



28th August 2020

MoJ ProcurementLang@Justice.gov.uk

To whom it may concern,

We are a group of registered and independent intermediaries who are members of Legal Sector Workers United, a branch within the independent trade union United Voices of the World.

We are writing to you with concerns about the MoJ's intention to develop its '[commercial strategy for the provision of Court Appointed Intermediary Services to courts and tribunals in England and Wales](#)'. We note at this stage the Prior Information Notice (PIN) relates solely to intermediary services that currently fall outside the remit of the MoJ Witness Intermediary Scheme (MoJ WIS). By default, the PIN is assumed to cover the services of Intermediaries to defendants and within the family courts to respondents and intervenors.

The intermediary profession supports the most vulnerable members of our society to have equal access to Justice. Intermediaries currently work across all courts; we are independent communication experts and our duty is to the court. The Criminal Procedure Rules [CPR \(2015:1\)](#) provide that criminal cases will be dealt with justly, '*recognising the rights of a defendant, particularly those under Article 6 of the European Convention on Human Rights*' and that courts are obliged to take 'every reasonable step' to facilitate the defendant's [effective participation](#). The [Family Procedure Rules \(FPR\) 2010](#) state the court must deal with cases 'justly, having regard to any welfare issues involved'. This includes the requirement for courts to take reasonable steps to ensure the effective participation of vulnerable witnesses and parties.

Our significant concerns in relation to the PIN for court-appointed Intermediary Services include but are not limited to:

- The speed of notification to expression of interest - We note the PIN was dated 20th July 2020, with expressions of interest to be given by 1st September 2020. The time frame suggests the commercial strategy is not a transparent process but is part of a wider agenda for the privatisation of public services without due process. The time period noted follows major changes within the legal sector due to the global pandemic and falls within the summer holiday period.
- The lack of parity for vulnerable people across all aspects of the Justice system. This cannot be emphasised enough if the existing 2 tier system is further entrenched via a "commercial strategy".
- The lack of regulation and quality control with no mention of these within the PIN.
- The potential lowering of pay and the impact this is likely to have upon recruitment and retention.
- The likely loss of workers terms and conditions if service provision is determined by large companies within the private sector.
- Increased fragmentation of services across geographical regions and court services.



- Lack of recognition of union membership.
- Lack of clarity about how the £15million stated in the PIN has been determined. We have concerns that significant amounts will be wasted on tender costs and administration of a scheme especially where potential private bidders have no previous experience of providing intermediary services and are unable to accurately model costs.
- The lack of prior consultation with relevant parties including but not limited to: the MoJ WIS, Court Services, the wider legal profession (Judges, Solicitors, Barristers), court users and representative bodies such as the Prison Reform Trust, disability organisations and existing professional bodies for Intermediaries (IFJ).

Our members recognise that in some areas, the existing provision of intermediary services could be improved. **However, we are VERY concerned that further privatisation will exacerbate existing difficulties and believe putting services out to private tender is heading in the wrong direction and will not protect the human rights of vulnerable members of our society.**

We are aware of the problems arising from the privatisation of the Probation Service, Interpreting and Language Services, Security Services in the prisons and changes to Legal Aid. We do not want these problems to be repeated in the Intermediary profession. Existing intermediary private service providers already pay their employees well below the market rate for Registered Intermediaries, inevitably leading to a lowering of professional standards and inconsistencies with service provision.

Registered and Independent Intermediaries have been working directly in courts and have a wealth of professional expertise which is in danger of being lost. We would like to work with the MOJ to continue to improve intermediary services, so they are an integral part of our Justice system, with parity of access for all vulnerable people, whether defendant, witness, victim or respondent in family court. We would welcome the establishment of an independent professional regulatory body, which could ensure safeguarding and professional standards are maintained across all intermediary services, not just those covered by the MoJ WIS.

We request the Union is consulted about any potential tenders to add scrutiny to the decision making.

We are sharing our concerns with relevant parties who it appears have no prior knowledge of any proposed 'commercial strategy'; we hope you will canvas their views before taking any further steps.

We look forward to hearing from you regarding the issues raised in this correspondence.

Kind regards,

Intermediary Members of Legal Sector Workers United