


INTERNAL AUDIT OF INTERPRETERS FEES IN CROWN AND MAGISTRATES' COURTS

January 2010

Audit Rating		Amber/Red
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CONTENTS

1	Management Summary and Opinion	3
2	Findings	4-6
3	Management Response	7

Appendices

Appendix 1	Terms of Reference	8-9
Appendix 2	MoJ Internal Audit Opinions Definition	10

REPORT DISTRIBUTION

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1. MANAGEMENT SUMMARY and OPINION

1.1 **Scope, Purpose and Objectives**

This audit was carried out as part of the agreed HMCS Annual Audit Plan for 2009-10 and provides an opinion on governance, risk management and control arrangements within magistrates' courts and Crown courts. The work was carried in accordance with the agreed terms of reference, see Appendix 1.

1.2 **Context and materiality**

Interpreters Expenditure for 2008/9 is included within the total payment made from Central Funds and has not been established, estimates vary from £11m up to £60m. The risks taken from the HMCS Risk Register (March 2009), relevant to this audit are: staff failing to follow policies/procedures and or legal/regulatory requirements; and the quality of data and reporting does not meet the needs of management in order to support effective and efficient decision making.

1.3 **Approach**

The audit was carried out by qualified audit staff in accordance with HM Treasury standards and MoJ Internal Audit quality procedures.

1.4 **Opinion**

There are no systems in place to provide management with accurate financial information in respect of the amount spent on Interpreters fees and disbursements and as a result the amount spent on Interpreters in HMCS is not known. This exposes management to the risk in respect of the quality of data needed to support effective and efficient decision making. Courts are broadly following the guidance contained in the Good Practice Guide, the National Agreement and the Terms and Conditions in respect of the booking of Interpreters but our work and the work of HMCS Court Business Branch has identified a number of compliance and interpretation issues including the use of the NRPSI (National Register of Public Service Interpreters) register and the application of "exceptional circumstances" (see paragraph 2.6). In respect of the payment of Interpreters fees, the fees paid are broadly compliant with the amounts detailed in the Terms and Conditions but control systems are not sufficiently robust to identify and prevent duplicate payments or to identify errors such as the application and payment of the higher rate of mileage. Although there is evidence that some courts seek to obtain value for money by attempting to book local Interpreters there was no evidence that courts would attempt to arrange lists in order that an Interpreter could work on multiple assignments within a booking. These findings, in particular in respect of the lack of financial information, support an opinion that Governance and Control arrangements are not sufficiently developed to provide management with an assurance.

1.5 **Acknowledgements**

We acknowledge the assistance shown to the audit team and the hospitality received from court managers and staff.

1.6 **Data Assurance**

We confirm that all data containing personal information taken to evidence and support audit findings has been securely returned / disposed off.

2. FINDINGS

2.1 Background

HMCS books and pays foreign language Interpreters in accordance with the Terms and Conditions for the Provision of Face to Face Interpretation Services. The Terms and Conditions set out rates of pay for the attendance of the Interpreter at court; rates of pay for the Interpreter's travel time to and from court; provisions for cancellation of the booking by either the Interpreter or court and the ethical and professional conduct required of the Interpreter while at court. It is noted that the approach to booking and paying Interpreters differs between other parts of the Ministry for example Tribunals and civil and family courts.

2.2 Guidance

The Interpreters and Language Service Professionals in the Criminal Courts Good Practice Guide for Court Staff although not exhaustive, provides guidance that seeks to ensure that Interpreters are fully competent for the task assigned; that court staff and Interpreters provide a high standard of service; and that the terms and conditions applied including rates of pay are consistent. A Practice Direction Relating to the Use of the Welsh Language in Cases in the Crown Court in Wales and Guidance Notes for Welsh Simultaneous Translation Fees has been issued for HMCS Wales. We confirm that the courts visited had up to date copies of the Good Practice Guide, however, we identified differences in interpretation and compliance.

2.3 The Guidance states that a separate claim must be submitted for each and every booking. A standard form (Form 5113A) is available in Crown Courts for professional/expert witnesses including Interpreters but the form does not readily allow for sufficient information to be provided (for example the breakdown between attendance and travelling time). There is no standard form required for attendance in magistrates' courts and courts have devised their own. Our audit work and that currently being conducted by HMCS Court Business Branch identified inconsistencies in both format and information required to support the payment of claims. There will inevitably be Interpreters working in different courts who have to complete quite different forms for the same purpose.

2.4 Arranging an Interpreter

Practices varied across the courts visited and included: Police booking Interpreters; courts booking Interpreters; and the use of agencies. There was insufficient evidence at all courts to confirm that only Interpreters who have not previously interpreted at the police station are used.

2.5 The Guidance states that Interpreters working in HMCS should be registered with the National Register of Public Service Interpreters (NRPSI) at full or interim status with Law Option for communicating with non English speakers. The Guidance requires that Interpreters should be obtained from this Register which should guarantee a minimum and measurable standard of competence and quality assurance. Guidance is also provided where it is not possible due to exceptional circumstances to select an Interpreter from the NRPSI. Online access to the register is available and although this facility is utilised at some of the courts visited, the practice was not widespread. For example one court used an agency to source Interpreters, another identified Interpreters from business cards endorsed with the NRPSI number and one court referred to an out of date paper copy rather than the NRPSI website. The point at which

"exceptional circumstances" applied was also interpreted differently across the courts visited. Some courts would exhaust the online NRPSI register completely before seeking alternatives whereas others would seek alternatives if the online NRPSI could not locate Interpreters in the local area.

- 2.6 We identified one set of magistrates' courts who were using a legacy computer system to facilitate the booking and payment of Interpreters and while this system has proved to be useful it is now completely unsupported. Further, it is unable to respond to change (such as the centralisation of payments), which is affecting the efficiency of the system.
- 2.7 Once an Interpreter has been identified and accepted an invitation to provide interpreting services, the Guidance requires that a confirmation letter/email is sent stating that the Interpreter is being employed in accordance with the HMCS Terms and Conditions for the Provision of Face to Face Interpretation Services and informing them that their identity will be checked on arrival. Only two courts visited included both of these requirements in confirmation of booking letters/email issued to Interpreters. The risk is that since Interpreters are likely to carry out work at a number of different courts, different booking practices could lead to confusion.
- 2.8 Although at each of the courts visited the identity of Interpreters to NRPSI photo-identity cards on arrival at court was confirmed, none of the courts visited requested sight of CRB disclosure certificates as strongly recommended in the Guidance.
- 2.9 Where Interpreters were not a member of NRPSI effective checks of identity and suitability to interpret were not always in place. We found no evidence to support the requirement to request reliable proof of identity such as a passport or confirmation of the Interpreter's membership or registration with an appropriate body, for example the association of Police and court Interpreters or confirmation of qualifications.
- 2.10 Although there was evidence that courts would seek value for money in attempting to locate local Interpreters there was no evidence to confirm that courts were examining and managing current court lists to try and take advantage of booking multiple assignments.
- 2.11 **Payment of Interpreters**
The court pays for Interpreters required for the defendant and defence witnesses for the purposes of interpreting their evidence in court. These payments are made out of central funds in accordance with the Costs in Criminal Cases (General) regulations 1986.
- 2.12 Our examination of the authorisation process established that the responsibility for assessing claims for payment across the courts visited rested variously between admin staff, court clerks and legal advisers.
- 2.13 Most of the courts visited were unable to demonstrate that a robust system was in place to prevent duplicate payments.
- 2.14 All payments made from the Crown court are processed through the CREST system and are debited to an appropriate expenditure head. To enable entries to be made against the appropriate expenditure head, CREST has a number of Vote Accounts. Details of expenditure from Vote Account 547

Defence Cases – Interpreters will appear on the Monthly Statement of Balances. Not all courts visited were selecting the appropriate Transaction Type to allocate Interpreters payments to the correct account. This results in accurate spend information being unavailable.

- 2.15 All payments to Interpreters made through the magistrates' courts are processed through the Libra system. To enable entries to be allocated to Central Funds and reported as such on the quarter end statement payments to Interpreters should be allocated to function REPAYW. Our audit work confirmed that payments to Interpreters were appropriately allocated however spend information is only available for Central Funds as a whole and information in respect of payments only in respect of Interpreters is not recorded.

2.16 **Assurance Process**

There is some evidence of the existence of control systems and the carrying out of independent checks in respect of the calculation of Interpreter claims but our test work identified errors that compromised the effectiveness of these checks. There is evidence to confirm that Interpreters are properly identified at court but not in all courts visited. There was little evidence to ensure that HMCS policies and procedures are complied with for the arrangement and use of Interpreters and that only Interpreters of the appropriate quality are used and that effective interpreting is conducted in the courtroom. As the HMCS Assurance Programme (HAP) is rolled out and embedded across the Regions and HMCS Wales the Assurance Statements 17 and 23.4 should go some way to providing the required assurance.

2.17 **Management and Financial Information**

The National Agreement on Arrangements for the Use of Interpreters refers to the value of consistent data collection and monitoring in the assessment of both regional and national demands, shortfalls and supply. However, other than the very limited and in some cases incomplete information available in respect of the month/quarter end payment totals none of the courts visited obtained either management or financial information in respect of Interpreters. This finding supports the risk identified in the HMCS Risk Register that management do not have quality data and effective reporting mechanisms to assist in effective and efficient decision making.

2.18 **Errors**

Examples of the errors found both in our test work and the work carried out by HMCS Court Business Branch include:-

- Treatment of minimum rate plus additional attendance;
- The payment of travel time within the minimum attendance payment;
- Application of higher mileage rate;
- Payment of mileage rates other than 25 pence or 45 pence per mile;
- Application and calculation of travel and attendance rates; and
- Errors of omission, calculation and addition.

3. MANAGEMENT RESPONSE TO AUDIT REPORT ON INTERPRETER COSTS

- 3.1 Since undertaking a scoping exercise in the summer of 2009, HMCS Court Business Division has been taking pro-active steps to gather evidence and formulate a strategy to address inefficiencies in interpreter-related business processes while maintaining quality. The Division welcomes this report, and the further support and impetus for change that its findings will underpin.
- 3.2 The Court Business Division will be taking a key role in the creation of a Language Services Project Board with the aim of achieving efficiency savings in the delivery of foreign language interpretation and translation in the justice service whilst maintaining quality standards. The Board will also consider the best ways to address the lack of robust management and financial information. Other work streams include key contributions to Transforming Justice to explore more efficient ways of using interpreters in the courts, a revision of the current Good Practice Guidance, and working with 'Lean' colleagues to improve booking and payment processes supported by a unified claim form.
- 3.3 A revision of the current HMCS Good Practice Guidance is already in the planning stage and will draw on the expertise of operational staff and the information gathered from a three month data and information collection exercise, undertaken by the Division. The objective is to produce clear and sufficient guidance leading to improvements in security and economy. Updated practice will include, but is not exclusive to, the following issues:
- Ensuring maximum utilisation of an interpreter booking
 - Establishing and maintaining strict identity procedures
 - Ensuring correct application of rates of pay
 - Ensuring assurance [HAP] checks are carried out on claims so amounts paid are correct and not exaggerated or duplicated.

Following the revision and re-issue of this guidance, appropriate publicity will be carried out to ensure it is implemented with maximum effect.

- 3.4 HMCS Court Business Division is working in collaboration with colleagues in 'Lean' to produce a unified claim form and standard operating procedure for the interpreter payment process. This will address variations in the interpreter claim forms currently in use, assist in ensuring accurate management and financial information can be collected, as well as providing that appropriate assurance checks are made to ensure that payments are correct. It is hoped that the standard operating procedure will be in place in the Magistrates Courts, and the standard claim form in use in both Magistrates and Crown Courts, by April 2010.

Appendix 1: Terms of Reference

TERMS OF REFERENCE: Internal Audit of Interpreters fees in Crown and magistrates' courts

Purpose & Objectives

The main purpose of internal audit activity within central government is to provide the Accounting Officer, in an economical, efficient and timely manner, with an objective evaluation of, and opinion on, the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control. The Head of Internal Audit's opinions are a key element of the framework of assurance that the Accounting Officer needs to inform completion of the annual Statement on Internal Control (SIC).*

This audit is being carried out as part of the agreed HMCS Annual Internal Audit Plan for 2009-10 and will provide an opinion on governance, risk management and control arrangements operating over the booking and payment of Interpreters in the Crown and magistrates' courts, the provision of assurance and the collection of management and financial information.

Interpreters Expenditure for 2008/9 is included within the total payment made from Central Funds and has not been established, estimates vary from £11m up to £60m.

**Source; Government Internal Audit Standards issued under DAO letter 01/09*

Key Risks

The following risks, taken from the HMCS Risk Register (March 2009), are relevant to this audit:-

- Staff failing to follow policies/procedures and or legal/regulatory requirements
- The quality of data and reporting does not meet the needs of management in order to support effective and efficient decision making.

In addition, our discussions with Management have highlighted potential risks and issues associated with:-

- The booking process
- The provision of accurate management and financial information
- Control over the payment of invoices

Audit Scope

The audit will include a review of the effectiveness of governance, risk management and control arrangements within magistrates' courts and Crown Courts. We will work together with and rely upon work currently being carried out within HMCS in their own review of the system of booking and paying Interpreters. We will review operational compliance with policies, in particular in relation to the booking process and the authorisation and payment of fees and expenses.

Audit Approach & Outputs

The audit will be carried out by qualified audit staff in accordance with HM Treasury standards and MoJ Internal Audit quality procedures.

We aim to issue a draft report to management by the end of December 2009 and the final report within 10 days of agreeing the draft report with management. We will report emerging findings as and when appropriate throughout our fieldwork to the Business Contact.

Audit Sponsor & Responsibilities

Audit Sponsor

Shaun McNally, Director of Performance and Operations

Business Audit Sponsor:

Martin Jones, Head of Court Business Division

Internal Audit of Interpreters Fees in Crown and Magistrates' Courts

Management will ensure access to all records, documentation, personnel and premises that Internal Audit deem necessary to carry out their work.

A management response within 4 weeks of issue of the draft report will be provided.

Key Contact Details





Internal Audit	<i>[redacted under s.40(2) FOIA]</i> , Audit Manager
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Business	<i>[redacted under s.40(2) FOIA]</i> Court Improvements Manager, Court Business Division
	<i>[redacted under s.40(2) FOIA]</i>

Target Dates

Date ToR agreed:	Oct 2009
Start of fieldwork:	Nov 2009
End of fieldwork:	Dec 2009

Appendix 2: MoJ Internal Audit Opinions Definition

The definitions of the opinion are shown below.

Opinion Rating	Definition
 Green (High)	Governance, risk management and control arrangements were found to have been adequately established and are operating effectively.
 Green Amber (High/Medium)	Governance, risk management and control arrangements were found to have been established but are not operating effectively or are not being consistently applied.
 Amber Red (Medium/Low)	Governance, risk management and control arrangements were found not to have been fully developed, not to be operated effectively or consistently applied and/or were found to contain a number of weaknesses.
 Red (Low)	Governance, risk management and control arrangements were found to be incomplete or inadequate and/or those in place were not operating effectively.