

Use Of Interpreters, Translators and Language Service Providers Within The Criminal Justice System

SECTION 1 – PREFACE

This guidance is issued by the Office for Criminal Justice Reform. It has been produced in consultation with the Interpreters Working Group, which includes representatives from the Association of Chief Police Officers, Crown Prosecution Service, HM Courts Service, the Probation Service, Home Office, Magistrates' Association, the Bar Council and the Law Society, as well as representatives of interpreter bodies. This agreement replaces the National Agreement issued by the Trials Issues Group in 2002, and Home Office Notice 17 of 2006.

The agreement provides guidance on arranging suitably qualified interpreters and Language Service Professionals (LSPs) when the requirements of Articles 5 and 6 of the European Convention on Human Rights (ECHR) apply – see Section 3 below.

It emphasises that **face-to-face interpreters used in this context should be registered with NRPSI, and LSPs used should be registered with CACDP** (see paragraph 3.2 below).

It covers a number of related issues including security vetting, terms and conditions, outsourcing of interpreter supply, the use of remote interpreting, and engaging translators.

This Agreement does not apply to arrangements, which have been made to provide Welsh language interpreters to the courts in Wales.

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1. Introduction

- 1.1. This agreement is issued by the Office for Criminal Justice Reform. It has been produced in consultation with the Interpreters Working Group, which includes representatives from the Association of Chief Police Officers, Crown Prosecution Service, HM Courts Service, the Probation Service, Home Office, Magistrates' Association, the Bar Council and the Law Society, as well as representatives of interpreter bodies. This agreement replaces the National Agreement issued by the Trials Issues Group in 2002, and Home Office Notice 17 of 2006.
- 1.2. The agreement provides guidance on arranging suitably qualified interpreters and Language Service Professionals (LSPs) when the requirements of Articles 5 and 6 of the European Convention on human Rights (ECHR) apply – see Section 3 below.
- 1.3. It emphasises that **face-to-face interpreters used in this context should be registered with NRPSI, and LSPs used should be registered with CACDP** (see paragraph 3.2 below).
- 1.4. It covers a number of related issues including security vetting, terms and conditions, outsourcing of interpreter supply, the use of remote interpreting, and engaging translators.
- 1.5. This Agreement does not apply to arrangements, which have been made to provide Welsh language interpreters to the courts in Wales.

2. Good Practice Guidance

- 2.1. In addition to the guidance contained in this document, more detailed good practice guidance for **Police** and **Court** staff on the use of interpreters can be found on the appropriate intranet sites. For police this will be the ACPO Intranet.
- 2.2. A good practice guide on the use of Interpreters in **Probation** will be issued on the Probation Service intranet EPIC in the course of 2007.

3. Obtaining Suitable Qualified Interpreters

- 3.1. The rights to liberty and security, and to a fair trial, are fundamental human rights protected by the European Convention on Human Rights. They include the right to interpretation where needed.
 - **Article 5 of the ECHR says that everyone who is arrested “shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.”**
 - **Article 6 ECHR states that everyone charged with a criminal offence has the right:**
 - To be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him; and
 - To have the free assistance of an interpreter if he cannot understand or speak the language used in the court.
- 3.2. Only a small number of cases concerned with interpreting and/or translation have been considered by the European Court of Human Rights, but the following key points emerge from the relevant case-law:
 - Anyone who cannot understand or speak the language used in court has the right to receive the free assistance of an interpreter.
 - The right to the free assistance of an interpreter applies not only to oral statements made at the trial hearing but also to documentary material and

the pre-trial proceedings. While a written translation of all items of written evidence or official documents in the procedure is not required, translation or interpretation should be provided of all those documents or statements in the proceedings instituted against the defendant which it is necessary for him to understand or to have rendered into the court's language in order to have the benefit of a fair trial.

- The interpretation provided should enable the defendant to understand the case against him and to defend himself, notably by being able to put before the courts his or her version of the events.
- The competent authorities' obligations are not limited to the appointment of an interpreter but may extend to a degree of subsequent control over the adequacy of the interpretation provided. The judge in particular is required to treat the defendant's interests with "scrupulous care".
- It is the responsibility of the judge to ascertain that the defendant speaks the language of the court adequately.

3.3. Using interpreters drawn from the recommended registers

- It is essential that interpreters used in criminal proceedings should be competent to meet the ECHR obligations. To that end, **the standard requirement is that every interpreter/LSP working in courts and police stations should be registered** with one of the recommended registers, ie the National Register of Public Service Interpreters (**NRPSI**) at full or interim status (with Law Option) *for non-English spoken languages*, and, as full members, with **CACDP** *for communicating with D/deaf people*.
- Registration with one of the registers provides a number of important safeguards as to interpreters' competence, reliability and security vetting. Further information on NRPSI and CACDP including their contact details is provided in **Annex A** to this agreement.

3.4. What to do when an interpreter from the recommended Registers/sources is not available or cannot be found to meet a fixed deadline.

- Firstly, a determined effort should be made to obtain a registered interpreter. There are, however, shortages of fully qualified, registered interpreters and LSPs in some languages and some parts of the country, and measures to address those shortages will take time to have an effect.
- If no interpreter/LSP can be found from the appropriate recommended register, and delay or rescheduling is not possible, possible alternatives are as follows:

a) For communicating with non-English speakers:

- See **Annex B. The agreement of a senior officer (Inspector or above within the Police Service)** should be obtained for using an interpreter drawn from **any of the "Other Possible Sources" listed at the end of the Annex.**

b) For communicating with D/deaf people:

- See **Annex C.**

3.5. Identifying the right mode of access and communication for a D/deaf person

- **Annex D below gives guidance on identifying D/deaf people and determining which methods of communication may be appropriate.**

4. Practical arrangements for appointing and using interpreters

4.1. Responsibility for appointing and paying interpreters in criminal proceedings varies depending on whether the interpreter is required for the suspect/defendant or to assist witnesses or others.

4.2. The chart attached at **Annex E** summarises responsibilities for appointing and paying interpreters at the various stages of criminal proceedings.

4.3. Interpreters for investigations: Police responsibilities

4.3.1. The appointment and payment of interpreters for suspects and witnesses during investigations is the responsibility of the police or other investigating agency.

4.4. Interpreters for defendants: Police responsibilities

4.4.1. Where the police or other investigating agency charge a person with an offence and detain or bail that person for a court hearing within two working days of charge (eg the following day or over a weekend or a Bank Holiday), because of shortage 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 and agree to that course of action.**

4.5. Interpreters for defendants: Court responsibilities

4.5.1. Where the police charge or summons a person for a court appearance in the Magistrates Court and the court appearance is more than two working days (not including Saturdays) after the charge or summons, 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 three 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, which includes:

- The language and any specific dialect required;
- 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 any particular difficulties are likely to be encountered by using an interpreter from a particular ethnic group, or political orientation or affiliation.

4.5.2. Where a case is committed, sent for trial or transferred to the Crown Court for any type of hearing, including Plea and Case Management Hearings, the Crown Court will arrange any interpreter necessary to interpret for the defendant during court proceedings.

4.6. Interpreters for Prosecution witnesses: responsibilities of CJS agencies

4.6.1. The appointment and payment of interpreters for prosecution witnesses is the responsibility of the CPS or other prosecuting agency. But in practice the police will often book interpreters on behalf of the CPS.

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- The language and any specific dialect required;
- 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 any particular difficulties are likely to be encountered by using an interpreter from a particular ethnic group, or political orientation or affiliation.

4.7. Interpreters for Defence witnesses: Defence and court responsibilities

4.7.1. The Defence is responsible for making arrangements to meet the interpreting and translation needs of all defence witnesses, both during preparation of the case and whilst giving evidence in court.

4.7.2. The Defence is also responsible for the terms of engagement and payment of those interpreters' fees incurred during pre-trial case preparation, either under existing contracting arrangements, or with prior authority from the Legal Services Commission.

4.7.3. The court, however, is responsible for the payment of interpreting for defence witnesses at court.

4.8. Interpreters for Probation purposes

4.8.1. The arrangements in this agreement concerning the appointment of qualified interpreters should always be observed in Probation work involving court or evidential proceedings, to ensure a fair trial.

4.9. Deciding whether more than one interpreter is needed for defendants/appellants and allowing for interpreter fatigue

4.9.1. The court official who books the Interpreter should indicate at the time of booking the expected length of the trial/hearing.

4.9.2. A second interpreter may be needed for trials lasting several days or weeks, because of interpreter fatigue. A second interpreter may also be needed in cases, which are complex or particularly sensitive (eg terrorism cases), even where there is only one defendant.

4.9.3. Sign Language interpreting and other forms of communication support for D/deaf people are recognised as being particularly intensive, and it is therefore more likely that LSPs will need to work in teams.

4.9.4. Due to the concentration required when interpreting, due accommodation should be made for the interpreter to take regular breaks. This will help ensure the accuracy of the interpreting. The way in which such breaks will be accommodated should be agreed, preferably in advance, between the interpreter and the relevant official(s) before commencement of the interview or proceedings.

4.9.5. Despite the above, where there is more than one defendant sharing a language a single court interpreter may interpret for all of them during court proceedings if this is feasible, preferably with the aid of technology such as headphones or professional interpreting booths.

4.9.6. In cases where the Defence has requested and arranged an interpreter different from the court-appointed interpreter for the purposes of taking instruction, the

court should allow the additional interpreter, making clear that the additional costs must be claimed as a disbursement to the bill of costs. Where prior authority has not already been obtained, the costs of this interpreter may be justified by the defence as a disbursement to the bill of costs and not be paid for by the court.

4.9.7. In cases where the language spoken is so rare that a registered interpreter is not available, it may be necessary to engage two interpreters: the first to interpret from the rare language to another language (not English) and the second to interpret from this other language to English. Similar arrangements may be needed to meet the needs of a Deaf user of a sign language of another country (commonly known as “relay” interpreting).

5. Fee, Terms and Condition

5.1. A set of standardised terms and conditions for the provision of face-to-face spoken language services can be found at <http://commercial.homeoffice.gov.uk> , and will be reviewed annually. The National Criminal Justice Board has determined that all CJS agencies should seek to conform to these terms and conditions, where the work is intended for use in criminal proceedings. Her Majesty's Courts Service has adopted these terms and conditions with effect from February 2007.

5.2. Police forces and other interpreter-commissioning organisations that are currently paying higher rates may wish to (i) adjust tables 3 and 4 under paragraph 4.2 of these terms and conditions for use accordingly; and (ii) maintain their rates at their existing levels until alignment eventually occurs between the differing rates, for example as a result of annual rates review or other procedures.

5.3. These terms and conditions have been determined through a consultative process involving representatives of public sector bodies that make extensive use of interpreters, as well as members of the profession. Their use across all criminal justice agencies will help to bring consistency to the system and encourage those with the required interpreting skills and qualifications to work in the Criminal Justice System.

6. Vetting/Security Checking

6.1. CRB checks

6.1.1. Interpreters are not entitled, simply by virtue of their occupation, to criminal record checks under the Rehabilitation of Offenders Act 1974 Exceptions Order. However those employed "to assist the constables of a police force", or in areas of work with children or vulnerable adults, are covered by the Exceptions Order.

6.1.2. Interpreters who are on either of the recommended registers will therefore normally have a standard or enhanced CRB disclosure certificate. **CJS Agencies are strongly recommended to ask any interpreters they engage whether they have a CRB disclosure certificate, and – if they do - to ask to see it.** Security issues should also be an essential consideration in relation to any interpreters used by CJS agencies and who are not registered with either of the recommended registers.

6.2. Police security vetting

6.2.1. ACPO National Vetting Policy states that interpreters used in police stations should be subject to a degree of vetting that includes, but goes wider than, criminality. This therefore offers a much higher standard of vetting than a CRB check alone. ACPO Vetting Policy also states that the first force to vet an

interpreter should retain ownership and responsibility for the process, including renewals of clearance.

6.2.2. Police forces should therefore take responsibility for undertaking **and recording** the necessary checks on any interpreters they use. To avoid unnecessary duplication of vetting checks both within a force and between forces and other agencies, it is recommended that they issue interpreters with ID cards. Ideally these should be photo-passes and should state that the interpreter had been vetted to the ACPO Vetting Standard (Counter-Terrorist Check – CTC). Where an interpreter can demonstrate that they have been cleared to this standard, and the clearance is annually updated, there should be no need for them also to obtain regular CRB clearance.

6.2.3. For cases where very high standards of security clearance are required, CJS agencies are recommended to undertake their own additional checks.

7. Checking an Interpreters Identity

- 7.1. An interpreter's identity should be checked on their arrival for an assignment, eg by the Custody Sergeant in a police station or the Court Clerk at a court. They should be warned of this in advance.
- 7.2. Those without a photo-identity card should be asked to bring a reliable proof of identity, such as a passport. This is to ensure that the person arriving for the assignment is the person who has been contracted for that assignment and therefore has the skills and experience to carry out the task. It will also ensure that relevant checks have been conducted on that person. NRPSI and CACDP registered interpreters will be in possession of photo-identity cards issued by their Registers.

8. Ensuring Interpreter Safety

- 8.1. Those responsible for requesting the attendance of interpreters should take responsibility for ensuring their safety.
- 8.2. Police officers should ensure that the interpreter can verify any request to attend a place that is not a public building – for example by providing them with a number at the police station to call back and confirm their assignment. Officers making the request should also carry out a risk assessment in relation to the interpreter's attendance. They should consider whether, for example, the interpreter should be met at a suitable place such as a police station or train station before proceeding to the property where the assignment is to take place in the company of police. They will also want to ensure the interpreter is properly briefed on the situation and that their safety is considered whilst they carry out the assignment.
- 8.3. An interpreter should never be left in a room/cell with the person he/she is interpreting for without a member of staff in attendance. Similarly, interpreters should not leave police stations at the same time or through the same entrances and exits as interviewees with whom they have worked.

9. Remote Interpreting (Use of Technology)

- 9.1. Telephone interpreting is already widely used at police stations. However it is suitable only for brief and straightforward communications, eg arranging appointments or handling front-desk enquiries at police stations. **It is not appropriate for use in evidential procedures.** This is not only because of the intrinsic limitations of this form of interpreting. Where no tape-recording facilities are available (see PACE Code C, Note 12A) a foreign language interpreter is required

under PACE Code C, section 13, to make a note of the interview in the native language of the interviewee and allow that person to sign it if correct. This cannot be done over the telephone.

- 9.2. However circumstances may arise, eg for procedures under the 1988 Road Traffic Act, where it is not possible to secure the attendance of a face-to-face interpreter within a reasonable amount of time, and the matter is time-critical (ie there is the risk that evidence will degrade). **If telephone interpreting is used in those circumstances, the interpreter should be UK-based and drawn from the NRPSI. Audio-recordings of both ends of the conversation must be made** via, for example, a speakerphone.
- 9.3. If there is genuinely no alternative to using a non-UK based telephone interpreter, care should be taken to ensure that they are suitably qualified and subject to codes of conduct and good practice.
- 9.4. Video-link interpreting is increasingly being considered as a means of overcoming shortages of interpreters and LSPs, but its reliability in ensuring an adequate level of accuracy and reliability for evidential purposes has not yet been adequately assessed. Where a LSP is required, some organisations which are members of the Agency Steering Group (see paragraph 3.3.2(b) above) are able to supply video linked interpretation facilities. This can be useful for simple procedures but is not recommended for evidential proceedings.
- 9.5. This is an area in which there are likely to be developments in the coming years, but CJS agencies contemplating investing in this area should consider a range of factors including the following:
 - Need for high quality equipment
 - Need for trained staff to use the new technology
 - Cost implications both of the initial outlay and ongoing maintenance of the equipment
 - Need to ensure interpreters who are trained and comfortable with video link interpreting
 - Need to ensure a suitable environment (eg a special room) for use of such equipment
 - Other practicalities such as meeting legal requirements on signing witness statements, security, security of data, confidentiality, etc.

10. Outsourcing Interpreting Service

- 10.1. Police forces and other CJS agencies that are contemplating outsourcing the provision of interpreters must ensure that this does not compromise compliance with the standards set out in this Agreement. In particular, where the fees payable to interpreters – as distinct from those paid to the intermediary agency – are lower than those contained in the recommended Terms and Conditions for Interpreters in the CJS (see Section 5.1 of the National Agreement), they are likely to be unattractive to fully qualified interpreters who are on the NRPSI and CACDP Registers, with the result that the contractor resorts to unqualified interpreters who may not be competent. This is not acceptable.
- 10.2. The Good Practice Guide to Outsourcing of Interpreting Services, at **Annex F** below, contains recommended guidance on this subject.

11. Legal Translation

- 11.1. While some of the guidance contained in this document (eg on vetting and standards) will apply to translators as well as interpreters, there are other issues which are specific to translators. Annex G gives guidance on these.

12. Data Collection and Monitoring

12.1. Interpreter shortages are a matter of concern. Consistent data collection and monitoring would enable reliable assessments to be made, regionally and nationally, of:

- Demand by language and location
- Supply of fully qualified interpreters and translators by language and location
- Shortfalls between supply and demand.

This in turn would facilitate planning to meet current and future needs, including provision of interpreter training courses.

12.2. This issue will be included in a project to be led by the Office for Criminal Justice Reform to address shortages of suitably qualified interpreters.

13. Complaints and Concerns about Interpreters

13.1. **The NRPSI and CACDP Registers have Codes of Conduct** which set out the standards expected in terms of competence, qualifications, and professional conduct.

13.2. It is important to be satisfied that the interpreter engaged meets those standards to ensure their professional accountability, and that any gender, religious, political and cultural issues are addressed.

13.3. Where it is believed that a registered interpreter or LSP has breached those standards, or that other professional obligations have not been met, the agency which has engaged the interpreter or LSP should raise a complaint to the NRPSI or (via CACDP) to the Registration Panel of which the LSP is a member. The complaint should set out in as much detail as possible the basis on which the interpreter/LSP was engaged and the behaviour which has given rise to the complaint.

13.4. It is for the appropriate disciplinary body of the NRPSI or Registration Panel concerned to consider the standard and behaviour of interpreters/LSPs against whom a complaint has been made, and take appropriate action.

13.5. Where an interpreter/LSP belongs to another professional body it may be appropriate to make a complaint to that body.

13.6. An individual or agency within the CJS may become aware of situations where an interpreter is known or perceived as being involved with or expressing sympathies towards proscribed organisations, criminal individuals or organised crime groups, terrorist activity in the UK or abroad, or anything liable to affect UK national security or interests. In these instances, CJS agencies should consider the Data Protection Act 1998, and Data Protection (Processing of Sensitive Personal Data) Order 2000, which set out circumstances in which sensitive personal data may be disclosed. In some circumstances exemptions exist, when required for national security (section 28) and to prevent prejudice to the prevention or detection of crime or the apprehension or prosecution of offenders (section 29).

13.7. Cases need to be considered on their merits and take into account the nature of the information and the damage which would arise from the interpreter acting within the CJS. If in doubt, CJS agencies should refer to their legal advisers for guidance.

14. Arrangements for Updating the Agreement

14.1. Amendments to this Agreement will be issued from time to time and notified to relevant CJS agencies and professional bodies.

SECTION 3 ANNEXES

Annex A – Guide to Recommended Registers

NRPSI

Contact details: National Register of Public Service Interpreters Ltd, Saxon House, 48 Southwark St, London SE1 1UN, Tel: 020 7940 3166, www.nrpsi.co.uk

1. The NRPSI is a not-for-profit subsidiary of the Chartered Institute of Linguists. It registers applicants according to the following criteria:
 - 1.1. **Full registration status**– requires as a minimum a public service interpreting qualification at Level 6 (broadly equivalent to first degree) attainment in the language to be registered and English, and 400 hours public service interpreting experience;
 - 1.2. **Interim registration status** – requires either
 - a) A public service interpreting qualification at minimum Level 6 attainment in the language to be registered and English, with less than 400 hours public service interpreting experience, or
 - b) 400+ hours public service interpreting experience plus a degree-level qualification with an interpreting and translating component;

Interim registrants are expected to progress to full registration status within a prescribed timescale of five years for option A, and three years for Option B.
 - 1.3. **Limited assessment status** – assessed to have level of attainment in language suitable for a restricted area of public service practice, plus 400 hours interpreting experience. Currently accepted qualifications for this are assessments carried out for the IND, the AIT and the DPSI (Diploma in Public Service Interpreting) oral test – Law Option. But this category will be closed from December 2008. Interpreters at this level have not been tested in their ability to read or write anything, so should not be asked to translate documents on sight or take witness statements.
2. **Rare Languages:** for some languages (eg Twi, Bubi, Ewe) exams are currently not available because the languages are so little spoken in the UK. **Interpreters in such languages may register with NRPSI on submitting evidence that they have passed the Cambridge Proficiency test in English or an equivalent qualification, along with 100 hours of proven experience** in public service interpreting. Their status is subject to annual review when they will need to show evidence of CPD such as attendance at interpreter training courses. As soon as an exam becomes available in a rare language of this kind, interpreters are expected to take it and upgrade to interim or full registration status.
3. All NRPSI registrants are required to submit references of their experience and ability in public service interpreting, plus evidence of security clearance and of their right to remain in the UK, and to re-register annually. They must agree to abide by a code of ethics that includes confidentiality and impartiality, and be subject to disciplinary procedures if there is any allegation that they have breached the code.

CACDP

Contact details: CACDP, Block 4, Durham University Science Park, Stockton Road, Durham DH1 3UZ. Tel: 0191 383 1155. www.cacdp.org.uk

4. CACDP is a registered charity. It holds registers for:
 - BSL/English Interpreters,
 - Lipspeakers,
 - Speech to Text Reporters, and

- Deafblind Manual Interpreters.
5. **Only those who are fully qualified to Level 4 in the National Vocational Qualification Framework (this is changing to Level 6 in the new NVQ framework in 2007) in BSL/English, and Level 3 in Lipspeaking and Speech to Text Reporting, and who are registered in their profession, can be full members of these Registers, and therefore qualified for interpreting in the Criminal Justice System.**
 6. There are also registration categories of Trainee BSL/English Interpreter, Junior Trainee BSL/English Interpreter and Level 2 Lipspeaker. **None of these is fully qualified for use in the CJS.**
 7. The CACDP Online Directory contains information about the registration status, category and history of each person on the CACDP registers:
<http://www.cacdp.org.uk/Directory/Scripts/Index.asp> . This enables users to check whether an LSP is in fact registered with CACDP and has therefore met the required standard and is bound by the Code of Ethics/Practice and Complaints and Disciplinary Procedure. The Directory also shows whether the LSP has Professional Indemnity Insurance and Criminal Records Bureau Enhanced Disclosure.

Annex B – Guide to sources of Interpreters and Translators and to relevant qualifications for CJS purpose.

Any interpreter used within the CJS should be able to prove a measurable level of competence and quality assurance. NRPSI registration provides this, which is why NRPSI registered interpreters are recommended. However NRPSI-registered interpreters have differing levels of attainment and differing fields of specialisation. In addition, it is recognised that the supply of qualified interpreters nationwide is currently not meeting demand especially outside metropolitan areas and in some rare languages.

The following list has therefore been compiled to set out, broadly in order of priority, the principal types of qualifications and sources of supply so as to enable informed choices to be made until the supply situation improves. **It includes information on sources which should normally be called on only when a NRPSI-registered interpreter is not available or cannot attend by a fixed deadline.** Such alternative sources *may* provide interpreters and translators with appropriate language skills, but the extent to which they can demonstrate security clearance and the other types of quality assurance which can be assumed for NRPSI registrants would need to be probed, unless noted below.

<u>Category of interpreter/ source of supply</u>	<u>Qualification</u>	<u>Minimum hours proven PSI experience</u>	<u>Vetting/ Security clearance</u>	<u>Disciplinary Code</u>	<u>Code of Conduct</u>	<u>Comment</u>
A. Recommended Interpreter Qualifications/sources of supply						
NRPSI Full Status registrant listed in Law Section	Diploma in Public Service Interpreting (DPSI), or equivalent such as Metropolitan Police Test, with Law qualification	400	Minimum CRB standard check	√	√	
NRPSI Interim Status registrant (A or B) listed in Law Section	See Comment	0 -399	"	√	√	Registrants in Interim Category A will have DPSI level language qualifications but less than 400 hours PSI experience. Those in Interim Category B will have a language qualification below DPSI standard but with 400+ hours public sector interpreting experience.

<u>Category of interpreter/ source of supply</u>	<u>Qualification</u>	<u>Minimum hours proven PSI experience</u>	<u>Vetting/ Security clearance</u>	<u>Disciplinary Code</u>	<u>Code of Conduct</u>	<u>Comment</u>
Assocn of Police and Court Interpreters www.apciinterpreters.org.uk	DPSI, Met Police Test, or equivalent	400	Likely to have CRB or police vetting clearance but need to check	√	√	All APCI members work in the CJS. Most are NRPSI-registered so there is considerable overlap with NRPSI.
NRPSI Rare Language registrant	Cambridge Proficiency Test in English or equivalent.	100	Minimum CRB standard check	√	√	No test such as DPSI yet available for languages in this category.
Institute of Translation and Interpreting member www.iti.org.uk	Degree or postgraduate qualification or equivalent as recognised by ITI.		Need to check	√	√	Only some Members and Fellows (<i>not Associates</i>) are suited to CJS interpreting and translating. Some are NRPSI-registered. Online searchable directory of members available. ITI is the single largest recommended source of <u>translators</u> for CJS purposes.
B. Other Sources						
NRPSI Full Status registrant listed in either: a) Local Govt, or b) Health Sections of Register	Diploma in Public Service Interpreting (DPSI), or equivalent such as Metropolitan Police Test	400	Minimum CRB standard check	√	√	Mention legal nature of assignment in advance to encourage interpreter to prepare/bring dictionary etc

<u>Category of interpreter/ source of supply</u>	<u>Qualification</u>	<u>Minimum hours proven PSI experience</u>	<u>Vetting/ Security clearance</u>	<u>Disciplinary Code</u>	<u>Code of Conduct</u>	<u>Comment</u>
NRPSI Interim Status registrant (A or B) listed in a) Local Government, or b) Health Sections	See Comment	0 - 399	"	√	√	Registrants in Interim Category A will have DPSI level language qualifications but less than 400 hours PSI experience. Those in Interim Category B will have a language qualification below DPSI standard but with 400+ hours public sector interpreting experience.
DPSI-qualified but not NRPSI-registered nor member of APCI or ITI	DPSI	Need to check	Need to check	X	X	Need to check if they have CJS experience and are professionally active.
NRPSI Limited Assessment category	DPSI ORAL/ AIT/ IND attainment only or equivalent	400	Minimum CRB vetting check.	√	√	Suitable only for restricted areas of public service interpreting.
"Find a Linguist" www.iol.org.uk/linguist	Need to check	Need to check	Need to Check	X?	√	Free on-line database of Chartered Institute of Linguists. NB: no qualifications are shown for members and they will not necessarily have the skills to interpret for the CJS.

<u>Category of interpreter/ source of supply</u>	<u>Qualification</u>	<u>Minimum hours proven PSI experience</u>	<u>Vetting/ Security clearance</u>	<u>Disciplinary Code</u>	<u>Code of Conduct</u>	<u>Comment</u>
AIT Assessment (formerly IAA assessment)	AIT Test, equivalent to NRPSI Limited Assessment category	Need to check	Need to check	√	√	Those on this list work for the Asylum and Immigration Tribunal. Suitable only for restricted areas of CJS interpreting. <u>Contact tel:</u> 0845 6000877 (AIT Customer Service Centre) and ask for Interpreter Booking Team. Open 8.00 am – 10.00 pm.
IND Assessment	IND Test, which covers only oral – consecutive interpretation	Need to check	Cleared to CTC level (ie higher level than CRB standard)		√	Those on this list work for Immigration and Nationality Directorate of the Home Office. Suitable only for restricted areas of CJS interpreting. <u>Contact tel:</u> 0208 760 3569. Open 9.00 am – 5.00 pm.
DPSI Oral only	DPSI Oral only		Minimum CRB standard check.	X	X	Suitable only for restricted areas of CJS interpreting.

Other possible sources of interpreters

Every reasonable effort should be made to find a qualified interpreter or translator from the above sources, and an audit trail should be kept of those approached. However if they cannot deliver, and it is not possible to delay until a qualified interpreter is available, it may be necessary to consider the following:

- Known local interpreters who appear to have delivered satisfactory interpretation in the past
- Staff at university language departments
- Video interpreting services
- Telephone interpreting services see further guidance in section 9 of this Agreement
- Own staff who speak the language in question.

Interpreters drawn from these or similar sources should not be used in interpreting for the broad range of evidential purposes.

Annex C – Guide to sources for LSP and relevant qualifications for CJS purposes

Where it is not possible to obtain a suitable LSP from the CACDP Registers, the following may be able to assist:

- The Agency Steering Group (ASG): c/o Neal Communication Agency Ltd, Tel: 08760 163 0556, Email: agencysteeringgroup@hotmail.com. The ASG can provide a list of interpreting agencies which will only use Members of the Registers of LSPs. All agencies on the list will be able to supply a Standards of Service document that outlines the level of service delivery that a purchaser should expect, including what to do in the event of a complaint. The level of vetting/CRB checking would need to be checked individually.
- The Association of Sign Language Interpreters (ASLI) - the professional association of BSL/English Interpreters. Its membership database can be searched on-line by region at www.visitors.asli.org.uk. **Only licensed (as opposed to j°associatej±) members are qualified to interpret for CJS purposes.** ASLI members are signed up to a code of conduct, possess professional indemnity insurance, and are subject to a disciplinary code. Their level of vetting/CRB check would need to be checked individually.
- The Association of Lipspeakers - their professional association. Its on-line directory of members can be searched by name or region at www.lipspeaking.co.uk. Members are signed up to a Code of Practice. **Only Level 3 Lipspeakers are qualified to work in the CJS.** Their level of vetting/CRB check would need to be checked individually.
- The Association of Verbatim Speech to Text Reporters - their professional association. It is contactable c/o UK Council on Deafness, Westwood Park, London Road, CO6 4BS. Tel: 01206 274075, Fax 012056 274077.

The following table sets out the minimum level of qualification required for each type of LSP for working in the CJS.

<u>Category of interpreter/ source of supply</u>	<u>Qualification</u>	<u>Minimum hours proven PSI experience</u>	<u>Security clearance</u>	<u>Disciplinary Code</u>	<u>Code of Conduct</u>
Member of the Register of BSL/English Interpreters	CACDP Level 4 (6) NVQ in Interpreting (BSL/English) plus Level 4 NVQ in BSL or a university BSL module mapped at this level for registration purposes, <u>or</u> UCLan Postgraduate Diploma in BSL/English Interpreting, <u>or</u> Leeds University MA/Postgraduate Diploma in Interpreting Studies: BSL-English	None stipulated	CRB Enhanced Disclosure (or equivalent) "C compulsory	iī	iī

Member of the Register of Level 3 Lipspeakers	CACDP Level 3 Certificate in Lipspeaking (To 31 Dec 2006) <u>or</u> CACDP Level 3 Certificate for Lipspeakers (From Spring 2007).	None stipulated	CRB Enhanced Disclosure - Recommended	iİ	iİ
Member of the Register of Speech to Text Reporters	Two endorsements by a deaf user of STTRs and CACDP Level 1 Certificate in Deaf Awareness (To 31 Dec 2006), <u>or</u> CACDP Level 3 Certificate for Speech to Text Reporters (From Spring 2007).	None stipulated	CRB Enhanced Disclosure - Recommended	iİ	iİ
Member of the Register of Deafblind Interpreters (Manual)	CACDP Level 4 Certificate in Deafblind Interpreting (Manual) (To 31 Dec 2006), <u>or</u> CACDP Level 3 Certificate for LSPs with Deafblind People (Manual) (LDB3) (From Spring 2007).	N/A	CRB Enhanced Disclosure - Recommended	iİ	iİ

Annex D – Identifying the right mode of access and communication for a deaf person, and notes on using an LSP

For the purposes of interviewing a D/deaf or deafblind suspect or witness, a police officer may need to check whether a British Sign language/English Interpreter, an interpreter for a 'foreign' sign language, or another type of Language Service Professional (LSP) is needed by the deaf person and/or the police. The following are broad guidelines to the forms of communication most likely to be appropriate according to the degree of deafness in question.

a) Linguistically and culturally Deaf

For most Deaf people, British Sign Language (BSL) or the sign language of another country will be their preferred language, and in some cases their only language. They will usually know when they need an interpreter.

b) Deafened and hard of hearing

People who become deaf after they acquire spoken language (deafened and hard of hearing) will usually communicate using speech and rely on lipreading and reading from notes. People in this deaf group are likely to use Lipspeakers and Speech to Text Reporters as their choice of LSP, although some also use sign language and prefer to use an interpreter.

- **A Lipspeaker** works with deaf people who prefer to communicate through lipreading and speech. The lipspeaker listens to what is being said and silently repeats it to the lipreader, using exceptionally clear speech movements, reproducing the rhythm and phrasing of the words used by the speaker, and supporting the meaning with gesture and facial expression. If requested, the lipspeaker will fingerspell the initial letters of any difficult words. If a lipreader requires it, a lipspeaker may repeat the speaker's words aloud, using clear communication techniques. If hearing people are having difficulty understanding a deaf person directly, lipspeakers may be able to relay what the deaf person is saying.
- **A speech-to-text reporter (STTR)** will listen to what is being said and key it, word for word, onto an electronic shorthand keyboard which is linked to their laptop. The text is displayed either on the screen of a laptop for one deaf user, or projected onto a large screen or a series of screens for more users. Unlike a qwerty keyboard, the STTR will not press every letter in a word on the keyboard but will press several keys at once, which represent whole words, phrases or shortforms. The specially-designed software will then convert these phonetic chords back into English, which is then displayed for the deaf person to read. The STTR produces a word-for-word account of what is said at speeds in excess of 200 words per minute (wpm) and will also give extra information, such as {laughter} or {applause}, to keep the deaf person informed of the mood of the meeting.

c) Deafblind

Depending on the degree of sight and hearing impairment, a deafblind person may use speech, lipreading, writing, fingerspelling or sign language or a combination of these and other methods. A deafblind person may therefore use a Deafblind Manual Interpreter, a BSL/English Interpreter or any of the other LSPs mentioned above

- **A deafblind manual interpreter** communicates what is said to a deafblind person by a third person, along with other relevant information, by forming letters on the deafblind person's hand.

In most cases it will be evident that a person is D/deaf and they may make known their need for an Interpreter or other LSP. However some deaf people may not be aware of their right to an LSP, may not have used a LSP before or may not know what an LSP does. In some cases a police officer may need to find out for her/himself if a person is deaf or deafblind. Indications that a person may be deaf or deafblind include:

- The person may use sign language, gesture or written notes to communicate

- The person may ask the police officer to speak a little louder
- The person may misunderstand and may give inappropriate responses
- The person may fail to react to voices behind him/her
- The person may strain to hear, or may cup a hand behind their ear
- The person may lean forward and look intently in the speakers face
- The person may ask for repetition of what was said
- The persons speech may be unclear or unusual – they may shout or whisper; or their speech may be slower, lacking intonation, louder or more high pitched than 'normal'
- The person may wear a hearing aid
- The person may bump into people or objects without realising (deafblind)
- The person may find it difficult to 'hear' when the light is poor (deafblind).

Additional notes on using an LSP

- As LSPs communicate with D/deaf people by visual methods, it is necessary to record their information by a visual medium if it is to be used later. This can be done by DVD or video. People with a mild degree of hearing loss may require a loop system in court to use with their hearing aid. Or they may require a neck loop with the person speaking wearing a microphone linked to the neck loop. However it should be noted that these systems are only of benefit to people with a reasonable degree of residual hearing. The systems themselves must be regularly tested, preferably by an experienced hearing aid user, to ensure they are fully functional.
- Where a deaf person gives evidence in court remotely, arrangements will need to be in place for them to have access to a LSP.

Annex E – Summary of responsibilities for appointing and paying interpreters

<u>Stage of proceedings</u>	<u>Who needs interpreter?</u>	<u>Who books?</u>	<u>Who pays?</u>	<u>Comment</u>
Investigation	a) Suspect b) Witness	Police or other investigating agency	Police or investigating agency	If defence requires another interpreter for consulting with their client, they are responsible for arranging and paying this.
Magistrates Court (any type of hearing)	a) Defendant (appearing within 2 working days of charge)	Police (CJU)	Court	Police/investigating agency should within 3 working days of charge or summons, and at least 2 working days before the hearing, provide court with all relevant information including name of interpreter used in investigation.
	b) Defendant (appearing more than 2 days from charge)	Court	Court	
	c) Prosecution witness/victim (including expert witness)	CPS or Police (CJU) on behalf of CPS	CPS	See CPS Operational guidance
	d) Defence Witness/Private Prosecution Witness	Defence Solicitor	Court	See Law Society Operational Guidance

Crown Court (any type of hearing, including committal for sentence or appeal against conviction and/or sentence)	Defendant	Court	Court	Mags Court is obliged by Mags Court Rules to provide Crown Court with relevant details of any interpreter used in Mags Court proceedings. Where the need for an interpreter has not been flagged up at the Mags Court or in relevant documentation, it is the duty of the Defence to draw it to the Crown Court's attention. It is not necessary for the same interpreter to be used throughout the entire progress of a case through the court, though it may be convenient and desirable to do so. Crown Court will inform prosecution and Defence of name(s) of interpreter(s) appointed.
	Prosecution witness/victim (incl expert witness)	CPS or Police (CJU) on behalf of CPS	CPS	
	Defence witness/private Prosecution witness	Defence Solicitor	Court	
	Legitimate followers of trial, e.g. victim not giving evidence, family members, etc	Court (only in exceptional cases, and where judge agrees court should meet cost)	Court (by prior agreement of judge)	
Youth Court	Defendant	Police (CJU)	Court	
	Prosecution Witness/Victim	CPS or Police (CJU) on behalf of CPS	CPS	
	Defence witness/Private Prosecution witness	Defence Solicitor	Court	

	Legitimate followers of trial eg family members.	Court (exceptionally)	Court (by prior agreement of judge/Bench)	
Coroner's Court	Witness (including expert witness)	Court	Court	
	Legitimate followers of trial	Court	Court	
Other Pros Authorities, eg SFO	Witness (including expert witness)	Prosecuting Authority	Prosecuting Authority	
Court of Appeal (Criminal Division)		Court	Court	The Crown Court is required to inform the Court of Appeal of all relevant information concerning the interpretation needs of an appellant, and give the name(s) of interpreter(s) used earlier in the proceedings.

Annex F – Good practice guide on outsourcing

A. Introduction

As the demand for interpreting and translating services increases, generating rising costs and supply difficulties in certain areas, some CJS agencies may consider outsourcing these services. However it is important to bear in mind that the legal responsibility to provide satisfactory interpreting and translating services flows from the United Kingdom's international treaty obligations and the need to ensure proceedings that comply with those obligations.

While the decision on whether to pursue outsourcing is for the commissioning body concerned, it is of fundamental importance that the quality of the interpreting and translation services provided should not be compromised as a result, and that contracts specify the full requirements and contingencies.

These guidelines set out key criteria which are recommended to any CJS agency that is proposing to outsource interpreter and translator service provision to an intermediary body. The aim of the guidelines is to:

- ensure the provision of satisfactory interpreting and translation services to the Criminal Justice System and to their non-English speaking users;
- make provision for the reasonable needs and expectations of current and potential future interpreters and translators;
- promote strategies for improving the quantity and quality of interpreters working in the Criminal Justice System in a nationally consistent way.

B. Preparing the Outsource

1. Any CJS agency planning to outsource the provision of interpreting and translating services is advised to notify its intention – in advance – to interpreters and translators that it regularly uses. They should also be informed, of course, when the contract has been awarded.

C. Inviting Bids

A draft contract for discussions with prospective bidders should include provisions along the following lines:

Integrity and reliability

2. Any potential supplier of interpreting and translating services should be able to demonstrate:
 - a sound record of financial and commercial stability and probity, and
 - a robust and transparent company and service-provision structure that meets all relevant legal and other requirements, providing a sound basis for a contractual relationship.

Essential services to be provided

4. Establishment and management of suitable contracts – with required service standards, performance levels, provisions in case of catastrophic failure of service provider (e.g. data back-up and escrow arrangements), equal opportunities conditions, and complaints or escalation procedures explicitly set out in the body of the contract itself – between public service bodies and intermediaries/agencies and between such agencies and interpreters.
5. Provision of a 24/7 contact system, with ability to comply with service-response timescales and other service parameters prescribed.
6. Demonstrable ability to work with public service clients and interpreters, associated with – wherever possible – relevant previous experience in appropriate domains, so that service

provision can be allocated and carried out on an adequately informed basis. Relevant references from other public service bodies should be provided where available.

7. Ability to comply with relevant health and safety policies and practices.

Assuring interpreter quality

8. Pay and expenses rates received by the interpreter, as opposed to any intermediary, must be sufficient to encourage NRPSI and CACDP registered and other equivalently qualified interpreters and translators, taking account of the standardised terms and conditions recommended in Section 5.1 of the National Agreement.
9. Procedures for verifying that interpreters supplied are, and can be shown to be, security cleared to the level required by the client.
10. Access to the current NRPSI and CACDP registers as the primary source of interpreters, and/or otherwise in accordance with guidelines set out in the National Agreement.

Performance management

11. Provision of monthly management information to the client. This should include: numbers of interpreters and translators supplied, overall and by language and location; statistical information showing ordered (sorted) frequency of use of services, including by language, location, and individual interpreter; performance against contractually prescribed requirements, e.g. response timescales; the percentage of interpreters and translators supplied who are on the NRPSI and CACDP Registers; the percentage of all interpreters and translators supplied who hold the qualifications required for registration on NRPSI and CACDP, whether or not the individuals are so registered; complaints received and resolved; customer satisfaction feedback.
12. Provision of credible quality assurance systems and practices. As examples (but these are not to be regarded as definitive – suppliers may have credible alternative proposals), such systems and practices *might* include: continuous professional development to maintain and upgrade standards of interpreters and translators employed, eg to DPSI level 6 or equivalent and beyond; refresher training, eg in dialects and specialist vocabularies; adherence to the NRPSI/CACDP and/or equivalent codes of conduct, and the reporting of any breaches thereof; and the provision of appropriate support facilities for interpreters – for example in dealing with the personal effects on them of stressful work assignments.
13. Identification and prediction, where possible, of likely demand for interpreters and translators by geographical area and by language.
14. Suitable contractual provisions defining the management of exit from the contract at the time of its normal or early termination. These provisions should cover at least:
 - (i) the establishment, from the outset, of an exit plan, stating the rights and obligations and functions of each party in relation to such exit; and
 - (ii) procedures for the hand-over of services from the outgoing service provider to the incoming service provider and/or to the contracting authority, including contractual provision for appropriate degrees of co-operation between the outgoing and incoming service providers, for specified periods both before and after the contract termination date, and hand-over of records, information, know-how, systems, and/or materials.

Recommended optional services for inclusion in the contract

15. Priced proposals on recruiting, developing, and maintaining sufficient availability of suitably qualified interpreters.
16. Priced proposals on contributing, if requested, to the in-service training of public service staff on working with interpreters and translators. Such optional proposals, if they are

requested at the tendering stage, should state the service provider's capability *and capacity* to provide such services. It is of no benefit to the public service if the selected service provider's staff are persistently diverted onto this kind of training contribution work, rather than concentrating on providing the primary services required.

D. Managing the contract once it has been Let

17. Once a contract has been let, an appropriate manager in the contracting authority should receive and carefully consider the regular management information reports which the contractor is required to provide as set out in paragraph 10 above. Any necessary action should be taken if contractually prescribed performance levels are not being met.

Annex G – Securing reliable legal translation

The CJS requires translation of a range of written texts that include:

- those needed by defendants in order to understand what is being said against them and to instruct their lawyers (see ECHR and ECtHR Case-law *Kamasinski v. Austria*, 19 December 1989, A Series No. 168)
- letters
- forms and notifications e.g. bail notices
- information giving e.g. letter of rights
- reports e.g. medical, psychiatric and court welfare
- documents relevant to an investigation
- statements e.g. police and witness
- relevant advance disclosure documents
- transcripts of covert surveillance recordings.

The legal system therefore requires access to translators who:

- a) have been objectively assessed, through a nationally recognised examination calibrated against the National Occupational Standards for Translation at level 7 (see www.cilt.org.uk), as being competent in:
 - English and a specified other language – including regional variations/ dialects; range of formal/informal registers and specialised terminology
 - knowledge and understanding of legal systems: structures and processes in the countries of both their languages
 - translation skills – including dealing with texts from a range of modes of written communication e.g. formal documents and also text & e-mail messages
 - knowledge and understanding of the cultural backgrounds underpinning language usage;
- b) observe a code of conduct and good practice and are preferably members of a professional language body with recognised disciplinary procedures to underpin that code;
- c) have security vetting at appropriate level
- d) encompass, between them, the range of language combinations required
- e) are supported by a structure which includes secure IT systems and adequate supervision, continuous professional development (CPD)
- f) carry professional indemnity insurance.

The above can be used as a check-list, as it is unlikely that there are as yet sufficient legal translators in all the languages needed and of the calibre required.

Sources

Holders of the Diploma in Public Service Interpreting (DPSI) option Law have been assessed as being competent to translate short straightforward texts into both their working languages. Unless the DPSI holder possesses additional qualifications in translation, longer and more complex texts should be referred to a professional translator.

Suitable sources of legal translators include the following:

1. Institute of Translation and Interpreting (www.itl.org.uk)

The majority of ITI members are qualified translators. Those accepted as members have to supply proof of relevant qualifications and pass an internal ITI test (not accredited), and produce three references regarding ability and character. They are subject to a Code of

Professional Conduct and Disciplinary Procedure and are encouraged to participate in voluntary Continuous Professional Development (CPD). Only Fellows and Members of the ITI should be used for translating for CJS purposes.

2. Chartered Institute of Linguists' web-site: www.iol.org.uk/find-a-linguist

Those listed will at some point have passed graduate level examinations and agreed to abide by the CioL code of conduct. They are also expected to participate in a voluntary CPD system. The web-site shows professional interest and experience. The most suitable will have qualified through the IoL Educational Trust's Diploma in Translation, which has a law option, is calibrated at level 7 and has its systems accredited by the Qualifications and Curriculum Authority (QCA).

3. Commercial Translation Agencies

It is recommended that commercial agencies used should be well-established organisations that engage only qualified translators belonging to professional language bodies, and include within their service such elements as proof reading and checking. The ITI website includes a listing of Translation Agencies which are members of ITI and have met ITI registration criteria. [Note: If general outsourcing of translation services is being considered, the guidance contained in Annex F of this Agreement should be consulted.]

Commissioning a translator

Define:

- length of source text
- subject matter
- level of technicality
- purpose of translation, such as evidential, background information, etc
- deadline
- formatting and lay-out required
- security considerations

Once the translator has agreed their availability, then proceed to:

- agree fees. These are usually based on a price per thousand words, plus a charge for checking, proof reading and any special presentation required (see ACPO and/or government rates for translation)
- identify a contact point through which the translator can clarify any ambiguities or technical terms in the text
- identify a delivery point and method eg by e-mail
- agree how non-equivalencies should be dealt with eg if the term "probation" may not exist in another language, is it to be explained within the body of the text or as a footnote
- agree level of security, ie any requirement of encryption of electronic text, signed-for letter, etc
- exchange a letter of agreement that includes terms of payment within 30 days.

Notes

1. The pre-lingually deaf, that is people who were born deaf or lost their hearing before they had learnt to speak, may not be able to read or write, or not to the standard needed for CJS purposes.

2. Literacy levels of the readers should be taken into account in respect of any language.

3. Sight translation is where an interpreter orally transfers the meaning of a written document into another language. It is a technique that can only be used reliably when short, straightforward texts are involved.

4. Where translations or translators from other countries are involved, enquiries could be made from the appropriate authorities in that country as to standards.