

Use of interpreters in criminal cases

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This practice note includes detailed advice on:

- the use of interpreters pre-trial in the police station and in court

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Professional conduct

The following sections of the [SRA Code](#) are relevant to this issue:

- Principle 1 - you must act in the best interests of your client
- Principle 9 - you must run your business or carry out your role in the business in a way that encourages equality of opportunity and respect for diversity
- Chapter 2 - Equality and diversity: Outcome 2.1 you do not discriminate unlawfully, or victimise or harass anyone, in the course of your professional dealings.
- Outcome 2.2 you provide services to clients in a way that respects diversity.
- Outcome 2.3 You make reasonable adjustments to ensure that disabled clients, employees or managers are not placed at a substantial disadvantage compared to those who are not disabled, and that you do not pass on the cost of these adjustments to these disabled clients, employees and managers.
- Chapter 4 - Confidentiality and disclosure: Outcome 4.1 you must keep the affairs of clients confidential unless disclosure is required or permitted by law or the client consents

SRA Principles

There are ten mandatory principles which apply to all those the SRA regulates and to all aspects of practice. The principles can be found in the SRA Handbook.

The principles apply to solicitors or managers of authorised bodies who are practising from an office outside the UK. They also apply if you are a lawyer-controlled body practising from an office outside the UK.

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Must - A specific requirement in legislation or of a principle, rule, outcome or other mandatory provision in the SRA Handbook. You must comply, unless there are specific exemptions or defences provided for in relevant legislation or the SRA Handbook.

Should

- Outside of a regulatory context, good practice for most situations in the Law Society's view.
- In the case of the SRA Handbook, an indicative behaviour or other non-mandatory provision (such as may be set out in notes or guidance).

These may not be the only means of complying with legislative or regulatory requirements and there may be situations where the suggested route is not the best possible route to meet the needs of your client. However, if you do not follow the suggested route, you should be able to justify to oversight bodies why the alternative approach you have taken is appropriate, either for your practice, or in the particular retainer.

May - A non-exhaustive list of options for meeting your obligations or running your practice. Which option you choose is determined by the profile of the individual practice, client or retainer. You may be required to justify why this was an appropriate option to oversight bodies.

[The Law Society also provides a full glossary of other terms used throughout this practice note](#)

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1 Introduction

1.1 Who should read this practice note?

Solicitors practising in criminal law, and their representatives, who are taking instructions, advising and representing suspects and defendants at police stations, and in Magistrates' and Crown Courts.

1.2 What is the issue?

During the course of a criminal case, you may have to arrange a language or sign language interpreter for your client. This practice note advises practitioners on the use of interpreters pre-trial in the police station and in court. Under the Equality Act 2010 you must make reasonable adjustments to prevent disabled clients from receiving a lower level of service compared to those who are not disabled.

2 The use of interpreters

Accurate interpretation plays a vital role in the criminal process, and can potentially make all the difference between a defendant being found guilty or not guilty. A good interpreter will have:

- linguistic competence
- a professional attitude
- an understanding of the legal process and his or her duties
- an understanding of the need for impartiality and confidentiality
- the ability to interpret exactly, and only, what is asked and what is answered.

2.1 Identifying interpretation needs

You should establish if a defendant or suspect has:

- difficulty understanding or expressing themselves in English, in particular formal legal language
- a hearing or speech impediment, or is deaf

If the defendant or suspect is a foreign language speaker, you should:

- ascertain the person's preferred language
- check for any regional variation or dialect in the language spoken
- if the defendant or suspect is deaf, you should ascertain their preferred means of communication, for example, whether they use sign language or lip read.

2.2 Selecting an interpreter

To find an interpreter of recognised quality, where possible you may choose from the following:

- the [National Register of Public Service Interpreters](#) (NRPSI)
- the [Signature Directory](#) (formerly the Council for the Advancement of Communications with Deaf People)

Spoken language interpreters should preferably have passed the Law Option of the Diploma in Public Service Interpreting.

Where this is not practicable the interpreter should have met the following criteria:

- They have obtained an appropriate skill or qualification, and
- be on your firm's internal list of legal service providers, as required by paragraph F5.1 of the Legal Aid Agency Specialist Quality Mark Standard.

3 Use of interpreters: pre-trial

The police have a legal duty under the [Police and Criminal Evidence \(PACE\) Act 1984 Code C paragraph 13](#) to make sure that appropriate arrangements are in place for the provision of a suitably qualified and independent interpreter at the police station for a person who is deaf or who does not understand English. You must ensure that the client's interpretation needs are met.

3.1 Using the interpreter arranged by the police

You must decide whether the interpreter arranged by the police for the PACE interview can also act as the interpreter in the taking of instructions and giving advice to your client. In most instances that interpreter will be appropriate to act for your client.

3.1.1 Deciding which interpreter to use

You should use a different interpreter where:

- the interpreter arranged by the police cannot meet all of the client's needs, listed in Section 2.1 of this practice note
- there are multiple suspects
- the client knows the interpreter arranged by the police personally

Other factors you should consider include whether:

- the charges are of a particularly sensitive and/or serious nature
- there is a significant risk that the client's comprehension of police questioning, and/or the accuracy of the interpretation of police questioning will be disputed, and the interpreter is a potential prosecution witness in the matter
- community relations are such that the client has little confidence in the interpreter/police relationship, and this may affect the quality of your consultation and the development of the fiduciary relationship between you and your client

3.1.2 Where you decide to use the interpreter arranged by the police

If you believe that the interpreter arranged by the police is appropriate, you should:

- explain the position to the client and obtain their consent that the interpreter arranged by the police be used for the consultation
- advise the client of the interpreter's independence from the police, and that interpreters arranged by the police are usually selected from the NRPSI or Signature directories, and are therefore bound by their professional codes of conduct
- confirm with the interpreter that they are bound by their Code of Conduct to maintain the confidentiality of your communication with your client and make a note to this effect on your file.

3.1.3 Where you decide to use another interpreter

If you believe that using an alternative interpreter is more appropriate, you must arrange and pay for the interpreter's services, either under LSC contracting arrangements or having obtained prior authority from the LSC.

4 Preparing the case

4.1 Legally aided clients

You must obtain an interpreter for your attendance on clients and defence witnesses and arrange the payment of the interpreter's fee. You should obtain prior authority from the LSC. The key documents relating to the case should be translated by the interpreter for the client.

4.2 Private clients

You should arrange an interpreter for your attendance on clients and defence witnesses, any charge for which may be treated as a disbursement when you prepare your bill.

You should refer to the practice note [VAT on disbursements](#) to determine the proper VAT treatment of any interpreter fees when you raise your bill.

4.3 Sign interpreters for disabled clients and the Equality Act

If you are acting for a client who requires a sign language interpreter due to their disability, and who is not legally aided, the duty in s20 of the Equality Act 2010, as reflected in SRA Code outcome 2.3 (O(2.3)), means that you should not pass on the cost of engaging the sign interpreter to your client.

The purpose of O(2.3) is to ensure that disabled clients receive service from you which is no less favourable than a non-disabled client.

It is advisable to check whether the client has support in place that may provide for a sign interpreter, for example, Access to work provision (if they are employed) as the costs of interpreters may be covered by assistance the client already receives from Access to Work .

The following organisations may be able to signpost you to sign interpreters:

- [Action on Hearing Loss](#) (previously the RNID)
- [Access to work](#)

5 Arranging interpreters in court

5.1 Interpreters for defence witnesses

You must arrange interpreters for defence witnesses. The interpreter should be taken from the appropriate register, and qualified to interpret and translate to your satisfaction. To avoid duplication, you should inform the court and the prosecution of the name of the interpreter employed to interpret for a defence witness.

5.2 Interpreters for prosecution witnesses

The Crown Prosecution Service, or other prosecuting body, is responsible for arranging and paying interpreters for all prosecution witnesses.

5.3 Interpreters for defendants

The responsibilities for arranging and remunerating interpreters for defendants in court proceedings are as follows:

- The police, or other prosecuting agency, for a defendant who is charged with an offence and who first appears in court within two working days of charge.
- The court - Magistrates' Court, Crown Court or Court of Appeal - for the defendant in all other circumstances.
- In cases involving youths, the Youth Court, or other court, for the defendant's parents or their appropriate adult(s).

You must employ and pay for an interpreter if you believe that a separate interpreter is required for consultations with your client during the proceedings. You should obtain prior authority from the LSC.

5.3.1 Helping the court to organise an interpreter for the defendant

The police will usually inform the Magistrates' Court before the first hearing that an interpreter is required for a defendant. You should inform the Magistrates' Court or Crown Court as early as possible if the need for an interpreter only becomes apparent either:

- after the defendant has been released from the police station, or
- after the case has been committed, transferred or sent for trial

You may help the court appoint a suitable interpreter in the following ways:

- by collecting relevant information about the defendant and their interpretation needs and passing this to the court
- by informing the court if you believe the interpreter you've used for the attendance on your client could be employed to interpret for the defendant in court - providing the same interpreter was not used at the police station

If possible, the interpreter in court should be different to the police station interpreter in case a dispute arises over the interpretation of the record of police interview. Ultimately, it is the court's decision which interpreter is used in court. The court will inform you of the name of the interpreter appointed.

5.4 Materials to be supplied to the interpreter

You may help the interpreter by providing:

- a copy of the defendant's and defence witnesses' statements
- copies of any prosecution witness statements which are likely to be put to the witness in cross examination

5.5 More than one interpreter at court

Normally the court will arrange an interpreter for each co-defendant. Arrangements should be agreed with the court, and if necessary, prior authority obtained from the LSC.

6 Keeping a record

You should keep a record on your case file of:

- the details of the client or witness for whom an interpreter is required
- any person who is instructed to interpret on the client or witness's behalf
- any briefing given to an interpreter about any special terminology or procedure involved in the conduct of the case
- any previous hearings when an interpreter has been involved

7 More information

7.1 Legal and other requirements

- [Equality Act 2010](#)
- [Police and Criminal Evidence Act 1984 Codes of Practice C, D and H](#)

7.2 Further products and support

7.2.1 Practice Advice Line

The Law Society provides support for solicitors on a wide range of areas of practice. Practice Advice can be contacted on 0870 606 2522 from 09:00 to 17:00 on weekdays.

7.2.2 Other

The Solicitors Regulation Authority's [Professional Ethics Helpline](#) for advice on conduct issues.

7.2.3 Other information and services

[Royal National Institute for Deaf People: fact sheet](#)

7.3 Amendments

This practice note has been amended to refer to sections of the SRA Code.

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