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| CABINET | AGENDA ITEM No. 4 |
| 13 DECEMBER 2010 | PUBLIC REPORT |

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| Cabinet Member(s) responsible: | Cabinet Member for Community Cohesion, Safety, and Women's Enterprise, Cllr Irene Walsh | |
| Contact Officer(s): | Helen Edwards, Solicitor to the Council | Tel. 452539 |

TRANSLATION & INTERPRETATION POLICY

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| R E C O M M E N D A T I O N S | |
| FROM : Solicitor to the Council | Deadline date: n/a |
| Cabinet is requested to approve the draft Translation & Interpretation Policy attached at Appendix B. | |

1. ORIGIN OF REPORT

1.1 This report is submitted to Cabinet following a referral from the Solicitor to the Council and the Cabinet Member for Community Cohesion, Safety, and Women's Enterprise.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to present the draft Translation & Interpretation Policy to Cabinet for its formal approval.

2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.4, To promote the Council's corporate and key strategies and Peterborough's Community Strategy and approve strategies and cross-cutting programmes not included within the Council's major policy and budget framework.

3. TIMESCALE

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| Is this a Major Policy Item/Statutory Plan? | NO |
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4. TRANSLATION & INTERPRETATION POLICY

4.1 Although the Council currently adopts sensible good practice in its approach to translation and interpretation, it does not currently have a written Translation & Interpretation Policy. This has recently led to criticism and speculation that the Council spends unnecessarily in this area. The amount spent equates to less than 0.1% of the Council's budget, further details of which are given in the financial implications section set out below. However, in view of the increased concern it was considered appropriate to produce a policy, which clearly sets down the Council's approach to the use of translation and interpretation services. There is no specific budget for this service, each Directorate incurs costs as necessary to enable it to fulfil its legal obligations and deliver its service. One criticism has been that if there is no specific budget, it is difficult to monitor or cap expenditure, but in practice Directors must carefully monitor all expenditure to meet their overall control totals, and they are under pressure each year to make further savings.

4.2 Links to Sustainable Community Strategy
The policy sets out the Council's approach to translation & interpretation. Whilst recognising that encouraging use of the English language is an important part of developing community cohesion, the Council recognises that there will be circumstances where translation and

interpretation is necessary and appropriate, to enable the Council's service users to have access to services and achieve the aims of the Sustainable Community Strategy:

- Improving health: by ensuring appropriate access to health services
- Supporting vulnerable people: so that those in need can properly access the services available to them
- Regenerating neighbourhoods: so that the most deprived communities can access the services they need to achieve their full potential
- Improving skills and education: assisting everyone to access appropriate learning opportunities, specifically so that they can learn language skills

5. CONSULTATION

- 5.1 This has been considered by the Diversity Forum on 28th October 2010. The principles set out in the policy were approved.
- 5.2 It was considered by the Creating Opportunities & Tackling Inequalities Scrutiny Committee on 15 November 2010. The Committee approved the contents of the policy, but had considerable concerns about the requirement to provide translation and interpretation, and in particular about the costs incurred in doing so. After lengthy debate, it made the following recommendations:
1. Endorsed the proposed Translation and Interpretation Policy; and
 2. Recommended the adoption of the Translation and Interpretation Policy to Cabinet with the proviso that;
 - a. In the report to Cabinet it is noted that the Committee had concerns with regard to the level of spend on translation and interpretation services and that it was uncapped. The Cabinet report to include more detailed information about the spread of spend across the departments;
 - b. The policy to include guidelines for officers on what were essential services; and
 - c. That a report be brought back to the Committee at a later date to monitor the ongoing costs of the translation and interpretation services. The report to detail cost by department and how it was spent.
- 5.3 The Committee's concerns with regard to costs are noted in this report, and more detail about cost is included within the financial information section. A detailed report on the costs of the translation & interpretation services is likely to be taken to the Scrutiny Committee in March 2011.
- 5.4 In respect of recommendation 2b, the policy has been reflected to some extent to make reference to essential services, (usually referred to as statutory services) but it is difficult if not impossible to be more precise without making the policy extremely lengthy, and in any event Cabinet is asked to note that the legal implications set out below at paragraph 8 of this report apply to all services, not just to essential services. The relevance of essential statutory services is that if they are not provided as a result of failure to provide interpretation or translation, the Council may also be in difficulty for failure to provide those services, in addition to the failure to provide interpretation or translation.
- 5.5 Stewart Jackson MP has taken considerable interest in this matter. His concerns are set out in his letter dated 22nd November 2010 which he has asked be presented to Cabinet as a representation of his views. The letter is attached to this report at appendix A.

6. ANTICIPATED OUTCOMES

It is anticipated that Cabinet will accept the recommendation to approve the policy, which will then govern and inform the Council's approach to the use of translation and interpretation policies.

7. REASONS FOR RECOMMENDATIONS

The Council is not required to have a Translation & Interpretation Policy, but if it adopts a policy its approach to this issue is then made clear.

8. ALTERNATIVE OPTIONS CONSIDERED

Status quo: No policy, but Council adopts sensible good practice. This approach was rejected because although the Council currently operates good practice, if there is no policy to show that it does so, this invites continued criticism from those who believe the Council does not operate effectively in this area.

To have a different policy: this was rejected because the draft attached captures the Council's current approach which is good practice for the benefit of all sectors of its service users.

To charge for translation & interpretation services: this was rejected as it is not in keeping with the Council's Sustainable Community Strategy and in the majority, if not all cases, could put the Council at risk of being in breach of the Equality Act 2010, at risk of judicial review, or at risk of failing to provide statutory services if it meant people were unable to communicate with the council as a result.

9. IMPLICATIONS

9.1 Legal Implications

9.1.1 The Council is not required to have a Translation & Interpretation policy.

9.1.2 There is no specific statutory requirement that the Council should provide translation & interpretation services.

9.1.3 The Council does, however, have a general statutory duty (under the Race Relations (Amendment) Act 2000) in carrying out its functions to promote equality of opportunity between persons of different groups. Failure to do so could lead to the Secretary of State by order, imposing such duties as considered appropriate for the purpose of ensuring the better performance of those duties.

9.1.4 Further, the Equality Act 2010 requires the Council not to discriminate against any person because of a protected characteristic. There are 9 protected characteristics, including race. This prohibits both **direct discrimination**, if because of a protected characteristic the Council treats a customer less favourably than it treats or would treat others, and **indirect discrimination**, if the Council applied to the customer a provision, criteria or practice which is discriminatory in relation to a relevant protected characteristic of the customer's; that is, if it puts the customer and people with whom he shares that characteristic at a particular disadvantage when compared with those with whom he does not share it.

9.1.5 If the Council adopted a policy which stated that it would not provide translation or interpretation services except at a charge, that is capable of being indirect discrimination.

9.1.6 In addition, the Council has very many statutory duties that it is legally obliged to fulfil, which are too numerous to list. If the Council adopted a policy that prevented or discouraged communication with a sector of the community, then it may fail to deliver a statutory duty by being unable to understand what it is being told by a customer, and what service might be needed.

9.2 Financial Implications

9.2.1 There are no additional financial implications associated with the adoption of this policy.

- 9.2.2 There is no specific Council wide budget for translation & interpretation. Each Director must use the budget given to the directorate for the delivery of services.
- 9.2.3 The total expenditure on translation & interpretation based on an analysis of costs codes for all directorates for the previous 3 years has been as follows:

09/10: £171,550
 08/09: £84,449
 07/08: £119,575

The variations reflect that this is not a static requirement and expenditure reflects need in those particular years.

- 9.2.4 For the last two years, for comparison purposes the expenditure can be broken down between departments as follows:

| Departments | 2009/10(£) | 2008/09(£) |
|--|------------|------------|
| Chief Executive's & Deputy Chief Executive's | 7401 | 6269 |
| Children's Services | 139589 | 55769 |
| Operations | 14953 | 12607 |
| Strategic resources | 9607 | 9806 |
| Total | 171550 | 84451 |

- 9.2.5 For the year 2009/10, the figure can be sub-divided into:
- translation of literature into all other languages other than English £82,757;
 - all oral interpretation £88,793 (this includes £6,959 of British Sign Language interpretation costs).

- 9.2.6 The largest individual areas of expenditure for 2009/10(£) were as follows:

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| Children's social care | 112 506 |
| Clare Lodge | 8 627 |
| One Stop Shop (customer service centre) | 7 186 |
| Attendance Service | 6 481 |
| Youth Offending team | 6 396 |
| Housing Options | 5 469 |
| New Link | 3 920 |
| Sensory impairment service | 3 709 |
| Newspapers (Your Peterborough for RNIB) | 3 332 |
| Private sector housing | 3 133 |
| Registration services | 2 260 |
| Environmental enforcement team | 1 875 |
| Appeals administration | 1 827 |
| Electoral register | 1 785 |
| Ethnic minority achievement team | 1 644 |
| Total | 170 150 |

The remaining expenditure of £1400 is split between 26 different cost codes, and is made up of very small sums so is not mentioned individually here.

- 9.2.7 If Cabinet believes that further investigation of the financial expenditure is required, this issue can be referred to the Creating Opportunities and Tackling Inequalities Scrutiny Committee when it considers the matter further in March 2011.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

None.