



CHIEF CORONER

## GUIDANCE No.21

### TRANSLATORS AND INTERPRETERS

1. In some cases the next of kin or close bereaved family members as interested persons may need translation and interpreting assistance for the purposes of understanding relevant documents and following hearings and giving written and oral evidence. This may also apply to other interested persons and other witnesses.
2. It is necessary in the interests of justice that interested persons, particularly family members, should be able to participate sufficiently in the investigation and inquest process. Coroners have a positive duty to ensure that sufficient participation is achieved, all the more so in an Article 2 inquest.
3. Witnesses at inquests who are not sufficiently proficient to give evidence in English must have the assistance of an interpreter, preferably a professional one. Equally, a witness who has a hearing or speech impediment may need special assistance from an interpreter (in some cases assistance may be given by an intermediary).
4. Interested persons may be witnesses, in which case they are entitled to give evidence through an interpreter. Where they are not witnesses, they may not be entitled to interpreter assistance provided by the court. It is therefore a matter for the discretion of the coroner how to achieve fairness in the particular case.
5. Assistance in translating or interpreting may be achieved in a number of possible ways. –
  - (1) A friend or relative of the person may help, particularly in non-contentious cases (see *Jervis on Coroners*, 13<sup>th</sup> Edn., paragraphs 12-42 and 12-43).
  - (2) Assistance may be obtained on a voluntary basis from a local foreign nation association or relevant charity.
  - (3) An interested person may be represented and have either private or public funding or be able to obtain funding for translation and interpreting.
  - (4) Sometimes the local police will assist or a department in the local authority.

- (5) There are helpful free translation services available on the internet.
- (6) Where appropriate the coroner must provide professional translation or interpreting services which will be funded by the local authority. This is particularly appropriate in cases likely to be contentious.
6. The coroner, once satisfied that translation and/or interpreting services are required, has to decide which method is most appropriate. This will depend upon the circumstances of the case, the extent to which the inquest is contentious, and the nature of the documentation and the evidence (whether straightforward or involving complexity, difficulty or experts).
7. Often it will not be necessary to translate in full all (or any) documents which are disclosed. There is no duty on a coroner to disclose in another language.<sup>1</sup> In some instances a coroner may decide that a summary or brief description of one document or a series of documents is sufficient or that key documents or key parts of documents may have to be translated. In each case it is a question of involving the interested person to an appropriate extent, particularly in an Article 2 case. In each case the coroner must decide what is necessary and proportionate in all the circumstances.
8. Coroners may also require the services of a translator for translation of documents into English.
9. In inquests held in Wales, the Welsh language may be spoken by any person, not just a witness.<sup>2</sup> If this right is exercised, an interpreter may be required.<sup>3</sup>
10. Coroners and coroners' officers should pick up as early as possible that an issue about language or hearing/speech impediment may arise. In more complex cases the question of interpreting should be raised, where necessary, in advance of the inquest at a pre-inquest review hearing.
11. Where the local authority is obliged to fund translation and/or interpreting services, the extent of the cost must be monitored closely and details obtained preferably in advance by the coroner. For these purposes services for translation or interpreting may be treated as an 'unusual allowance, fee or expense' under Regulation 7 of the Coroners Allowances, Fees and Expenses Regulations 2013, or, for interpreting in court, as an 'additional expense' relating to a witness under Regulation 11.<sup>4</sup>
12. The coroner does not have to accept and pay for the interested person's first choice. It is a matter for discussion and agreement (where possible). In all cases the cost must be reasonably incurred. A coroner who fails to provide such services when they are truly necessary in order for a bereaved family or other interested person to participate in the proceedings is likely to be vulnerable to challenge by way of judicial review.
13. A copy of the interpreter's oath and affirmation is attached for convenience.

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<sup>1</sup> This is the position in civil litigation: see *Bayer AG v Harris Pharmaceuticals* [1991] FSR 170.

<sup>2</sup> Section 22(1), Welsh Language Act 1993.

<sup>3</sup> For the provision of interpreters, see section 24, Welsh Language Act 1993.

<sup>4</sup> The Home Office Circular No.31/1982 at paragraph 11 encouraged local authorities to provide in their schedule of fees for a person employed as an interpreter at an inquest. See also paragraph 7, Schedule 7, Coroners and Justice Act 2009.

14. Coroners should always ensure that the interpreter and witness speak the same language and can understand each other. Sometimes it may be necessary to remind an interpreter to say the words of the question and the words of the answer and nothing more. Coroners must be satisfied, as best they can, that the interpreter is carrying out the task strictly and with true independence.

**HH JUDGE PETER THORNTON QC  
CHIEF CORONER**

**19 October 2015**

### **OATH and AFFIRMATION**

#### The Interpreter's Oath

I swear by Allah/Almighty God, etc., that I will well and faithfully interpret and true explanation make of all such matters and things as shall be required of me according to the best of my skill and understanding.

#### The Interpreter's Affirmation

I do solemnly declare that I will well and faithfully interpret and true explanation make of all such matters and things as shall be required of me according to the best of my skill and understanding.