for which they are responsible. If you do not speak English, then there is no justice for you. You will be denied access to justice in the UK.

What do I mean?

1. In one case in ten no interpreter will turn up
2. When they do, there is a significant possibility the language will be wrong
3. The worker will be late
4. If nobody turns up, you risk being held in custody until the next hearing, even if the offence is minor. You see, you cannot confirm your address, or even your name
5. If you do receive the services of somebody, the possibility is significant that they will have no qualification or experience of interpreting, especially in a legal context. Technical expressions will not be known, and your so-called interpreter will sit silent next to you in the dock
6. It follows that once such a fake is discovered, and their failure to discharge their duty revealed, Crown Court trials collapse. There have been many examples, one of which I witnessed. A catastrophic interpreter error meant the judge had no alternative.

As you watch the rolling PowerPoint slides, some headlines may standout:

- *"Court interpreter service wastes thousands*

- *Police let foreign suspects go over lack of interpreters*
- *Court clerk turns to Google to fill interpreting gap*
- *Defendant threatens to kill himself due to lack of an interpreter*
- *Interpreting error leads to £25,000 retrial cost*
- *Judge blasts interpreter firm for court no-shows"*

So what is the problem?

The problem is twofold. Firstly there is the contractor, and secondly the Framework Agreement itself.

Let us look firstly at the contractor. It would have been difficult to have selected a worse candidate, who was selected on price. They declared that they had thousands of qualified interpreters on their books, but it turned out that not only does their database contain pets and dead animals, it also contains the contact details of substantial numbers of professionals who have never consented to this, and in fact have since insisted that the contractor remove them. We wonder whether the Ministry of Justice ever took the time to check their claims, but we suspect they took them at face value – a bit like buying a car without checking it has an engine. Due diligence seems an alien concept to them.

There is now a massive joint complaint presently being considered by the Information Commissioner's Office as to the legality of this. Evidence suggests that the data was taken from a number of sources, including data provided under temporary licence when the contractor subscribed to the National Register prior to April 2011, but which they were not permitted to retain once the licence had expired. Such data control is unlawful and may be subject to heavy fines.

That was a poor start. Then the Agreement itself does not allow for paid travel time or reimbursement of travel expenses. This is unacceptable, and the consequence is that interpreters are unwilling to travel for assignments. Rates were cut by over 30%, the minimum paid work time was cut to just one hour, and payment is restricted to court appearance time only. In fairness, they had to modify payment conditions, but the Agreement is as it stands. Once the contractor reaches market domination it will undoubtedly revert to the terms and conditions in the Agreement. It has to, since otherwise it simply cannot make money. As it is, there are many, many documented cases of interpreters travelling hundreds of kilometres, in one case for a hearing lasting 8 minutes.

The Framework Agreement is fundamentally flawed. Let us take a look at it in a bit more detail:

It is 177 pages long, and heavily redacted in many places with black fig leaves to preserve the parties' modesty. But there are gems to be found, even by an amateur. Unfortunately time allows just one point to be made, and choosing them was far from easy.

Section One, paragraph three refers to the Contractor's obligations, and says "*The Contractor shall employ at all times a sufficient number of Contractor's Personnel to fulfil its obligations*." It goes on to say "*All Contractor's Personnel shall possess the qualifications and competence appropriate to the tasks for which they are employed*". Now listen to The Key Performance Indicators listed in Section 2 of the Monitoring Schedule. These KPIs should be an important item on the Agenda for the obligatory monthly meetings between the Administrator and the Contractor; *J4 Requires evidence that all languages be available within 25 mile radius; J5 Requires evidence that 98% of all assignment requests were fulfilled; J6 Requires that all complaints be acknowledged within 1 hour.*

Having heard all this, you can imagine for yourselves what sort of meetings the Contractor can look forward to. Can you imagine the excuses?

Well, in fact the Ministry of Justice fails to hold them to account, fails to hold them to the contract and provides excuses for their abject performance. Rather than protect the public purse, rather than protect access to justice, the Ministry excuses them time after time.

But how will the contractor persuade the tiny handful of Twi interpreters to travel the length and breadth of the country, with no travel expenses? Where are they going to find Lithuanian interpreters? Farsi? Both groups have – with others – banded together to deny service under the Agreement. Even languages more widely spoken will be difficult to service – how will you find a Swahili interpreter in Swansea? Within 25 miles? Don't make me laugh. KPIs? KP nuts more like.

There are many other points, but I have no more time to deal with them. Please take a look for yourselves, it is available on the internet.

The fight to have this dreadful agreement set aside has been a long one, and frankly a little dispiriting. Despite approaches from FIT, EULITA and even Viviane Reding, and others, the MoJ fails to answer letters, or communicate in any way. Every letter to the contractor or its owner is likewise ignored. The National Register, a resource which has taken decades to develop, and admired by others is being destroyed. Professionals are moving into other areas and earning more, so are unlikely to be tempted back. The clock is being turned back by more than 20 years, with huge cost to the public purse as hearings are postponed, trials collapsing and appeals mounting, prompted by poor interpreting at trial. How can a conviction be deemed safe if the interpreter never spoke? Or has no qualifications, no experience, and is not subject to a Code of Practice? The Begum case will be repeated, and it is only a matter of time before there is another tragedy.

But the nature of the struggle evolves. Through judicious use of Press Releases, prepared by Involvis, the PR firm engaged by our campaign group "Interpreters for Justice", the press and broadcast media are now better informed than ever before, and we have had over 100 pieces published in the press or online, every single one in our favour. There have been radio and TV pieces, two demonstrations in London and others in Manchester and Bradford. We collect and collate data every day on the contractor's failure to deliver, and Twitter has been a goldmine for finding out about events as they happen, and communicating them regionally, nationally and even globally. I and others have participated in internet TV interviews with the Endless Possibilities Team, which I know some of you will have seen.

Interpreter organisations are now working together, not just in the Involvis campaign, but also a separate campaign coordinated by UNITE, the biggest trade union in the UK. There is a Parliamentary event planned, with details being discussed in a meeting this afternoon, although I shall not be back in time. We are in contact with well over a hundred MPs now, and I am told that even after four months, the interpreters are still a subject of discussion every day at the Palace of Westminster. We have submitted hundreds of written Parliamentary Questions via various MPs, in particular, the shadow Justice team, eliciting the same stonewall answers every time. We have had oral questions put to Justice ministers, in a process known as "death by a million questions", and this will continue.

Meetings held by colleagues with their MPs have also yielded results, supporting and reinforcing contacts made with members of two influential parliamentary Committees; the Justice Select Committee and the Public Accounts Committee. I am now in regular contact with Margaret Hodge, Chairman of the Public Accounts Committee, and a few days ago she emailed me to say that she was referring the matter to the powerful National Audit Office. A short while later the NAO issued a

protected document describing Terms of Reference for an investigation into the whole affair. The remit is enormous.

Let me read from the Terms of Reference document itself:

*(Read from ToR; "***We will investigate the procurement process that the MoJ followed***")*

Over the next few days there will take place a meeting with a three man panel from the NAO to discuss lines of enquiry and specific questions which need to be asked. They have set a six week deadline for their investigation, and we must hope and pray that the evidence they hear will vindicate us and that subsequently the FWA will be set aside.

At the same time the Justice Select Committee is considering their own enquiry, which will focus on separate issues, relating to the capacity of the FWA in terms of delivering Justice to non-English speakers.

I should like to close with an unworthy adaptation of part of a well known speech, one of the best known speeches in English of all time, delivered by one of the most powerful orators in the English language. You may recognise it:

"We shall go on to the end.

We shall fight in court, we shall fight on the radio and television, we shall fight with growing confidence and growing strength in the press, we shall defend our profession, whatever the cost may be. We shall fight on the internet, we shall fight in our emails, we shall fight in Committee Rooms and in the streets, we shall fight in Parliament; we shall never surrender."