



Home Office

Criminal investigations: use of interpreters

This guidance is based on the Crown Prosecution Service (CPS) guidance for using interpreters.

Version 1.0

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About this guidance

This guidance tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the use of interpreters, translation and transcription services available to staff undertaking criminal investigations.

The Home Office has a duty to safeguard vulnerable people and promote the welfare of children for more information see: Vulnerable people and children

Criminal Investigators in Immigration Enforcement must be aware of their obligations under the General Data Protection Regulation (GDPR) and the complementary Law Enforcement Directive (LED) domestic legislation via the Data Protection Act 2018 see: Data protection changes (GDPR and Data Protection Act 2018)

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the CFI Operational Guidance team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **1.0**
- published for Home Office staff on **25 September 2019**

Changes from last version of this guidance

New guidance

Related content

[Contents](#)

Crown Prosecution Service (CPS) guidance for using interpreters

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the [\(CPS\) guidance for using interpreters](#) whilst undertaking criminal investigations.

Criminal Justice System requirements for interpreters

The right to an interpreter is an integral part of the right to a fair trial. It is a principle of common law that the defendant must be able to understand the charges made against them and be able to properly defend themselves. The right is also enshrined in the European Convention on Human Rights. For further information, see [CPS Guidance Interpreters](#).

Translation services are currently being provided within police stations and the courts by [The Big Word](#), who are contracted by the Ministry of Justice. Sign language interpretation is provided by [Clarion UK](#).

Interpreters working within the Criminal Justice System should be registered on the [National Register of Public Service Interpreters \(NRPSI\)](#). NRPSI are an independent, voluntary public interest body and their core role is to ensure that standards within the profession are maintained for the benefit of the public and interpreters.

Interpreters at the police station

The role of the interpreter at the police station is governed by Code C of the Police and Criminal Evidence (PACE) 1984 (see [PACE Code C](#)). If a suspect or a witness requires an interpreter for interview or the taking of a statement, the police must arrange for one to be present.

The interpretation arrangements must comply with the minimum requirements set out in Directive 2010/64/EU of the European Parliament (see section 13.2 of [Directive 2010/64/EU](#)).

Section 13.2 dictates that a suspect must not be interviewed unless arrangements are made for a person capable of interpreting to assist the suspect to understand and communicate.

In the case of a person making a statement under caution, 13.4 states that “the interpreter shall record the statement in the language it is made, the person shall be invited to sign it and official English translation shall be made in due course.” See [Directive 2010/64/EU](#).

Code C also applies to suspects who are hard of hearing or have speech impediments and require interpreters or other appropriate assistance to enable effective communication. For further information, see [PACE Code C](#).

Code F deals with the interview of suspects who are deaf, blind or have a speech impediment. It states that it might be appropriate to make a visual recording of the interview if the suspect is deaf, blind or in the case of a speech impaired person who uses sign language to communicate. For further information, see [PACE Code F](#).

Any witness statement taken from a person who has difficulty in speaking or understanding English should be recorded in the foreign language and signed by the witness. It should include the declaration prescribed in Section 9(2)(b) Criminal Justice Act 1967 (see [Section 9\(2\)\(b\) Criminal Justice Act 1967](#)). Witness statements for the purpose of Section 5A(3)(a) and 5B of the Magistrates’ Court Act 1980, must be the statement of the witness and not a translation of what was said by the interpreter. For further information, see [Magistrates Court Act 1980](#) and [CPS Guidance Interpreters](#).

Where an interpreter is required to translate at the interview between the police and a witness to record the witness’s statement, a Superintendent may authorise an extension to the period of detention to enable the transcript to be prepared before charging. For further information, see [CPS Guidance Interpreters](#).

Any potential breaches of PACE or the Codes may mean the evidence could be excluded under Section 78 of PACE. For further information, see [Section 78 PACE](#) and [CPS Guidance - Unfairly obtained evidence and breaches of PACE](#).

The interpreter is bound by a duty of confidentiality not to disclose what was said in consultation between the suspect and their legal representative. For further information, see [CPS Guidance Interpreters](#).

Court papers

When preparing papers for court, the foreign language statement should be placed in the bundle of witness statements either immediately before or after the translation. For further information, see [CPS Guidance Interpreters](#).

Interpreter as a witness in court

If a defendant has been interviewed through an interpreter and there is any contention as to what was said during that interview, evidence will be required from interpreter. Evidence from the police officer in this regard amounts to hearsay. If the interpreter used at the police station is to be called as a prosecution witness, a separate interpreter is to be used for court.

If an interpreter is required to give evidence, he or she should be given an opportunity to confirm the accuracy of any record of interview at which they were present.

The Crown Prosecution Service (CPS) is responsible for the payment of expenses of an interpreter who attends court to give evidence about what took place at the defendant's interview. For further information, see [CPS Guidance Interpreters](#).

Interpreter for a witness at court

A witness who has difficulty in speaking or understanding English may give evidence at court through an interpreter. It is the responsibility of the prosecution and defence to arrange interpreters for their own witnesses at court. For further information, see [CPS Guidance Interpreters](#).

The decision as to whether an interpreter should be allowed to assist a witness is a matter of discretion for the judge. They are not bound by the witness asserting that they require an interpreter, nor does the judge need to conduct specific inquiries as to their command of English.

If the question of competence of the interpreter is raised, the hearing should be adjourned, so that it can be resolved.

The interpreter must be someone who is impartial.

The Crown Prosecution Service (CPS) is responsible for ensuring that the interpreter is appropriately qualified to carry out the assignment and that terms and conditions have been agreed before the assignment is undertaken. For further information, see [CPS Guidance Interpreters](#).

Interpreter for a defendant at court

The defendant's right to an interpreter at court is enshrined within Article 6 of the European Convention on Human Rights: "(3) everyone charged with a criminal offence has the following minimum rights - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court." The right is not subject to qualification. For further information, see [Article 6 ECHR](#) and [CPS Guidance Interpreters](#).

If a defendant requires an interpreter to interpret the proceedings, it is the responsibility of the court to arrange for the attendance and payment of an independent interpreter. Where there is more than one defendant, each should have a separate interpreter.

It is important that the CPS liaise with the court and the police to ensure that the court is aware of the need for an independent interpreter and any other relevant information, in order that an appropriate interpreter can be selected. When a defendant is remanded in custody from the police station to the Magistrates' Court, it is the police who are responsible for organising an interpreter.

It is important that the interpreter used at the police station or during investigations by other investigating agencies is not engaged to interpret in the courtroom for the same case. 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. For further information, see [PACE Code C 2017](#).

'Double translation' is permissible at both interview and trial, where it proves impossible to find an interpreter who is fluent in both English and the language in which the defendant is fluent. Both interpreters must be suitably skilled in the interpretation of their particular part of the process. Each must be fluent in their common language as well as the language used by the defendant or in English. For further information, see [CPS Guidance Interpreters](#).

Related content

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The National Register of Public Service Interpreters (NRPSI)

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office what minimum accreditation is required from interpreters used to undertake criminal interviews and other criminal procedures.

If the services of an interpreter are required for evidential interviews and procedures the interpreter must be registered on [The National Register of Public Service Interpreters \(NRPSI\)](#).

The NRPSI provides and maintains the voluntary register for the interpreting profession. It ensures required qualification standards are met, the quality of interpreting is defined and maintained through a Code of Conduct and that access to a database of professional interpreters is freely available for all. Further details can be found on the [NRPSI website](#).

If the services of a non-NRPSI registered interpreter are used, for example if no NRPSI registered interpreter was available, the rationale behind this must be clearly documented.

Related content

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Sourcing interpreters

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office what interpreters databases are available to assist staff with criminal and voluntary interviews.

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Related content

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Telephone interpreting

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about telephone interpreting services.

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Translation and transcription services

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about translation and transcription services.

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Digital translation services

Immigration Enforcement and other Home Office staff have access to a number of digital translation services and applications on smart phones and other digital devices.

These digital translation services and applications are useful tools which enable staff to conduct initial communication with subjects for whom English is not their first language.

However, it is important to remember that whilst these digital tools have a value in establishing basic facts in an operational environment they should not to be solely relied upon in evidence and any substantive questions should be repeated in a formal interview in the presence of a Home Office approved interpreter.

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Payment for interpreting services

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about payment for interpreting services.

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Payment contacts

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about payment contacts for accessing interpreting services.

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