

**THE WORKING GROUP ON
INTERPRETING AND TRANSLATION**

**CODE OF PRACTICE
FOR
WORKING WITH INTERPRETERS
IN
THE SCOTTISH CRIMINAL JUSTICE SYSTEM**



CROWN OFFICE & PROCURATOR FISCAL SERVICE



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Good practice for

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INTRODUCTION

Interpreters are engaged to assist individuals who come into contact with the criminal justice system and who have limited or no English, who use sign language, or who speak English as a second language but require assistance understanding legal procedures or terms used in court.

This Code of Practice sets out the various responsibilities and obligations of organisations working with interpreters in the Scottish criminal justice system. It is an agreed set of guidelines between the member organisations of the Working Group on Interpreting & Translation - informally known as WGIT.

The Code of Practice aims to give the reader an overview of what is expected from each of the WGIT organisations when instructing the services of an interpreter to assist in a summary criminal court case - from the first stage of the police investigation through to court proceedings and disposal of a case. It also sets out what these organisations should expect from the interpreter assigned to work on a criminal case in the sheriff summary courts.

The Code sets out 'good practice guidelines' and it is recognised that there may be times when it is difficult to adhere to all of the principles but every effort will be made to do so. It is also acknowledged that the organisations that may use this Code already have their own policies and practices in place. The Code does not seek to replace these, but it is hoped that using this Code will contribute towards a co-ordinated approach across the main Scottish criminal justice organisations and so provide a more effective service to those individuals who require the services of an interpreter.

The Working Group on Interpreting and Translation

The Code of Practice was developed by the Working Group on Interpreting and Translation. This group meets regularly throughout the year and, through discussion and sharing of information, aims to establish common standards for interpreting and translation in the Scottish. Its members are drawn from some of the main criminal justice partners – the Scottish Police Service, the Scottish Court Service, the Crown Office and Procurator Fiscal Service (COPFS), the Scottish Legal Aid Board and the Law Society of Scotland. A representative from the Inspectorate of Prosecution attends meetings to observe proceedings. WGIT members often seek advice from organisations with extensive knowledge and experience in the field of interpreting – such as Heriot Watt University and the Scottish Association of Sign Language Interpreters.

Responsibilities for Instructing Interpreters for Criminal Courts

COPFS, the Scottish Court Service and the Association of Chief Police Officers in Scotland (ACPOS) agreed a protocol relating to the instruction of interpreters for criminal court diets. A copy of the [protocol](#) is at Annex B. It covers the instruction of community, foreign and sign language interpreters and interpreters required to assist people with sensory impairment.

The Scottish Court Service has responsibility for the provision of interpreters for the accused only. In custody cases at the first appearance in court of the accused, the police may make the arrangements for the attendance of an interpreter on behalf of the Scottish Court Service.

The procurator fiscal has responsibility for the provision of interpreters for prosecution witnesses. All witnesses who require interpreters are referred to Victim Information and Advice (VIA) which is part of COPFS. VIA staff keep them advised of progress with their case and provide information in the witness's preferred language.

District courts are not a party to the protocol. Most local authorities take responsibility for instruction of interpreters for accused persons in district court cases, however in some districts, procurators fiscal will instruct interpreters for accused persons in cases. District courts in Scotland are set to be abolished and replaced with Justice of the Peace Courts under the provisions of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. The new Justice of the Peace Courts will be managed by the Scottish Court Service who will then take over responsibility for the instruction of interpreters for accused in these courts. The protocol does not deal with the issue of defence witnesses but it is the responsibility of the defence solicitor to arrange an interpreter for those defence witnesses whose first or preferred language is not English.

The Inspectorate of Prosecution in Scotland

The independent Inspectorate of Prosecution published its first thematic report on Crown Office and Procurator Fiscal Service Response on Race Issues in March 2005. One of the recommendations in the report was:

“The Crown Office, through WGIT, raises and takes forward with all criminal justice partners, training on the use of interpreters with consideration being given to the development of a protocol on the use of interpreters in court.”

It is hoped this Code of Practice meets the terms of that recommendation.

Acknowledgement

WGIT is grateful to those organisations who gave advice and input to this Code of Practice. A list of those organisations is at annex C.

Section 1

GOOD PRACTICE FOR THE INTERPRETER

Pre-assignment Planning

1.1 Make sure you have all the necessary information to accept the assignment:

- A letter of instruction - if this is issued
- Details about the assignment
- The date, time and location
- Relevant documentation
- Information about the needs of the person for whom you are being asked to interpret.

If you do not have this information, you should consult your interpreting agency or the person who instructed you.

1.2 You must ensure that you hold a valid certificate from Disclosure Scotland at the Standard level. An Enhanced Level certificate is required when interpreting for cases of complexity or sensitivity. These could be, for example, cases involving sexual offences or a child witness or suspect. It may be necessary to consider other additional vetting requirements in relation to matters of national security or other similar enquiries. Such cases will be identified by the person instructing the interpreting services.

1.3 Spoken language interpreters should hold the Diploma in Public Service Interpreting (Scottish Legal Option) or an equivalent qualification of a similar standard - for example, a qualification accredited by the Chartered Institute of Linguists. Sign language interpreters must be registered with the Scottish Association of Sign Language Interpreters - or equivalent - and not a trainee, and may hold a relevant sign language qualification.

1.4 If the assignment is at the court, you should ensure you are familiar with general layout of the court, terminology and personnel.

1.5 Read, sign and return the Code of Conduct (see Annex A).

1.6 Follow specific instructions from the interpreting agency and adhere to its code of conduct and good practice guidelines.

1.7 If the assignment is at the court and you have not interpreted in court before please advise the person who instructed you or your interpreting agency. It may be possible to arrange a visit to the court for you and an explanation of the likely procedure from a member of the court staff or procurator fiscal's office, as appropriate.

1.8 Please note that it is not appropriate to use the same interpreter for opposing parties in criminal court cases. If you are asked to do this, you should refuse and suggest the party contacts your interpreting agency.

1.9 If you do not meet all of the above requirements, you should not accept the assignment.

Attending at the Location of the Assignment

1.10 Be punctual.

1.11 Identify yourself to the relevant reception staff and produce your letter of instruction, if you have been given one, or agency identification.

1.12 Display your interpreter's identification badge if you have one – or a 'Visitor' badge if given one.

1.13 Speak to the person who has instructed you to ensure you both have a clear understanding of the requirement of the assignment and your role.

1.14 For spoken language interpreting, agree the most appropriate style or mode of interpreting for the assignment – for example, simultaneous or consecutive interpreting.

1.15 Agree a procedure, with the person who instructed you or the clerk of court, for resolving difficulties and interventions. It is of crucial importance that you have the confidence to interrupt proceedings in cases where, for example, parties are speaking too quickly or where there is no equivalent term in the community or foreign language for the English term being used.

1.16 Agree appropriate seating, lighting and acoustic arrangements and take account of any special arrangements which may have been made for the assignment – for example, tape or video recordings or the use of screens. The person who instructed you will have given advanced notification to the agency of any special arrangements for the assignment.

1.17 Introduce yourself to the person for whom you are interpreting. Confirm with them the language and/or dialect, check basic understanding of the proceedings and advise on your role. You may wish to ask for someone to be present with you when you do this, for example, reception staff or the person who instructed you.

1.18 Declare any difficulties you have, for example, with the dialect, any technical terms or your previous involvement in the case. If you have previously been involved in the case, do not accept the assignment.

1.19 You may give basic information about the court or office where the assignment will take place, for example the location of the toilets, the restaurant or how to access the Witness Service. Again, you may wish to ask for someone to be present with you when you do this.

***The Witness Service** exists to help people through the judicial process by providing practical and emotional support at court. You can contact the service at any time - before, during or after attending court.*

The service, which is available in all sheriff courts, is confidential and provided by trained volunteers and staff. The service is free and available to all witnesses attending the sheriff courts.

1.20 Advise the person who instructed you of any cultural issues which become apparent.

1.21 If the assignment is at court, speak to the person who instructed you to discuss if an oath or affirmation will be administered and ascertain if the person for whom you are interpreting requires any Holy Books for this purpose.

1.22 You must adhere to the standards set out in the Code of Conduct.

During the Assignment Interview or Court Proceedings

1.23 Remember that, as an interpreter in the criminal proceedings, you are entirely independent of the parties/sides involved. You must perform your role in a wholly independent and impartial manner.

1.24 It may be necessary to intervene during the interview or proceedings. Have the confidence to:

- ask someone to modify their delivery to accommodate the interpreting process for example, to speak more slowly or loudly;
- ask for clarification;
- check understanding;
- point out that the meaning might have been lost due to cultural difference – and seek permission to ask for an explanation and re-interpret, in order to clarify;
- say you need to swap with your colleague sign language interpreter if you are working in a pair.

1.25 Clearly advise all parties present of the reason for your intervention.

1.26 In foreign languages and sign language there may be no equivalent term to the English term or phrase being used. It is crucially important that you interpret as closely as possible the meaning of the terms being used. Do not guess. Advise the court, or person conducting the interview, of the difficulty at the time. It is likely that it will be possible for the individual using the difficult term to say it in a different way or provide a fuller explanation of the intended meaning.

1.27 Court proceedings can be a daunting experience for some people – **be clear and confident** in requesting an intervention or a pause in the proceedings to ensure you give the best service to the person for whom you are interpreting. Your role is essential to ensure that the proceedings are fair. If those speaking are going too quickly to allow you to interpret properly, let the sheriff know.

1.28 During any assignment, remember that your concentration can lapse in long periods of simultaneous or consecutive interpreting. In any court proceedings, ensure that the court is alerted to this and to the need for regular breaks (every 30 minutes or so). The person instructing you should raise this issue at the outset but ultimately it is for the court to determine whether and when regular breaks in the proceedings will be provided.

1.29 In criminal proceedings, interpreters instructed to provide services for one party are sometimes asked by other parties to facilitate other communications, for example, between a solicitor and the witness or accused at court. The interpreter is under no obligation to assist the communications of any other party and should not be pressurised to do so. During any court proceedings, you should not accept such work without first obtaining permission from the clerk of court.

At the End of the Interview or Proceedings

1.30 If possible, spend a few minutes with the person who instructed your services reviewing the assignment. Consider how you worked together and any other pertinent practice issues, which may have arisen during the assignment.

1.31 Complete and return all relevant paperwork as instructed, including a monitoring form, if one is used, on which you should record positive points or any difficulties that may have occurred. You may not receive payment until you return the form to the agency or organisation that instructed you - so you should do this promptly.

Section 2

GOOD PRACTICE FOR THE POLICE

Initial Contact - Telephone Interpreting

2.1 It is good professional practice to ensure that all communications with any member of the public are carried out in the language most easily understood by the individual concerned.

2.2 A telephone interpreter should only be used under certain circumstances. The primary reasons would be to assess or confirm the language or dialect, to explain to the person the procedures that have to be followed and to find out brief details of an incident. Following this stage, a face to face interpreter should be called. There may, however, be exceptional circumstances where a telephone interpreter may have to be utilised in time critical situations where vital evidence/information may be lost e.g. roadside procedures for road traffic offences.

2.3 To assist, use the language identification cards which may contain translated phrases for example: 'My Language is....' or 'Point to your language. We will get an interpreter on the telephone to help us.'

2.4 Formal police procedures, other than those highlighted at 2.2, should whenever possible be carried out using a face-to-face interpreter. Again, exceptional circumstances may negate this and officers should in these situations make decisions based on each individual case.

Before the Interview

2.5 Follow the relevant Force procedures on instructing an interpreter.

2.6 Ensure where possible that the interpreter utilised:

- holds a valid certificate from Disclosure Scotland at Standard level, or, for complex or sensitive cases, at Enhanced level. Sensitive cases may include sexual offences, or cases involving a child witness or suspect;

and

- holds the Diploma in Public Service Interpreting (Scottish Legal Option) or an equivalent qualification of a similar standard – for example, a qualification accredited by the Chartered Institute of Linguists.

or

- holds a relevant sign language qualification and is registered with the Scottish Association of Sign Language Interpreters or equivalent (is not a trainee).

NOTE: It may be necessary to consider other additional vetting requirements in relation to matters of national security or other similar enquiries.

2.7 Advise the agency/interpreter of the language and the dialect required.

2.8 When considering the use of a sign language interpreter, staff should check that the suspect or witness actually uses British Sign Language, as many people with a hearing impairment do not. If the person is not a British Sign Language user, establish if they lip-read and arrange for a lip reading interpreter.

2.9 Take cognisance of the need to match an interpreter for gender, age and/or religion – this may be particularly relevant in cases of domestic abuse or sexual assault or where there are specific religious or cultural considerations. If an agency is used, advise them of this or alternatively select a suitable interpreter. Also take into account needs with child witnesses or suspects or if there are any sensitivities of any nature in the case.

2.10 Provide an estimate of how long the interpreter may be required, keeping in mind that interpreting requires roughly twice the length to listen then interpret, plus breaks approximately every 30 minutes for the interpreter. The agency/interpreter should be advised if their services are time-critical.

2.11 Before the interview, consider the implications of working with an interpreter. Working with an interpreter makes you dependent on another person and this can change the dynamic of the interview. You may find that you need to be even clearer about the objectives of the interview and what strategy you will use to ensure that they are met.

2.12 Where possible, consideration should be given to tape-recording interviews where an interpreter is used.

2.13 Remember that the interview is likely to take longer when working with an interpreter – roughly twice the length - and ensure you allocate additional time.

Preparing for the Interview

2.14 Always ask to see the interpreter's letter of instruction, if issued, or agency identification.

2.15 Check for any possible conflict of interest between the interpreter and the person for whom the interpreter is working. The interpreter should inform you of this immediately it becomes apparent. This is particularly relevant if the language is uncommon and there are a small number of language users in the community.

2.16 Ensure the interpreter signs and returns the Code of Conduct before the start of the interview. A copy is at Annex A. This may well be included in any contract or local service agreement with an agency.

2.17 Spend a short time with the interpreter before meeting the witness and/or accused to decide how you will work together. You should explain the purpose of the interview, give all relevant details of the incident, explain the demeanor of the person and share any relevant background information. If relevant, advise the interpreter of the sensitivities of the case, for example, child protection or sexual allegation.

2.18 There should be a discussion about the plan for the interview, especially if a particular interview method is to be employed.

2.19 Check if there are any cultural issues that should be taken into account and if the interpreter needs an explanation of any technical terms – it may be helpful to have available a glossary explaining the legal terms. Avoid jargon and acronyms, for example 'ACPOS'.

2.20 Try to put the interpreter at ease – mistakes are more likely to happen if the interpreter is nervous.

2.21 Ensure the interpreter has advance sight and discussion of any of the procedures and forms to be used and the relevant meanings to be conveyed, for example, cautioning a suspect.

2.22 Agree a procedure for resolving difficulties and interventions. It is of crucial importance that the interpreter has the confidence to interrupt the interview in cases where parties are speaking too quickly or where there is no equivalent term in the community or foreign language for the English term being used.

2.23 Agree appropriate seating, lighting and acoustic arrangements and arrange any other special requirements, for example a hearing loop or access to disabled toilets.

2.24 Remember that a sign language interpreter must listen to what is said and then interpret. This means that they work slightly behind what each speaker is saying, sometimes by up to 10 or 20 seconds. Therefore, think about being concise and pausing so there is not too much for the interpreter to convey at the one time.

Conducting the Interview

2.25 Allow appropriate breaks for the interpreter(s) at a natural break in the proceedings where possible. For sign language interpreting, 2 interpreters may be required. They may interchange roles at intervals of around 15 – 20 minutes. Whilst it may appear that one is resting while the other is signing, the non-signing interpreter is listening closely to what is being said and discreetly offering support – they are both working all the time.

2.26 Remember when speaking to address the suspect or witness and not the interpreter. Do not address the interpreter with questions such as “could you ask the suspect....”.

2.27 Begin by explaining the role and responsibilities of the interpreter to the witness and/or suspect.

2.28 Adjust the pace of delivery and break your speech into shorter segments if required to do so – but keep sentences complete. Where possible, avoid jargon, complicated language, proverbs or local sayings.

2.29 Remember that some words do not always have precise equivalents in other languages and that a short sentence in English may take several sentences to explain in another language – or vice versa.

2.30 In some languages there are no equivalent terms to English words or phrases - you may be asked by the interpreter if you can re-phrase something or provide a fuller explanation of the intended meaning.

2.31 When using sign language interpreters it is especially important to avoid leading questions. In British Sign Language there are a number of words where there is no exact equivalent to the English generic term - e.g. weapon, window, door. Sign language is very descriptive and if you use a general term like weapon the interpreter has to make a choice of a type of weapon before signing the interpretation. Try to be precise in your narrative.

2.32 Do not discuss issues with the interpreter that do not require interpretation. This can make the witness or suspect feel uncomfortable, suspicious and/or excluded. If such issues do require discussion, ask the interpreter to explain this to the witness or suspect, or delay the discussion until you and the interpreter are alone.

2.33 Do not leave the interpreter alone with the suspect or witness. In addition to issues of safety and risk management, the interpreter may be put under pressure from the person to take on tasks beyond their remit.

2.34 Remember that it is not appropriate to use the same interpreter for opposing parties in criminal cases, nor is it appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate interpreting agency.

2.35 Remember that the interpreter is a professional colleague and should be treated with respect and as a member of the team.

At the End of the Interview

2.36 If possible, spend a few minutes with the interpreter reviewing the interview – consider how you worked together and any other pertinent practice issues, which may have arisen during the assignment.

2.37 The interpreter should be included as a witness in any subsequent police report. This should detail the agency the interpreter is from (if applicable), the interpreter's qualifications and language used and, if pertinent, relevant dialects.

2.38 It should be acknowledged that, in cases of uncommon languages, there is a possibility that the interpreter and the suspect/witness may be known to each other and this must be detailed in any subsequent report.

2.39 As instructed in the Lord Advocate's Guidelines to Chief Constables on the Investigation and Reporting of Racist Crime, it is necessary to ensure that religious and cultural needs are respected and it is therefore essential that this is included in any subsequent report. This should provide details of the ethnic and religious background, where known, of all individuals who require interpreting services.

2.40 Complete all relevant paperwork – ensure the interpreter completes a monitoring form if this applies within your Force procedures.

Appearance from Custody/Undertaking/Warrant

2.41 In all cases where accused persons are appearing for the first time from custody/undertaking/warrant the police will, so far as possible, arrange, *on behalf of the Scottish Court Service*, for a suitably qualified and experienced interpreter to appear at court to assist the accused. The court interpreter should be arranged as soon as possible after the arrest to give the agency as much time as possible to arrange an interpreter for the custody court. Notification should be sent to the court by the PF - detailing the name, and date of birth of the accused, the date of the custody appearance, the language for which the interpreter was required and any other relevant information.

2.42 To prevent a conflict of interests, the interpreter engaged for court should not be the same interpreter who was engaged during the investigation stage. The interpreter engaged for the investigation stage may subsequently be cited as a witness in the case. It is recognised, however, that it may not always be possible to secure the services of a different interpreter with appropriate qualifications and experience given the limited time available.

2.43 It is necessary to set out in the police report that an interpreter has been arranged for the accused's first appearance from custody/undertaking/warrant.

2.44 If difficulties arise in securing the services of an interpreter the procurator fiscal should be notified as early as possible.

2.45 The fee of the interpreter in such cases will be paid by Scottish Court Service and they will instruct the interpreter for the accused for any subsequent court hearings.

Section 3

GOOD PRACTICE FOR PRECOGNITION INTERVIEW

AT THE PROCURATOR FISCAL'S OFFICE

Before the Precognition Interview

3.1 Ensure that the police have provided an assessment and statement of the language and dialect required. If necessary, seek clarification from the Reporting Officer as to whether an interpreter is required and a specification of the language and dialect or the sign language requirements for a witness with a hearing impairment.

3.2 Take account of any other issues noted by the police - such as specific religious and/or cultural considerations, or vulnerability - affecting the use of an interpreter. Liaise with Victim Information & Advice (VIA) as all witnesses whose first language is not English should have been referred to VIA.

3.3 Follow the guidance in the COPFS [Interpreting & Translating Handbook](#) on how to instruct an interpreter. This is available in the Diversity Guidance section on the COPFS Intranet.

3.4 Ask the agency to provide an interpreter who:

- holds a valid certificate from Disclosure Scotland at Standard level, or, for complex or sensitive cases, at Enhanced level. Sensitive cases may include sexual offences, or cases involving a child witness or suspect;

and

- holds the Diploma in Public Service Interpreting (Scottish Legal Option) or an equivalent qualification of a similar standard - for example, a qualification accredited by the Chartered Institute of Linguists

or

- holds a relevant sign language qualification and is registered with the Scottish Association of Sign Language Interpreters or equivalent (is not a trainee).

NOTE: It may be necessary to consider other additional vetting requirements in relation to matters of national security or other similar enquiries.

3.5 Advise the interpreting agency of any language specifics such as dialect.

3.6 Advise the agency of the need to match an interpreter for gender, age and or religion – this may be relevant in cases of domestic abuse or sexual assault or where specific religious and/or cultural issues have been identified by the police. Also advise the agency if the witness is a child or if there are any other sensitivities in the case.

3.7 Advise the agency of your estimate of how long the interpreter may be required keeping in mind that interpreting requires roughly twice the length to listen then interpret, plus breaks approximately every 30 minutes for the interpreter.

3.8 Before the appointment consider the implications of working with an interpreter. Working with an interpreter makes you dependent on another person and this can change the dynamic of the interview. You may find that you need to be extremely clear about the objectives of the interview and what strategy you will use to ensure that they are met.

Preparing for the Interview

3.9 Always ask to see the interpreter's letter of instruction or agency identification.

3.10 Check that the interpreter has signed a copy of the Code of Conduct (at Annex A) before the start of the interview.

3.11 Try to spend some time with the interpreter before meeting the witness to decide how you will work together. You should explain the purpose of the interview, share any relevant background information and check if there are any cultural issues which should be taken into account.

3.12 Try to put the interpreter at ease – mistakes are more likely to happen if the interpreter is nervous.

3.13 Check if the interpreter needs an explanation of any technical terms – it may be helpful to have available a glossary explaining the legal terms. Avoid jargon and acronyms.

3.14 Agree a procedure for resolving difficulties and interventions. Remind the interpreter that it is of crucial importance that she or he has the confidence to interrupt the interview in cases where parties are speaking too quickly or where there is no equivalent term in the community or foreign language for the English term being used.

3.15 Agree appropriate seating, lighting and acoustic arrangements.

3.16 Agree the style or mode of interpreting to be used:

- Simultaneous – the interpreter listens in one language and speaks in another at the same time or with short time lags.
- Consecutive – first the interpreter listens to the entire original phrase or passage, and then interprets it into the other language.

3.17 Remember that the sign language interpreter must listen to what is said then translate. This means that they work slightly behind what each speaker is saying sometimes by up to 10 to 20 seconds.

3.18 Check for any possible conflict of interest between the interpreter and the person whom the interpreter is working with. The interpreter should inform you of this immediately it becomes apparent.

Conducting the Interview

3.19 Allow appropriate breaks for the interpreter and witness – at a natural break in the proceedings where possible. For sign language interpreting, 2 interpreters may be required. They may interchange roles at intervals of around 15 to 20 minutes. Whilst it may appear that one is resting while the other is signing, the non-signing interpreter is listening closely to what is being said and discreetly offering support – they are both working all the time.

3.20 Remember to address the witness when speaking and not the interpreter. Do not address the interpreter with questions such as “could you ask the witness....”.

3.21 Explain the role and responsibilities of the interpreter to the witness.

3.22 Adjust the pace of delivery and break your speech into shorter segments if required to do so – but keep sentences complete. Where possible, avoid jargon, complicated language, proverbs or local sayings.

3.23 Remember that some words do not always have precise equivalents and that a short sentence in English may take several sentences to explain in another language – or vice versa.

3.24 In some languages there are no equivalent terms to English words or phrases - you may be asked by the interpreter if you can re-phrase something or provide a fuller explanation of the intended meaning.

3.25 When using sign language interpreters it is especially important to avoid leading questions. In British Sign Language there are a number of words where there is no exact equivalent to the English generic term - e.g. weapon, window, door. Sign language is very descriptive and if you use a general term like weapon the interpreter has to make a choice of a type of weapon before signing the interpretation. Try to be precise in your narrative.

3.26 Do not discuss issues with the interpreter that do not require interpretation. This can make the witness feel uncomfortable, suspicious and excluded. If such issues do require discussion ask the interpreter to explain this to the witness, or delay the discussion until after the witness has left.

3.27 Do not leave the interpreter alone with the witness. In addition to issues of safety and risk management, the interpreter may be put under pressure from the person to take on tasks beyond their remit.

3.28 Remember that it is not appropriate to use the same interpreter for opposing parties in criminal cases, nor is it appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate interpreting agency.

3.29 Remember that the interpreter is a professional colleague and should be treated with respect and as a member of the team.

At the End of the Interview

3.30 If possible spend a few minutes with the interpreter reviewing the interview – consider how you worked together and any other pertinent practice issues, which may have arisen during the assignment.

3.31 Complete all relevant paperwork – ensure the interpreter completes the monitoring form and remember to complete and return your monitoring form to the Office Manager.

3.32 If necessary, inform the Victim and Information Advice service of the continuing need for interpreting services in the case.

Section 4

GOOD PRACTICE FOR THE PROCURATOR FISCAL IN COURT

Before the Proceedings - For Crown witnesses

4.1 Follow the guidance in the COPFS Handbook on Interpreting and Translation on how to instruct an interpreter. This is available in the Diversity Guidance section on the COPFS Intranet.

4.2 Ensure that all relevant documents have been sent to the interpreting agency or sign language interpreter – this should include:

- A letter of instruction containing full details about the assignment
- The date, time and location
- Relevant case documentation – for example a copy of the charges or complaint
- Information about the needs of the person for whom you are being asked to interpret.

4.3 Ensure that the agency has been asked to provide an interpreter who:

- holds a valid certificate from Disclosure Scotland at Standard level, or, for complex or sensitive cases, at Enhanced level. Sensitive cases may include sexual offences, or cases involving a child witness or suspect;

and

- holds the Diploma in Public Service Interpreting (Scottish Legal Option) or an equivalent qualification of a similar standard - for example, a qualification accredited by the Chartered Institute of Linguists

or

- holds a relevant sign language qualification and is registered with the Scottish Association of Sign Language Interpreters or equivalent (is not a trainee).

NOTE: It may be necessary to consider other additional vetting requirements in relation to matters of national security or other similar enquiries.

4.4 Advise the agency or the sign language interpreters if any special arrangements, such as screens or recording equipment, have been made for the assignment. Liaise with Victim Information & Advice (VIA) as all witnesses whose first language is not English should have been referred to VIA.

4.5 Consider if it is necessary to match an interpreter for gender, age and/or religion – this may be relevant particularly in cases of domestic abuse or sexual assault.

4.6 Take account of any other issues noted by the police, as to specific religious and/or cultural considerations affecting the use of an interpreter.

4.7 Remember that the proceedings are likely to take longer when working with an interpreter so allow for additional time.

Preparation for Proceedings

4.8 It is important to check the identity of the interpreter. Ask to see the interpreter's letter of instruction, agency identification or ID such as a passport or driving licence.

4.9 Check that the interpreter has signed copy of the Code of Conduct (see Annex A) before the court case starts.

4.10 Check that the interpreter instructed can speak or sign the required language and dialect or communicate in the appropriate form of sign language.

4.11 If possible try to spend a few minutes with the interpreter before the proceedings start to decide how you will work together. You may need to check the interpreter understands their role, share any relevant background information or check if there are any cultural issues, which may need to be taken into account.

4.12 Agree the style or mode of interpreting to be used:

- Simultaneous – the interpreter listens in one language and speaks in another at the same time or with short time lags.
- Consecutive – first the interpreter listens to the entire original phrase or passage, then interprets it into the other language.

4.13 Remember that the sign language interpreter must listen to what is said then translate. This means that they work slightly behind what each speaker is saying sometimes by 10 to 20 seconds.

4.14 Try to put the interpreter at ease – mistakes are more likely to happen if the interpreter is nervous.

4.15 Ensure that the interpreter has all relevant paperwork – copy of the complaint or indictment; code of conduct; glossary of terms; monitoring form.

4.16 Agree a procedure for resolving difficulties and interventions. It is of crucial importance that the interpreter has the confidence to interrupt proceedings in cases where parties are speaking too quickly or where there is no equivalent term in the community or foreign language for the English term being used. Advise the court.

4.17 Arrange for the interpreter to meet the witness before commencement of the proceedings to ensure a language match.

4.18 Ask the interpreter to advise if the witness requires any special form of oath or Holy Book.

4.19 Facilitate the interpreter's access to the Witness Service if the witness requires any practical and/or emotional support and general advice on court procedures.

4.20 Do not leave the interpreter alone with the witness. In addition to issues of safety and risk management, the interpreter may be put under pressure from the person to take on tasks beyond their remit.

4.21 Advise the clerk of court and the defence solicitor that an interpreter will be working, for which witnesses and if necessary any specialities of oath required.

4.22 Agree appropriate seating, lighting and acoustic arrangements – ensure the interpreter is positioned so that he or she can see you.

4.23 Check if the use of any special measures has been requested and/or agreed for the particular proceedings. If the interpreter is to be working with a witness using a screen or live television link, agree appropriate seating arrangements with the court, so that all parties in the courtroom can see the interpreter as well as the witness.

4.24 Ensure that the court is advised of the need for appropriate breaks for the interpreter and witness. For sign language interpreting 2 interpreters may be required. They may interchange roles at intervals of around 15 – 20 minutes. Whilst it may appear that one is resting while the other is signing, the non-signing interpreter is listening closely to what is being said and discreetly offering support – they are both working all the time.

During the Court Proceedings

4.25 Address the witness directly and not the interpreter. Do not address the interpreter with questions such as “could you ask the witness....”.

4.26 Adjust the pace of delivery and break your speech into shorter segments if required to do so – but keep sentences complete. Where possible, avoid jargon, complicated language, proverbs or local sayings.

4.27 Remember that some words do not always have precise equivalents and that a short sentence in English may take several sentences to explain in another language – or vice versa.

4.28 In some languages there are no equivalent terms to English words or phrases - you may be asked by the interpreter if you can re-phrase something or provide a fuller explanation of the intended meaning.

4.29 When using sign language interpreters it is important to avoid leading questions. In British Sign Language there are a number of words where there is no exact equivalent to the English generic term - eg weapon, window, door. Sign language is very descriptive and if you use a general term like weapon the interpreter has to make a choice of a type of weapon before signing the interpretation. Try to be precise in your narrative.

4.30 If necessary, ask the court to provide a short break if the interpreter is working for 30 minutes or more.

4.31 Remember that the interpreter is a professional colleague and should be treated with respect and as an officer of the court.

4.32 Remember that it is not appropriate to use the same interpreter for opposing parties in criminal court cases, nor is it appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate agency.

At the End of Proceedings

4.33 If possible spend a few minutes with the interpreter reviewing the proceedings – consider how you worked together and any other pertinent practice issues, which may have arisen during the assignment.

4.34 Arrange for completion of all relevant paperwork – ensure the interpreter completes the monitoring form and remember to complete and return your monitoring form to the office manager at the procurator fiscal's office.

Section 5

GOOD PRACTICE FOR CLERK OF COURT/COURT STAFF

Before the Court Case

5.1 Ask the agency to provide an interpreter who:

- holds a valid certificate from Disclosure Scotland at Standard level, or, for complex or sensitive cases, at Enhanced level. The procurator fiscal will advise when Enhanced Level Disclosure is preferred. Sensitive cases may include sexual offences, or cases involving a child witness or suspect;

and

- holds the Diploma in Public Service Interpreting (Scottish Legal Option) or an equivalent qualification of a similar standard - for example, a qualification accredited by the Chartered Institute of Linguists

or

- holds a relevant sign language qualification and is registered with the Scottish Association of Sign Language Interpreters or equivalent (is not a trainee).

NOTE: It may be necessary to consider other additional vetting requirements in relation to matters of national security or other similar enquiries. The procurator fiscal will advise when this level of disclosure is required.

5.2 Advise the agency of the specification of the language and the dialect required, as per the information provided to the court by the procurator fiscal.

5.3 Advise the agency of the need to match an interpreter for gender, age and/or religion – this may be particularly relevant in cases of domestic abuse or sexual assault or where there are specific religious or cultural considerations. The procurator fiscal will provide information on any special matching needs for an interpreter and an accused.

5.4 If you are aware that an interpreter is required for a trial that will run for a whole day or longer, advise the agency when making the booking.

5.5 If known, advise the agency or the sign language interpreters if any special arrangements, such as screens or recording equipment, have been made for the assignment.

Preparing for Court Proceedings

5.6 Advise the sheriff that there will be an interpreter involved in the appropriate case.

When the interpreter is instructed to interpret for an accused

5.7 It is important to check the identity of the interpreter. Ask to see the interpreter's letter of instruction, agency identification or ID such as a passport or driving licence.

5.8 Check that the interpreter has signed a copy of the Code of Conduct (see Annex A) before the start of the court case.

5.9 Ensure that the interpreter has all relevant paperwork – copy of the complaint or indictment charges; code of conduct; glossary of terms; monitoring form.

5.10 Arrange to meet with any interpreter before the proceedings start to ensure that they are present. Ensure appropriate briefing is given to the interpreter and that they are aware of the court layout and advised of the likely order of business. Check that the interpreter instructed can speak or sign the required language and dialect or communicate in the appropriate form of sign language.

5.11 Try to put the interpreter at ease – mistakes are more likely to happen if the interpreter is nervous.

5.12 Arrange for the interpreter to meet the accused before the proceedings start to ensure a language match.

5.13 Agree the style or mode of interpreting to be used:

- Simultaneous – the interpreter listens in one language and speaks in another at the same time or with short time lags.
- Consecutive – first the interpreter listens to the entire original phrase or passage, then interprets it into the other language.

When the interpreter is for a witness:

5.14 Arrange for the interpreter to meet with the relevant instructing party and thereafter ensure that they arrange for the interpreter to meet the witness, as appropriate.

5.15 Facilitate the interpreter's access to the Witness Service if the witness (prosecution or defence) requires any practical and/or emotional support and general advice on court procedures.

In all cases:

5.16 Ensure that all parties are aware that, whilst at court, the interpreter should, as far as possible, not be left alone with the person for whom they are interpreting. In addition to issues of safety and risk management, the interpreter may be put under pressure from the person to take on tasks beyond their remit.

5.17 Ensure that the court is advised by the interpreter of any special requirements regarding the oath, use of any Holy Book or wish to affirm.

5.18 Agree either with the interpreter, or with the instructing party, a procedure for resolving difficulties and interventions. It is of crucial importance that the interpreter has the confidence to interrupt proceedings in cases where parties are speaking too quickly or where there is no equivalent term in the community or foreign language for the English term being used.

5.19 Agree appropriate seating, lighting and acoustic arrangements – ensure the interpreter is positioned so that he or she can see and hear proceedings.

5.20 Check if the use of any special measures, such as screens or CCTV links, has been requested and/or agreed for the particular proceedings. Discuss with the presiding sheriff and the prosecution and defence what the seating arrangements/position of the interpreter should be during the proceedings.

5.21 Remember that, unless the sheriff agrees in very exceptional circumstances, it is not appropriate to use the same interpreter for opposing parties in criminal court cases, nor is it appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate interpreting agency.

During the Court Proceedings

5.22 Ensure that the sheriff is advised of the need for appropriate breaks for the interpreter and witness. For sign language interpreting, in a trial, 2 interpreters may be required. They may interchange roles at intervals of around 15 to 20 minutes. Whilst it may appear that one is resting while the other is signing, the non-signing interpreter is listening closely to what is being said and discreetly offering support – they are both working all the time.

5.23 Address the accused directly and not the interpreter. Do not address the interpreter with questions such as “could you tell the accused....”.

5.24 Adjust the pace of delivery and break your speech into if required to do so – but keep sentences complete. Avoid jargon, complicated language, proverbs or local sayings. Speak clearly and not too quietly.

5.25 Remember that some words do not always have precise equivalents and that a short sentence in English may take several sentences to explain in another language – or vice versa.

5.26 In some languages there are no equivalent terms to English words or phrases - you may be asked by the interpreter if you can re-phrase something or provide a fuller explanation of the intended meaning.

5.27 If necessary ask the court to provide a short break if the interpreter is working for 30 minutes or more.

5.28 As before, remember that it is not appropriate, unless directed by the court, to use the same interpreter for opposing parties in criminal court cases, nor is it appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate agency.

5.29 Remember that the interpreter is a professional colleague and should be treated with respect and as a member of the team.

At the End of Proceedings

5.30 If possible spend a few minutes with the interpreter reviewing the proceedings – consider how you worked together and any other pertinent practice issues, which may have arisen during the assignment.

5.31 Where the interpreter has been instructed by the Scottish Court Service, arrange for completion of all relevant paperwork – ensure the interpreter completes the monitoring form and returns this to the clerk of court or sheriff clerk's office.

Section 6

GOOD PRACTICE FOR PRECOGNITION INTERVIEW

BY DEFENCE SOLICITORS

Before the Precognition Interview

6.1 Ensure that you have an assessment and statement of the language and dialect required. If necessary, seek clarification as to whether an interpreter is required and a specification of the language and the dialect or sign language requirements for a witness with a hearing impairment.

6.2 Take account of any other issues noted in the police report or by others - such as specific religious and/or cultural considerations or vulnerability - affecting the use of an interpreter.

6.3 Ask the Agency to provide an interpreter who:

- holds a valid certificate from Disclosure Scotland at Standard level, or, for complex or sensitive cases, at Enhanced level. Sensitive cases may include sexual offences or cases involving child witnesses;

and

- holds the Diploma in Public Service Interpreting (Scottish Legal Option) or an equivalent qualification of a similar standard - for example, a qualification accredited by the Chartered Institute of Linguists

or

- holds a relevant sign language qualification and is registered with the Scottish Association of Sign Language Interpreters or equivalent (not a trainee).

NOTE: It may be necessary to consider other additional vetting requirements in relation to matters of national security or other similar enquiries.

6.4 Advise the interpreting agency of any language specifics such as dialect.

6.5 Advise the agency of the need to match an interpreter for gender, age and/or religion – this may be relevant in cases of domestic abuse or sexual assault or where specific religious and/or cultural issues have been identified by the police.

6.6 Advise the agency of your estimate of how long the interpreter may be required keeping in mind that interpreting requires roughly twice the length to listen then interpret plus breaks approximately every 30 minutes for the interpreter.

6.7 Before the appointment, consider the implications of working with an interpreter. Working with an interpreter makes you dependent on another person and this can change the dynamic of the meeting. You may find that you need to be extremely clear about the objectives of the meeting and what strategy you will use to ensure that these are met.

6.8 Remember that the interview is likely to take longer when working with an interpreter and allocate additional time.

Preparing for the Interview

6.9 Always ask to see the interpreter's letter of instruction or agency identification.

6.10 Ensure the interpreter signs and returns the Code of Conduct (see Annex A) before the start of the interview.

6.11 Try to spend some time with the interpreter before meeting the witness or suspect to decide how you will work together. You should explain the purpose of the meeting, share any relevant background information and check if there are any cultural issues, which should be taken into account.

6.12 Try to put the interpreter at ease – mistakes are more likely to happen if the interpreter is nervous.

6.13 Check if the interpreter needs an explanation of any technical or legal terms – it may be helpful to have available a glossary explaining the legal terms.

6.14 Agree a procedure for resolving difficulties and interventions. It is of crucial importance that the interpreter has the confidence to interrupt the interview in cases where parties are speaking too quickly or where there is no equivalent term in the community or foreign language for the English term being used.

6.15 Agree appropriate seating, lighting and acoustic arrangements.

6.16 Agree the style or mode of interpreting to be used:

- Simultaneous – the interpreter listens in one language and speaks in another at the same time or with short time lags.
- Consecutive – first the interpreter listens to the entire original phrase or passage, then interprets it into the other language.

6.17 Remember that the sign language interpreter must listen to what is said then translate. This means that they work slightly behind what each speaker is saying sometimes by 10 to 20 seconds.

Conducting the Interview

6.18 Allow appropriate breaks for the interpreter. For sign language interpreting, two interpreters may be required. They may interchange roles at intervals of around 15 to 20 minutes. Whilst it may appear that one is resting while the other is signing, the non-signing interpreter is listening closely to what is being said and discreetly offering support – they are both working all the time.

6.19 Check if the interpreter needs an explanation of any technical or legal terms – it may be helpful to have a glossary available.

6.20 Remember to address the suspect, accused, or witness when speaking and not the interpreter. Do not address the interpreter with questions such as, “could you ask the accused....”.

6.21 Check for any possible conflict of interest between the interpreter and the person with whom the interpreter is working. The interpreter should inform you of this immediately it becomes apparent.

6.22 Explain the role and responsibilities of the interpreter to the person being interviewed.

6.23 Adjust the pace of delivery and break your speech into shorter segments if asked to do so – but keep sentences complete. Where possible, avoid jargon, complicated language, proverbs or local sayings.

6.24 Remember that some words do not always have precise equivalent and that a short sentence in English may take several sentences to explain in another language – or vice versa.

6.25 In some languages there are no equivalent terms to English words or phrases - you may be asked by the interpreter if you can re-phrase something or provide a fuller explanation of the intended meaning.

6.26 When using sign language interpreters it is important to avoid leading questions. In British Sign Language there are a number of words where there is no exact equivalent to the English generic term - eg weapon, window, door. Sign language is very descriptive and if you use a general term like weapon the interpreter has to make a choice of a type of weapon before signing the interpretation. Try to be precise in your narrative.

6.27 Try to avoid discussing issues with the interpreter that do not require interpretation. This can make the person being interviewed feel uncomfortable, suspicious and excluded. If such issues do require discussion, ask the interpreter to explain this to the witness, or delay the discussion until after the witness has left.

6.28 Do not leave the interpreter alone with the suspect, accused or witness. In addition to issues of safety and risk management, the interpreter may be put under pressure from the person to take on tasks beyond their remit.

6.29 Remember that it is not appropriate to use the same interpreter for opposing parties in criminal cases, nor is it appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate interpreting agency.

6.30 Remember that the interpreter is a professional colleague and should be treated with respect and as a member of the team.

At the End of the Interview

6.31 If possible, spend a few minutes with the interpreter reviewing the interview – consider how you worked together and any other pertinent practice issues, which may have arisen during the assignment.

6.32 Complete any relevant paperwork – ensure the interpreter completes the monitoring form if given one and returns it to the appropriate person or office.

6.33 Consider the need for a referral to the Witness Service and ensure that details of the need for interpreting services are available as appropriate.

Section 7

GOOD PRACTICE FOR THE DEFENCE SOLICITOR IN COURT

Before the Proceedings

7.1 Check the need for a referral to Witness Service for a court familiarisation visit, including use of any special measures, and provide details of interpreting needs and any interpreter already engaged.

7.2 Ensure that all relevant documents have been sent to the interpreting agency, particularly regarding the need for the interpreter to hold:

- a valid certificate from Disclosure Scotland at Standard level or, for complex or sensitive cases, at Enhanced level. Sensitive cases may include sexual offences or cases involving child witnesses

and

- the Diploma in Public Service Interpreting (Scottish Legal Option) or an equivalent qualification of a similar standard - for example, a qualification accredited by the Chartered Institute of Linguists

or

- a relevant sign language qualification and is registered with the Scottish Association of Sign Language Interpreters or equivalent (not a trainee).

NOTE: It may be necessary to consider other additional vetting requirements in relation to matters of national security or other similar enquiries.

7.3 Consider if it is necessary to match an interpreter for gender, age and/or religion – this may be relevant, particularly in cases of domestic abuse or sexual assault or where there are specific religious and/or cultural considerations affecting the use of an interpreter.

7.4 Remember that the proceedings are likely to take longer when working with an interpreter so allow for additional time.

Preparation for Proceedings - when the defence have instructed the interpreter:

7.5 Treat these cases as advance preparation proceedings – check that the interpreter instructed can speak the required language and dialect, or communicate in the appropriate form of sign language.

7.6 Always ask to see the interpreter's letter of instruction or agency identification.

7.7 Ensure you receive a signed copy of the Code of Conduct (see Annex A) from the interpreter before the start of the court case.

7.8 If possible try to spend a few minutes with the interpreter before the proceedings commences to decide how you will work together. You may need to check the interpreter understands their role, share any relevant background information or check if there are any cultural issues, which may need to be taken into account.

7.9 Try to put the interpreter at ease – mistakes are more likely to happen if the interpreter is nervous.

7.10 Ensure that the interpreter has all relevant paperwork – copy of the complaint or indictment; code of conduct; glossary of terms; monitoring form.

7.11 Agree a procedure for resolving difficulties and interventions. It is of crucial importance that the interpreter has the confidence to interrupt proceedings in cases where parties are speaking too quickly or where there is no equivalent term in the community or foreign language for the English term being used.

7.12 Arrange for the interpreter to meet the accused or defence witness before the start of the proceedings to ensure a language match.

7.13 Ask the interpreter to advise if the accused/defence witness requires any special form of oath or Holy Book.

7.14 Facilitate the interpreter's access to the Witness Service if the defence witness requires any practical and/or emotional support and general advice on court procedures.

7.15 Do not leave the interpreter alone with the accused or defence witness. In addition to issues of safety and risk management, the interpreter may be put under pressure from the person to take on tasks beyond their remit.

7.16 Advise the clerk of court and procurator fiscal that an interpreter will be used, and whether this is for an accused person or witness and if necessary any specialities of oath required.

7.17 Agree appropriate seating, writing and acoustic arrangements.

7.18 Agree the style or mode of interpreting to be used:

- Simultaneous – the interpreter listens in one language and speaks in another at the same time or with short time lags.
- Consecutive – first the interpreter listens to the entire original phrase or passage, then interprets it into the other language.

7.19 Check if the use of any special measures has been requested and/or agreed for the particular proceedings. If the interpreter is to be used for a witness using a screen or live television link, agree appropriate seating arrangements so that all parties in the courtroom can see the interpreter as well as the witness. If the interpreter is to be used for an accused person, and any of the witnesses are to give evidence using a special measure, check that the seating arrangement enables the interpreter to be able to see/hear the witness clearly.

During the Court Proceedings – in all cases

7.20 Ensure that the court is advised of the need for appropriate breaks for any interpreter working with an accused person. For sign language interpreting 2 interpreters may be required. They may interchange roles at intervals of around 15 to 20 minutes. Whilst it may appear that one is resting while the other is signing, the non-signing interpreter is listening closely to what is being said and discreetly offering support – they are both working all the time.

7.21 Address any witness working with an interpreter directly and not the interpreter. Do not address the interpreter with questions such as “could you ask the witness ...”

7.22 Adjust the pace of delivery and break your speech into shorter segments if required to do so – but keep sentences complete. Where possible, avoid jargon, complicated language, proverbs or local sayings.

7.23 Remember that some words do not have precise equivalents and that a short sentence in English may take several sentences to explain in another language – or vice versa.

7.24 In some languages there are no equivalent terms to English words or phrases - you may be asked by the interpreter if you can re-phrase something or provide a fuller explanation of the intended meaning.

7.25 When using sign language interpreters it is important to avoid leading questions. In British Sign Language there are a number of words where there is no exact equivalent to the English generic term - eg weapon, window, door. Sign language is very descriptive and if you use a general term like weapon the interpreter has to make a choice of a type of weapon before signing the interpretation. Try to be precise in your narrative.

7.26 If necessary, ask the court to provide a short break if the interpreter is working with an accused for 30 minutes or more.

7.27 Remember that the interpreter is a professional colleague and should be treated with respect and as an officer of the court.

7.28 Remember that it is not appropriate to use the same interpreter for opposing parties in criminal court cases, nor is it appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate agency.

At the End of Proceedings

7.29 If possible, spend a few minutes with the interpreter reviewing the proceedings – consider how you worked together and any other pertinent practice issues, which may have arisen during the assignment.

7.30 Arrange for completion of any relevant paperwork – ensure that the interpreter completes the monitoring form, if given one, and returns it to the appropriate person or office.

Section 8

GOOD PRACTICE FOR OTHER COURT OFFICIALS

RECEPTION STAFF, COURT OFFICERS, MACERS

Reception Staff

8.1 When the interpreter reports at the reception point, ask to see the interpreter's letter of instruction and identify the case to which they are assigned.

8.2 Give them directions to report to the court officer or clerk of court within the court room, who will note their attendance.

Court Officers & Macers

8.3 When the interpreter reports to you, before the commencement of court proceedings, check that the case they are working on is on your court list.

8.4 Ask to see their letter of instruction and any agency identification they may have.

8.5 Advise the clerk of court of their presence, so that the sheriff can be made aware that there will be an interpreter involved in the appropriate case.

8.6 If the court is in session, direct the interpreter to a suitable waiting room and check which party has instructed the interpreter so that arrangements can be made for the interpreter to meet with the relevant instructing party - procurator fiscal, defence agent or clerk of court.

8.7 If requested to do so, assist the instructing party to make arrangements for the interpreter to meet the accused or witness, as appropriate, in order to confirm a language or dialect match.

8.8 Facilitate the interpreter's access to the Witness Service if the witness (prosecution or defence) requires any practical and/or emotional support and general advice on court procedures.

8.9 Make arrangements to discuss with the interpreter whether any specific Holy Book will be required when any oaths are to be administered by the sheriff or whether the witness prefers to affirm. As appropriate, ensure that the relevant court is advised.

ANNEX A

CODE OF CONDUCT FOR INTERPRETERS

This Code of Conduct sets out the standards which are expected of you when accepting assignments from Scottish Police Service, solicitors, Scottish Court Service or the Crown Office and Procurator Fiscal Service.

(1) Competence – You are expected to:

- have a written and spoken command of both languages, including any specialist terminology, current idioms and dialect
- be familiar with any cultural backgrounds relevant to the assignment
- understand police station and court procedures.

(2) Procedure – you will:

- convey the exact meaning of what has been said without adding, omitting or changing anything; making explanation only where a cultural misunderstanding may be occurring, or where there is no direct equivalent for a particular term. Only in exceptional circumstances should a summary be given (if this is consented to by all parties) provided the meaning of what is being summarised is not distorted
- declare any difficulties you have with dialect or technical terms and if these cannot be satisfactorily remedied, withdraw from the assignment
- not give advice, legal or otherwise, to an accused person or witness in the case, nor enter into discussion with them (other than to confirm language/dialect match)
- not delegate work, nor accept delegated work (or work for another party in the proceedings) without the prior consent of the party engaging you/the other interpreter's services
- be reliable and punctual at all times
- declare immediately any previous involvement in the assignment and any involvement or relationship with the accused or any witness in the case
- interrupt the interview/proceedings only (1) to ask for clarification (2) to point out that a party may not have understood something (3) to alert the parties to a missed cultural reference (4) to advise that there is no equivalent term in the language concerned to the term being used and (5) to advise that you require a break due to the potential for lapses in concentration to occur during lengthy periods of simultaneous or consecutive interpreting.

(3) Ethical and Professional Issues – you will:

- respect confidentiality at all times and not seek to take advantage of any information disclosed during your work
- act in an impartial and professional manner
- not discriminate between parties (to their advantage or disadvantage) either directly or indirectly on the grounds of race, colour, ethnic origin, age, nationality, religion or belief, gender, sexual orientation or disability
- disclose any information, including any criminal record, which may make you unsuitable for any particular assignment
- disclose immediately if the person for whom you are interpreting, or their immediate family is known or related to you
- declare any business, financial, family or other interests which you might have in the matter being handled
- not accept any form of reward (whether in cash or otherwise) for interpreting work, other than payment by the party engaging your services.

(4) Confidentiality – Any information you obtain in the course of your assignment is confidential and is not to be given by you to anyone other than the party who instructed you, whether during the assignment or after it has finished, unless you are given written permission to do so. You must also comply with the current Data Protection Act legislation.

You will not use any information you obtain in the course of your assignment for any purpose other than as authorised by the party instructing you. The right to all such information rests with the party instructing you and permission to access and use this information can only be given by that party. If you feel that you may require to disclose information obtained in the assignment due to a need for additional support or guidance, you should write to the party who instructed you for permission to disclose such information.

You must keep safe any documents provided to you in the course of an assignment; you must make sure they are not copied, in whole or in part, and you must return them to the party who instructed you at the end of the assignment.

(5) Insurance – You should be covered by professional indemnity insurance (either your own or as provided by the interpreting service). The party instructing you will not be responsible for any claims made against it, or against you, on the grounds, for example, of incompetent interpreting or unprofessional conduct.

I accept this assignment, having read and understood the terms and conditions set out above. I understand that if I breach any of these terms and conditions, particularly those relating to confidentiality, criminal or civil proceedings may result.

Signed: _____

Print Name: _____

Date: _____

ANNEX B PROTOCOL

INSTRUCTION OF INTERPRETERS FOR CRIMINAL COURT DIETS PROTOCOL

This protocol sets out agreed arrangements between Crown Office, Scottish Court Service and the Association of Chief Police Officers in Scotland (ACPOS) for the instruction of interpreters for criminal court diets. It is intended to cover the instruction of community, foreign and sign language interpreters and (interpreters required to assist people with sensory impairment).

It is the responsibility of the police to advise the procurator fiscal in the police report whether the accused or any proposed prosecution witness requires the services of an interpreter to give evidence in court. The reporting officer should specify the language and dialect required in the police report and should also provide the name, designation and qualifications of any interpreter used at the investigative stage so that the procurator fiscal and the Scottish Court Service may ensure that, so far as possible, the same interpreter is not used at any court diet.

It is the responsibility of the procurator fiscal to engage a suitably qualified and experienced interpreter, skilled in the language and dialect specified in the police report, to assist prosecution witnesses in giving their evidence. It is recognised that there is limited time available between arrest and the first appearance of an accused person in custody.

In all cases therefore where accused persons are appearing for the first time from custody the police will, so far as possible, arrange, *on behalf of the Scottish Court Service*, for a suitably qualified and experienced interpreter to appear at court to assist the accused. The interpreter engaged for court should not be the same interpreter who assisted the accused during the investigation stage although it is recognised that it may not always be possible to secure the services of a different interpreter who has appropriate qualifications and experience given the limited time available. The fact that the police have engaged an interpreter for the accused's first appearance from custody should be set out in the police report to the procurator fiscal. If difficulties arise in securing the services of an interpreter the police should make early contact with the procurator fiscal. The fee of the interpreter in such cases will be paid by Scottish Court Service and they will instruct the interpreter for the accused for any continued diets in the case.

In respect of all other criminal court diets, both pre-trial and trial diets, it is the responsibility of the Scottish Court Service to engage a suitably qualified and experienced interpreter, skilled in the language and dialect required to assist the accused. In respect of all other diets the procurator fiscal will advise the sheriff clerk (or in high court cases the deputy principal clerk of justiciary) in writing of the language needs of the accused, namely the language and dialect as set out in the police report, at least 14 days before the scheduled diet.

It is recognised that the role of the interpreter in the criminal court is crucial. The procurator fiscal, Scottish Court Service and the police will ensure, so far as possible, that interpreters are engaged through recognised interpreting services and that interpreters engaged have appropriate qualifications and experience.

CROWN OFFICE

February 2002

ANNEX C

ORGANISATIONS WHO GAVE ADVICE AND INPUT TO THIS CODE OF PRACTICE

Alpha Translating & Interpreting Services, 18 Haddington Place, Edinburgh, EH7 4AF

Global Connections (Scotland) Ltd, 2nd Floor, 180 Hope Street, Glasgow G2 2UE

Global Language Services Ltd, Craig House, 64 Darnley Street, Glasgow G41 2SE

Happy to Translate, 12 New Mart Road, Edinburgh, EH14 1RL

Just Sign Ltd, 4 East Fergus Place, Kirkcaldy KY1 1XT

Scottish Association of Sign Language Interpreters (SASLI), Baltic Chambers, Suite 317-319, 50 Wellington Street, Glasgow G2 6HJ

Judicial Studies Committee, Bearford House, 39 Hanover Street, Edinburgh, EH2 2PJ

West of Scotland Race Equality Council, 39 Napiershall Street, Glasgow, G20 6EZ

WGIT Contacts

COPFS - Lesley.shoniwa@copfs.gsi.gov.uk

Scottish Police - InterpreterLiaisonOfficer@lbp.pnn.police.uk

Scottish Courts - nwhitelaw@scotcourts.gov.uk

Law Society - AlanMcCreadie@lawscot.org.uk

Scottish Legal Aid Board - shearerph@slab.org.uk