

TRIALS ISSUES GROUP

REVISED AGREEMENT ON THE ARRANGEMENTS FOR THE ATTENDANCE OF INTERPRETERS IN INVESTIGATIONS AND PROCEEDINGS WITHIN THE CRIMINAL JUSTICE SYSTEM

1. Introduction

This Agreement has been approved by the Trials Issues Group (TIG), whose membership includes representatives from the Association of Chief Police Officers, Bar Council, Crown Prosecution Service, Court Service, HM Customs and Excise, Home Office, Judiciary, Justices' Clerks' Society, Law Society, Lord Chancellor's Department, Magistrates' Association, Victim Support and the National Probation Service. These arrangements should be in place for all criminal investigations and proceedings heard by a criminal court in England and Wales. This revised Agreement has been prepared to reflect developments since the original agreement was drafted in December 1997.

2. Purpose

The dual purpose of this agreement is to:

- provide a standardised procedure for arranging interpreters for investigations into alleged offences and for defendants and witnesses appearing in criminal proceedings in England and Wales.
- emphasise the need to take active steps to check the competency of an interpreter in order to comply with responsibilities under the European Convention on Human Rights, in particular Article 6 (the right to a fair trial).

In summary:

- The police or other appropriate investigating agency will arrange interpreters for any part of an investigation, and for the requirements of the suspect, or person charged, whilst they are in custody;
- The Court will arrange the interpreter for the defendant at court, except where the defendant appears in court up to 2 working days after being charged when it is for the police or other investigating agency to make the necessary arrangements. Wherever possible a separate interpreter should be arranged for each defendant. The interpreter must be available to interpret for the defendant at court throughout the day's court proceedings and not only, for example, when the defendant is giving evidence;
- The prosecution and defence will arrange interpreters for their own witnesses in court;

- In all cases, Article 6 of the European Convention on Human Rights requires that an interpreter be fully competent for the task assigned;
- It is, therefore, important to be satisfied that the interpreter is both competent and appropriate for the task before engaging their services. This means checking the interpreter's qualifications, experience of police and court procedures, professional accountability etc., and ensuring that gender, religious, political or cultural issues are addressed at the outset.

1. Principles

- every interpreter working in courts and police stations should be registered with the National Register of Public Service Interpreters (NRPSI, henceforth referred to as the National Register) or the Council for the Advancement of Communication with Deaf People (CACDP) because they offer a minimum and measurable standard of training and quality assurance. Such interpreters can be found in the National Register and the CACDP Directory.
- if it is not possible to select an interpreter from the National Register (for example where the language is rare) or CACDP Directory, the interpreter may be chosen from some other list, for example the Association of Police and Court Interpreters (APCI), the Institute of Translation and Interpreting (ITI), the British Deaf Association (BDA), the Royal National Institute for Deaf People (RNID) or the Association of Sign Language Interpreters (ASLI). It is, however, essential that any interpreter selected from another list should meet standards at least equal to those required for registration with NRPSI or CACDP in terms of academic qualifications or proven experience of interpreting within the criminal justice system and professional accountability. Checks should be carried out to ensure that this is so;
- wherever possible parties to proceedings should engage the services of different interpreters. It is important that an interpreter used at a police station or in the course of investigations by other investigating agencies is not engaged to interpret in the courtroom. If, however, it is not possible to find another interpreter (for example, where the language is rare) the Court and all parties must be notified of the intention to use the same interpreter for the court proceedings.
- this Agreement does not affect the existing arrangements which have been set up to address the obligations of the courts to provide Welsh language interpreters in courts in Wales.

1. The National Register and the CACDP Directory

The National Register details the interpreter's name, language expertise, qualifications, public service and other experience and availability. Interpreters are listed by public service specialism (e.g. legal), language and geographical area. An interpreter needs to hold the Diploma in Public Service Interpreting or an equivalent qualification of at least that standard before being accepted onto the National Register. 'Full' and 'Interim' categories on the National Register reflect

an interpreter's professional skill, qualifications and experience. Indication of a legal specialism does not guarantee complete familiarity with all criminal courts. For this reason, those engaging interpreters will wish to satisfy themselves of the interpreters' suitability to interpret as required.

The National Register is available in hard copy, computer disk and CD-ROM. It is usually updated bi-annually. The contact address is:

NRPSI Ltd, Saxon House, 48 Southwark Street, London SE1 1UN, telephone 020 7940 3100.

Sign Language Interpreters, Lipspeakers and Speech To Text reporters are listed in the CACDP Directory and not the National Register. The CACDP Directory details the interpreter's name, qualifications, specific areas of expertise, availability and contact details. The CACDP Directory is updated 3 times a year. The contact address is:

CACDP, Block 4, Durham University Science Park, Stockton Road, Durham DH1 3UZ. Telephone 0191 383 1155.

2. Professional Accountability

The National Register contains a Code of Conduct which has been agreed with the Home Office and the Office of Fair Trading and details the standard expected of interpreters listed on the Register, including standards for competence, procedure, ethical and professional skills, and disciplinary procedures. A disciplinary panel will consider the standard and behaviour of interpreters where complaints are received. The Register also sets out recommended Terms of Engagement which detail the reasonable standards which interpreters may expect of those employing them and give guidelines as to best practice.

The CACDP Directory contains a Code of Ethics which details the standard expected of Registered Sign Language Interpreters, Lipspeakers and Speech To Text Reporters and sets out the complaints and disciplinary procedures. The Directory also includes guidance on communication with people who are deaf.

3. Practical Arrangements

Although the procedure for arranging an interpreter may depend on the stage of the criminal justice process reached, the interpreter should in any event be selected from the National Register or CACDP Directory whenever possible:

investigation

It is for the police or other appropriate investigating agency to arrange the attendance of an interpreter when interviewing a suspect or witnesses in the course of their enquiries.

If the defence require a separate interpreter for consultation with their client at the police station, it is the responsibility of the defence solicitor or legal representative to arrange for the interpreter to attend.

post charge

Where the police or other investigating agency charge a person with an offence, and detain or bail that person for a court hearing within 2 working days of charge e.g. the following day or over a weekend or a Bank Holiday, because of the shortness of time the police or other investigating agency will arrange the interpreter for the court hearing. It is important that so far as possible the interpreter arranged for court is not the one who interpreted at the police station either for the police or the defendant's solicitors at any stage prior to the court appearance. If, however, it is not possible to find another interpreter (for example, where the language is rare) then the Court and all parties must be notified of the intention to use the same interpreter for the court proceedings.

magistrates' court

Where the police charge or summons a person for a court appearance in the magistrates' court after an interval longer than the 2 working days (not including Saturdays), it is the responsibility of the magistrates' court to arrange the interpreter for the defendant. To enable the court to do this the police or other investigating agency will, within 3 working days of the charge or summons, but in any event at least two working days before the hearing, provide the magistrates' court with all the relevant information, including the name of the interpreter used during the investigation. Where there is more than one defendant, each should have a separate interpreter. It is important that the police or other investigating agency also pass such information about prosecution witnesses to the CPS or other prosecuting agency.

Such information will include:

- the language and any specific dialect required;
- the names of the interpreters used so far by the police and the defence solicitor (where known);
- any other information which might be relevant, such as whether skills in interpreting certain technical or procedural details are expected;
- any request by the defendant or witness (for religious or cultural reasons) for an interpreter of the same sex, or whether any particular difficulties are likely to be encountered by using an interpreter from a particular ethnic group, or political orientation or affiliation.

Crown Court

Where a case is committed, sent for trial or transferred to the Crown Court for any type of hearing, including Plea and Directions Hearings (PDHs), the Crown Court will arrange any interpreter necessary for the defendant.

Rule 11 of the Magistrates' Courts Rules 1981, as amended by the Magistrates' Courts (Amendment) Rules 1997 and 2000, requires the magistrates' court to

provide the Crown Court with the relevant details of any interpreter used in the magistrates' court proceedings.

Where it was not apparent at the magistrates' court that an interpreter was needed and it is not on the committal certificate or other notification, it is the duty of the defence to notify the Crown Court that an interpreter is needed.

The interpreter used at committal will be aware of the PDH date and may be available to interpret at the PDH. Similarly, the interpreter may be aware of the preliminary hearing date at the Crown Court in a 's.51 case'. The onus is on the Crown Court to arrange the defendant's interpreter for each hearing. Although it may be convenient and desirable to do so, it is not necessary for the same interpreter to be used throughout the entire progress of the case through the courts.

In a committal for sentence or an appeal against conviction and/or sentence, the magistrates' court will provide information in the same way as for other cases to be dealt with at the Crown Court. The Crown Court should arrange any necessary interpreters for the defendant/appellant.

The Crown Court will provide the prosecution and the defence with the name of the person they have appointed. The National Register or CACDP Directory should be used whenever possible.

Court of Appeal (Criminal Division)

The Crown Court will send the Court of Appeal (Criminal Division) details of the names and addresses of interpreters used earlier in the proceedings and details of the languages, dialects and other relevant information, including religious, cultural, political and gender issues, where known. Where a new interpreter is required for an appeal, the Court of Appeal (Criminal Division) should arrange the necessary interpreter using the National Register or CACDP Directory wherever possible.

Witnesses for the prosecution and defence

The defence is responsible for the interpreting and translating needs of all defence witnesses both during the preparation of the case and whilst giving evidence in court.

The defence is responsible for the terms of engagement and payment of those interpreters' fees, either under existing contracting arrangements, or with prior authority from the Legal Services Commission.

For court hearings, the prosecution will arrange interpreters for their witnesses.

The prosecution is responsible for the terms of engagement and payment of those interpreters' fees.

The court should be notified in advance of arrangements made for interpreters.

1. Advance notice to interpreters

For court hearings, the maximum possible notice should be given to interpreters so that delays and adjournments can be avoided. It will always be appropriate to obtain the interpreter's availability before fixing court dates. Terms and conditions of engagement (including fees) should be formally agreed at the earliest opportunity. Some interpreters may wish for sight of key documents to be used in the case, in order to prepare for the assignment (particularly where the case is complex or the vocabulary is of a specialist nature).

2. Fees

Fees are payable to interpreters in accordance with discretionary rates. LCD is responsible for the payment of fees to interpreters when required for the accused, defence witnesses and prosecution witnesses in cases conducted by private prosecutors. The fees to interpreters for other prosecution witnesses are paid by the relevant prosecuting agency. Fees for interpreters used in the preparation of the defence case are the responsibility of the defence solicitors who can, where the defendant is legally aided, seek to recover the expense as a disbursement in the legal aid claim.

3. Security

Whilst all the criminal justice agencies have access to the National Register it is also available to any public agency. Where interpreters have been able to provide a Section 21 Subject Access Letter from the police, confirming that the person is free from current criminal convictions, this will be indicated in the National Register. This level of security check is very basic. As there is no specific or routine vetting on the appropriateness of individual interpreters in general or for specific assignments, it may be necessary, in some cases, especially high security cases, for further security vetting to be carried out. This should be arranged with the local police.

4. More than one interpreter

In some cases, particularly those which are complex or where the interpreter is needed for very long periods of interpreting, it may be appropriate to arrange for there to be more than one interpreter. This must be assessed on a case-by-case basis. It is recognised that Sign Language interpreting is especially intensive, and it is therefore more likely that Sign Language Interpreters will need to work in teams.

5. Sign Language Interpreters

As the consequences of mis-interpreting can be so serious, it is important that only qualified/experienced interpreters/reporters are assigned for court proceedings or police interviews, etc. Only MRSLI or registered Trainee Interpreters (CACDP) should be used. In exceptional cases, the registered Junior Trainee Interpreter (CACDP) might be adequate for interpreting in, for example, a straight-forward bail hearing, the nature of which is neither technical nor complicated. In all cases, Article 6 of the European Convention on Human Rights requires that an interpreter be fully competent for the task assigned.

6. Lipspeakers

Some people who are deaf or hard of hearing require the services of a Lipspeaker. Lipspeakers communicate with deaf or hard of hearing people who do not know or use Sign Language, but who are usually skilled lipreaders of spoken English. A Lipspeaker is not an alternative to a Sign Language Interpreter and would be ineffective for a deaf or hard of hearing person whose first or preferred language is Sign Language.

Wherever practicable, only level 3 Lipspeakers should be used. Details of qualified registered Lipspeakers are also included in the CACDP Directory along with their associated Code of Practice and other information.

7. Interpreters for Deafblind People (Manual)

Some people having dual sensory impairment may require the services of an interpreter for deafblind people (manual). Wherever practicable, only level 3 Deafblind Interpreters should be used. Details of qualified registered interpreters may also be found in the CACDP Directory along with their associated Code of Practice and other information.

8. Speech to Text Reporter

Some people prefer to access proceedings through written English and will therefore require the services of a Speech to Text Reporter. Wherever practicable, only level 3 Reporters should be used. Details of qualified registered Reporters are also included in the CACDP Directory along with their associated Code of Practice and other information

9. Agencies' responses to this Agreement

This Agreement outlines the broad policy decisions which have been reached by the inter-agency Trials Issues Group. Detailed individual operational guidance which has been approved by the various criminal justice agencies has been separately issued to their members. A copy of the relevant guidance can be obtained from the contact point of each agency as attached at Annex A.

**Trials Issues Group
December 2002**

List of contacts for Agencies issuing Guidance on the use of Interpreters

National Probation Service:	4th floor Glen House 200 Tottenham Court Road London W1P 9LA Tel: 020 7436 7121 Fax: 020 7436 9827
Association of Chief Police Officers:	c/o Linguistic & Forensic Medical Services Metropolitan Police Service Room 920 New Scotland Yard Broadway London SW1H 0BG Tel: 020 7230 7495 Fax: 020 7230 7343
Crown Prosecution Service:	Policy Directorate Crown Prosecution Service HQ United House Piccadilly York YO1 9PQ Tel: 01904 545484 Fax 01904 545480 e-mail: policy.york@cps.gov.uk
Court Service [Crown Court and Court of Appeal (Criminal Division)]:	Crown Court Operations, Court Service HQ 8th Floor, Southside 105 Victoria Street London SW1 6QT Tel:020 7210 1694 Fax 020 7210 1692
HM Customs & Excise:	Law Enforcement: Policy – Criminal Justice HM Customs and Excise 1 st Floor Central, New King’s Beam House 22 Upper Ground London SE1 9PJ Tel 020 7865 4891 Fax 020 7865 5910
Justices’ Clerks’ Society:	JCS Secretariat Liverpool Magistrates’ Court 107-111 Dale Street Liverpool, L2 2JQ Tel: 0151 255 0790
The Law Society:	113 Chancery Lane London WC2A 1PL DX: 56 LONDON/CHANCERY LANE Tel: 020 7320 5742 Fax: 020 7320 5673
Magistrates’ Association:	28 Fitzroy Square London W1P 6DD Tel: 020 7387 2353 Fax: 020 7383 4020

