

**THE WORKING GROUP ON
INTERPRETING AND TRANSLATION**

CODE OF PRACTICE

FOR

**WORKING WITH INTERPRETERS AND PROVISION OF
TRANSLATIONS**

IN

THE SCOTTISH CRIMINAL JUSTICE SYSTEM



COPFS Crown Office & Procurator Fiscal Service
Scotland's Prosecution Service



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INTRODUCTION

Interpreters are engaged to assist individuals who come into contact with the criminal justice system and do not speak English, do not understand English, have a hearing impediment or have a speech impediment.

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 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 a Scottish court and provides an overview of what will happen in relation to the provision of translation of essential documents.

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 or the provision of translation of essential documents.

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 criminal justice system. Its members are drawn from some of the main criminal justice partners – Police Service of Scotland, the Scottish Courts and Tribunals Service (SCTS), the Crown Office and Procurator Fiscal Service (COPFS), the Scottish Legal Aid Board (SLAB) and the Law Society of Scotland. A representative from the Inspectorate of Prosecution periodically attends meetings to observe proceedings. WGIT members also seek advice from organisations with extensive knowledge and experience in the field of interpretation and translation.

The Scottish Children's Reporter Administration (SCRA) are also represented. Children's hearing and related court proceedings are not criminal proceedings however SCRA are parties to the current joint contract for the provision of interpreters and translators and share an interest in the standard of service provided.

Responsibilities for Instructing Interpreters for Criminal Courts

COPFS, Scottish Court and Tribunal Service (now SCTS) and Police Scotland agreed a protocol relating to the instruction of interpreters for criminal court diets. A copy of the [protocol](#) is at Annex B.

SCTS 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 SCTS.

The Procurator Fiscal has responsibility for the provision of interpreters for prosecution witnesses.

Defence Witnesses

Where the accused has legal representation, it is the responsibility of the defence solicitor to arrange an interpreter for those defence witnesses who do not speak English, understand English, have a hearing impairment or have a speech impediment.

Where the accused is unrepresented and intends to conduct his/her own defence at a trial, the court will make enquiry of the accused at the preliminary hearing, first diet or intermediate diet, in order to establish

- whether the accused intends to call a witness (or witnesses) to give evidence at the trial, **and**
- whether any of those witnesses will require the services of an interpreter.

Where this is the case the clerk of court will ensure that arrangements are made for the attendance of a suitable interpreter at the trial.

Responsibilities for the provision of translation of essential documents in Criminal cases

COPFS, Scottish Court and Tribunal Service (Now SCTS) and Police Scotland have agreed a protocol relating to the general approach to be taken to the provision of translations of essential documents. A copy of the protocol is at Annex C. This protocol is produced to provide the reader with an overview of the approach that will be taken by these organisations but ultimately it is a matter for the court in terms of the Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014 to order the translation of any essential documents for the purpose of safeguarding the fairness of the proceedings in accordance with EU directive 2010/64/EU on the right to Interpretation and Translation in criminal proceedings.

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Section 1 GOOD PRACTICE FOR THE INTERPRETER

Pre-assignment Planning

1.1 The Code of Conduct (annex A) should have previously been signed and retained by the Interpreting agency. Follow specific instructions from the interpreting agency and adhere to the code of conduct and good practice guidelines.

1.2 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
- Any 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.

1.3 You must ensure that you hold a valid certificate from Disclosure Scotland at the Standard level as a minimum.

1.4 Spoken language interpreters should hold the Diploma in Public Service Interpreting (Scottish Law Option) for the language required. If the DPSI qualification does not exist for the requested language (or an interpreter cannot be sourced holding said qualification) then the interpreter must have an equivalent combination of qualifications and experience of consecutive and simultaneous interpreting in a court (or police station depending on the assignment).

1.5 Sign language interpreters must be registered with the Scottish Association of Sign Language Interpreters (SASLI) - or equivalent body such as the NRCPD (National Registers of Communication Professionals working with Deaf and DeafBlind People) . They should **not** be a trainee and should have relevant experience interpreting in a court (or police station depending on the assignment). They may also hold a relevant sign language qualification.

1.6 If the assignment is in a court, you should ensure you are familiar with the general layout of the court, legal terminology and the role of court officials. If 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.

1.7 Please note that it is not good practice for an interpreter to provide services for opposing parties in a criminal court case, ie you cannot interpret for both the accused and a Crown witness in the same case, unless as directed by the court.

1.8 If you do not meet all of the above requirements, you should discuss your concerns with the service provider.

Attending at the Location of the Assignment

1.9 Be punctual – Allow time prior to the case calling to adequately familiarise yourself with the assignment. Failure to attend on time could result in a hearing or case calling being adjourned.

1.10 Identify yourself to the relevant reception staff and produce your agency identification.

1.11 Display your interpreter's identification badge at all times.

1.12 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.

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

1.14 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.

1.15 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.

1.16 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.

1.17 Bring to the immediate attention of the person who has instructed you if you have any difficulties with the dialect or technical terms. If these cannot be satisfactorily remedied, request to withdraw from the assignment.

1.18 If you have previously been involved in the case, please bring this to the immediate attention of the person who has instructed you.

1.19 Advise the person who instructed you of any issues which become apparent such as cultural/ religious issues which may have an impact on your assignment

During the Assignment Interview or Court Proceedings

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

1.21 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;
- Advise that you need to swap with your sign language interpreter colleague if you are working in a pair.

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

1.23 It is crucially important that you interpret as closely as possible the meaning of the terms being used. Do not guess. If there is no equivalent term to the English term or phrase being used, 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.

1.24 Court proceedings can be a daunting experience for all involved – **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 court know.

1.25 During any assignment, remember that your concentration can lapse in long periods of simultaneous or consecutive interpreting. Ensure that the court or interviewing officer is alerted to this and to the need for regular breaks. The person instructing you should raise this issue at the outset but ultimately it is for the court/officer to determine whether and when regular breaks in the proceedings will be provided.

1.26 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 agree to help without first obtaining permission from the clerk of court or whoever is instructing you.

1.27 A qualification to this exists when an accused person is appearing in court from custody for the first time. Where it is clear that the representing solicitor would have had no opportunity to engage the services of an interpreter (such as a duty solicitor) in time for court appearance, interpreters will be asked to assist in those occasions in order to ensure the smooth running of the court. This may involve some discussion in the court cell area to enable the representing solicitor to take instructions from the accused.

At the End of the Interview or Proceedings

1.28 If possible, spend a few minutes with the person who instructed your services reviewing the assignment and address any practice issues, which may have arisen during the assignment.

1.29 Complete the relevant attendance sheet and have it countersigned by the instructing party. You will not receive payment until you return the form to the interpreting agency who instructed you so this should be done 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.

Preparing for 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:
and
 - holds the Diploma in Public Service Interpreting (Scottish Law Option) in the requested language. If the DPSI qualification does not exist for the requested language (or an interpreter cannot be sourced holding said qualification) then the interpreter must have an equivalent combination of qualifications and experience of consecutive and simultaneous interpreting in a court.
- or
- is registered with the Scottish Association of Sign Language Interpreters (SASLI) or equivalent body (is not a trainee) and has relevant experience interpreting in a court and may also hold a qualification in sign language interpreting.

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

2.14 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.

2.15 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.

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

2.17 Check if there are any issues such as cultural or religious 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 'PSOS'.

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

2.19 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.

2.20 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.

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

2.22 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

2.23 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.

2.24 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....”

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

2.26 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, metaphors, idioms or local dialect.

2.27 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.

2.28 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.

2.29 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.

2.30 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.

2.31 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.

2.32 Remember that it is not good practice to use the same interpreter for opposing parties in criminal cases, however, in exceptional circumstances, and with the agreement of both parties, the same interpreter may be used at the police interview. It is never appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate interpreting agency. **SLAB and Police Scotland are still to approve this paragraph.**

Police Scotland SOP in relation to Solicitor Access at Police stations:

Where a person in police custody requires the services of an interpreter this interpreter can also be used to facilitate both the private consultation with a solicitor and the subsequent interview, without any undue conflict arising surrounding the interpreter's role.

2.33 Remember that the interpreter is a professional colleague and should be treated with respect.

At the End of the Interview

2.34 If possible, spend a few minutes with the interpreter reviewing the interview and address any practice issues, which may have arisen during the assignment.

2.35 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.

2.36 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.

2.37 As instructed in the Lord Advocate's Guidelines to Chief Constables on the Investigation and Reporting of Racist Crime, the police will endeavour to respect religious and cultural needs and ensure that relevant details in relation to ethnic and religious background are included in any subsequent report.

Appearance from Custody/ Next Day Undertaking/Warrant

2.38 In all cases where accused persons are appearing for the first time from custody/warrant the police will, so far as possible, arrange, *on behalf of the Scottish Court and Tribunal Service*, for a suitably qualified and experienced

interpreter to appear at court to assist the accused. They will also do so for undertakings where the accused is due to appear in court the next day. 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 Procurator Fiscal - 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.

2.39 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.

2.40 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.

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

2.42 The fee of the interpreter in such cases will be paid by the Scottish Courts and Tribunals 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 or the requirements for a witness with a speech impediment.

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 Ask the agency to provide an interpreter who:

- holds a valid certificate from Disclosure Scotland at Standard level; and
- holds the Diploma in Public Service Interpreting (Scottish Law Option) in the requested language. If the DPSI qualification does not exist for the requested language (or an interpreter cannot be sourced holding said qualification) then the interpreter must have an equivalent combination of qualifications and experience of consecutive and simultaneous interpreting in a court.

or

- is registered with the Scottish Association of Sign Language Interpreters (SASLI) or equivalent body (is not a trainee) and has relevant experience interpreting in a court and may also hold a qualification in sign language interpreting.

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

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

3.5 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. Also advise the agency if the witness is a child or if there are any other sensitivities in the case.

3.6 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.

3.7 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 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

3.8 Always ask to see the interpreter's agency identification.

3.9 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 issues such as cultural or religious issues which should be taken into account.

3.10 Allow appropriate breaks for the interpreter – at a natural point in the proceedings. 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.

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

3.12 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. If possible provide the interpreter with a summary of evidence

3.13 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.

3.14 Agree appropriate seating, lighting and acoustic arrangements.

3.15 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.

3.16 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.

3.17 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

3.18 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....”.

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

3.20 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, metaphors, idioms or local dialect.

3.21 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.

3.22 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.

3.23 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.

3.24 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.

3.25 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.

3.26 Remember that the interpreter is a professional and should be treated with respect.

At the End of the Interview

3.27 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.

3.28 Complete all relevant paperwork. If necessary inform the Victim and Information Advice service of the continuing need for interpreting services in this case.

Section 4

GOOD PRACTICE FOR THE CROWN OFFICE AND PROCURATOR FISCAL SERVICE FOR COURT PROCEEDINGS

Before the Proceedings - For Crown witnesses

4.1 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 of the proceedings
- Relevant case documentation, a copy of the charges, complaint/indictment and summary of evidence
- Information about the needs of the person for whom you are being asked to interpret.

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

- holds a valid certificate from Disclosure Scotland at Standard level; and
- holds the Diploma in Public Service Interpreting (Scottish Law Option) in the requested language. If the DPSI qualification does not exist for the requested language (or an interpreter cannot be sourced holding said qualification) then the interpreter must have an equivalent combination of qualifications and experience of consecutive and simultaneous interpreting in a court.

or

- is registered with the Scottish Association of Sign Language Interpreters (SASLI) or equivalent body (is not a trainee) and has relevant experience interpreting in a court and may also hold a qualification in sign language interpreting.

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NOTE: It may be necessary to consider other additional vetting requirements in relation to matters of national security or other similar enquiries. Should staff have such concerns they should discuss this with their line manager

4.3 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)

4.4 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.

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

4.6 Consider whether it will be likely that the interpreter will be required for more than one day. If so, this should be highlighted to the interpreting agency when the booking is made.

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 agency identification or ID such as a passport or driving licence.

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

4.10 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 issues such as cultural or religious issues which may need to be taken into account.

4.11 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.

4.12 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.

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

4.14 Ensure that the interpreter has all relevant paperwork – copy of the charges/ complaint/indictment and summary of evidence.

4.15 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.

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

4.17 Ask the interpreter to advise if the witness requires any special form of oath/affirmation /religious text or materials

4.18 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.

4.19 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.

4.20 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.

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

4.22 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.

4.23 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

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

4.25 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, metaphors, idioms or local dialect.

4.26 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.

4.27 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.

4.28 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.

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

4.30 Remember that the interpreter is a professional and should be treated with respect.

4.31 Remember that it is not good practice to use the same interpreter for opposing parties in criminal court cases, without leave of the court. It is never appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate agency about this.

At the End of Proceedings

4.32 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.

4.33 Arrange for completion of all relevant paperwork.

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;
- and
- holds the Diploma in Public Service Interpreting (Scottish Law Option) in the requested language. If the DPSI qualification does not exist for the requested language (or an interpreter cannot be sourced holding said qualification) then the interpreter must have an equivalent combination of qualifications and experience of consecutive and simultaneous interpreting in a court.
- or
- is registered with the Scottish Association of Sign Language Interpreters (SASLI) or equivalent body (is not a trainee) and has relevant experience interpreting in a court and may also hold a qualification in sign language interpreting.

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 interpreting agency of the specification of the language and the dialect required, as per the information provided to the court by the procurator fiscal, police, defence agent, accused or interpreter used on a previous occasion.

5.3 Advise the interpreting agency at the outset of any specific requirements for the interpreter such as gender (this may be particularly relevant when there are specific religious or cultural considerations). This information will usually be provided by the procurator fiscal but may also come from the defence agent, police, accused or an interpreter used on a previous occasion.

5.4 If the diet/ hearing is likely to last more than one day then this should be highlighted to the interpreting agency when the booking is made.

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/Judge/Magistrate/Justice 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 their agency identification card, if they do not have one then ask to see another form of

identification. This should be shown to the Justice/ Magistrate/Sheriff/Judge on request.

5.8 Ensure that the interpreter is present within the courtroom. If possible, direct the interpreter to the accused (or their defence agent) so they can meet prior to the proceedings starting to ensure a language/ dialect match or they can communicate in the appropriate form of sign language.

When the interpreter is for a witness:

5.9 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.

5.10 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:

5.11 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.

5.12 Ensure that the court is advised by the interpreter of any special form of oath/affirmation /religious text or materials.

5.13 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.

5.14 Check if the use of any special measures, such as screens or CCTV links, has been requested and/or agreed for the particular proceedings. It would be best practice to discuss with the presiding Sheriff/Judge/Magistrate/Justice and parties what the seating arrangements/lighting/acoustics/position of the interpreter should be during the proceedings.

During the Court Proceedings

5.15 Ensure that the Sheriff/Judge/Magistrate/Justice 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.

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

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

5.18 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.

5.19 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.

5.20 Allow appropriate breaks for the interpreter – at a natural point in the proceedings. 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.

5.21 Where the accused has legal representation it is the responsibility of the defence solicitor to arrange an interpreter for those defence witnesses who do not speak English, understand English, have a hearing impairment or have a speech impediment.

Where the accused is unrepresented and intends to conduct his/her own defence at a trial, the court will make enquiry of the accused at the preliminary hearing, first diet or intermediate diet, in order to establish

- whether the accused intends to call a witness (or witnesses) to give evidence at the trial, **and**
- whether any of those witnesses will require the services of an interpreter.

Where this is the case SCTS (the clerk of court) will ensure that arrangements are made for the attendance of a suitable interpreter at the trial.

5.22 Remember that the interpreter is a professional and should be treated with respect

At the End of Proceedings

5.23 If the interpreter is to attend the following day for the continued diet then you should ensure that you confirm the time and location of the hearing for the following day.

5.24 Countersign the interpreter's attendance sheet and complete any necessary sections. If you haven't already, return their identification card to them. If possible spend a few minutes with the interpreter to identify good practice/issues arising from the interview. Finally thank the interpreter for their attendance

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 or the requirements for a witness with a speech impediment..

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; and
 - holds the Diploma in Public Service Interpreting (Scottish Law Option) in the requested language. If the DPSI qualification does not exist for the requested language (or an interpreter cannot be sourced holding said qualification) then the interpreter must have an equivalent combination of qualifications and experience of consecutive and simultaneous interpreting in a court.
- or
- is registered with the Scottish Association of Sign Language Interpreters (SASLI) or equivalent body (is not a trainee) and has relevant experience interpreting in a court and may also hold a qualification in sign language interpreting.

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 the specification of the language and the dialect required, as per the information known. This may have come from information provided to the court by the procurator fiscal, from the police, accused or interpreter used on a previous occasion or indeed may be known by the defence agent involved.

6.5 Advise the interpreting agency at the outset of any specific requirements for the interpreter such as gender (this may be particularly relevant when there are specific religious or cultural considerations). This information will usually be provided by the procurator fiscal but may also come from the defence agent, police, accused or an interpreter used on a previous occasion. This may be relevant in cases of domestic abuse or sexual assault or where specific religious and/or cultural issues have been identified.

6.6 In cases covered by criminal advice and assistance or criminal legal aid, please ensure that the interpreter is aware of the provisions covered by the Scottish Legal Aid Board Guidance on Interpreting and Translation Fees, effective from 1st October 2012. This guidance covers issues like payment rates, waiting time, travel and subsistence, cancellation fees, translations, transcribing, invoices and attendance at police stations. This guidance can be found on the SLAB website at www.slab.org.uk

6.7 Always respect the role of the interpreter. A pre-meeting is advisable in order to provide a briefing about the background and practical purpose of the precognition interview and to deal with issues such as confidentiality and positioning. Always ensure that the interpreter is clear about the use of technical terms or specialist vocabulary.

6.8 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 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.

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

Preparing for the Interview

6.10 Always ensure that the interpreter undertakes not to negotiate or advocate on behalf of any party at the interview, nor to act as advisor/ counsellor for any party nor to attempt to influence the outcome of any exchange between the parties.

6.11 Always ensure that the interpreter undertakes to maintain the utmost confidentiality and trust.

6.12 Always advise the interpreter that he/she has the right to refuse to participate if

- (i) He/she is of the view that he/she has not been adequately briefed.
- (ii) He/she is of the view that he/she has not had adequate training or support for the interview
- (iii) He/she is of the view that he/she is being made subject to unreasonable demands or unacceptable behaviour from the suspect, accused or witness during the course of the interview.

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

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

6.15 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 issues such as cultural or religious issues which should be taken into account.

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

6.17 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.

6.18 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.

6.19 Agree appropriate seating, lighting and acoustic arrangements.

6.20 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.

6.21 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

6.22 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.

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

6.24 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...”

6.25 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.

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

6.27 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, metaphors, idioms or local dialect.

6.28 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.

6.29 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.

6.30 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.

6.31 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.

6.32 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.

6.33 Remember that it is not good practice to use the same interpreter for opposing parties in criminal cases, however, in exceptional circumstances, and with the agreement of both parties, the same interpreter may be used. It is never appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate interpreting agency.

6.34 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

6.35 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.

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

6.37 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; and
 - the Diploma in Public Service Interpreting (Scottish Law Option) in the requested language. If the DPSI qualification does not exist for the requested language (or an interpreter cannot be sourced holding such qualification) then the interpreter must have an equivalent combination of qualifications and experience of consecutive and simultaneous interpreting in a court.
- 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 In cases covered by criminal advice and assistance or criminal legal aid, please ensure that the interpreter is aware of the provisions covered by the Scottish Legal Aid Board Guidance on Interpreting and Translation Fees, effective from 1st October 2012. This guidance covers issues like payment rates, waiting time, travel and subsistence, cancellation fees, translations, transcribing, invoices and attendance at police stations. This guidance can be found on the SLAB website at www.slab.org.uk

7.5 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:

7.6 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.

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

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

7.9 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.

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

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

7.12 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.

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

7.14 Ask the interpreter to advise if the accused/defence witness requires any special form of oath /affirmation/religious text or materials.

7.15 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.

7.16 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.

7.17 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.

7.18 Agree appropriate seating, writing and acoustic arrangements.

7.19 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.

7.20 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

7.21 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.

7.22 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 ...”

7.23 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, metaphors, idioms or local dialect.

7.24 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.

7.25 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.

7.26 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.

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

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

7.29 Remember that it is not good practice to use the same interpreter for opposing parties in criminal court cases, unless under direction from the court. It is never appropriate to ask the interpreter to suggest or arrange an alternative. You should contact the appropriate agency.

At the End of Proceedings

7.30 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.

7.31 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, identify the case to which they are assigned and inform them of the courtroom in which the case will be calling. Give them directions to report to the court officer or clerk of court within the courtroom.

Court Officers & Macers

8.2 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.

8.3 Ask to see their agency identification (if they do not possess any agency identification then some other form of photographic identification).

8.4 Advise the clerk of court of their presence, so that the Sheriff/Judge/Magistrate/Justice can be made aware that there will be an interpreter involved in the appropriate case.

8.5 If the court is in session, direct the interpreter to a suitable waiting area and check which party has instructed the interpreter so that arrangements can be made for the interpreter to meet with the instructing party.

8.6 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.

8.7 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.

8.8 Ask the interpreter if they require any special form of oath/affirmation/religious text or materials

Annex A

Code of Conduct for Interpreters, translators and transcribers

This Code of Conduct sets out the standards which are expected of you when accepting assignments from one of the criminal justice partners or signatories to this code of conduct.

(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 for those organisations where it is required.

(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 (and only if consent is given 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 or in court proceedings without leave of the court.
- 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 proceedings only:
 - To ask for clarification;
 - To point out that a party may not have understood something;
 - To alert the parties to a missed cultural reference;
 - To advise the court (or police officers) that there is no equivalent terms in the language concerned, to the term being used;

To advise the court (or police officers) that you require a break, due to the potential 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. Particularly Principle 7 – Information Security – you must have appropriate security to prevent personal data that you hold being accidentally or deliberately compromised and be ready to respond to any breach of security swiftly and effectively.

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 are advised to have your own professional indemnity insurance cover as the instructing party will not be responsible for any claims made against it, or against you on the grounds (for example) of incompetent interpreting or unprofessional conduct.

Annex B PROTOCOL

INSTRUCTION OF INTERPRETERS FOR CRIMINAL COURT DIETS PROTOCOL

*This protocol sets out agreed **arrangements between Crown Office and Procurator Fiscal Service (COPFS), Scottish Court and Tribunal Service (SCS) and Police Scotland** 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 and Tribunal 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 police custody/warrant/next day undertaking the police will, so far as possible, arrange, *on behalf of the Scottish Court and Tribunal 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 Scottish Court and Tribunal Service and advise the procurator fiscal. The fee of the interpreter in such cases will be paid by Scottish Court and Tribunal Service and they will instruct an 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 and Tribunal 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 (such as undertakings or first diets/ preliminary diet) 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 as soon as practicable but at least 7 days before the scheduled diet. For rare languages (where there may be a limited numbers of suitably qualified interpreters), the procurator fiscal should advise the sheriff clerk (or depute clerk of Justiciary) of the language requirement as soon as the case is marked to allow SCS sufficient time to source a suitable interpreter.

It is recognised that the role of the interpreter in the criminal court is crucial. COPFS, SCTS and Police Scotland will ensure that interpreters are sourced through approved

interpreting agencies and the interpreting agency will ensure that an interpreter provided to any of these organisations meet the minimum qualification, experience and security clearance criteria listed in their respective contracts.

April 2015

Annex C

Cross- justice working protocol on Right to Interpretation and Translation in Criminal Proceedings (Scotland) Regulations 2014

Police custody and police questioning

(1) Regulation 4(4) states:

In this regulation, “essential document” means any document relating to the person being in police custody which –

(a) Authorises the deprivation of the person’s liberty by a constable or charges the person with having committed an offence; and

(b) Is required by any enactment to be provided to the person in writing

(2) For the purposes of these Regulations, a person is in **police custody** if –

(a) the person is being detained under section 14 of the Criminal Procedure (Scotland) Act 1995 and has been taken to a police station or other premises or place; or

(b) the person has been arrested by a constable in connection with an offence, under any enactment (other than the Extradition Act 2003) or rule of law whatsoever, and is in custody in a police station or other premises.

(3) It is acknowledged that many extracts of warrants deprive a person of their liberty but do not fall within regulation 4(4);

(a) It has been agreed by Criminal Justice partners that extracts of warrants to apprehend issued to Police Scotland by either Crown Office and Procurator Fiscal Service (COPFS) or Scottish Court and Tribunal Service (SCS) will be issued in English. An oral translation of the terms of the warrant will be provided through use of an interpreter arranged by the police following apprehension to assist the accused person in police custody.

(b) Where a request is made for a written translation of a warrant by a person who is in police custody prior to their appearance at court; Police Scotland will record the request and notify the issuing organisation (either COPFS or SCS depending on the nature of the warrant).

(c) SCS or COPFS will then place the request before the court (when the accused/ arrested person appears) for consideration and determination.

(d) Undertaking Form. Where an oral summary has been provided through use of an interpreter, Police Scotland shall arrange for a translated version of the Undertaking Form, or relevant part thereof, to be provided to the accused prior to their appearance at Court. Police Scotland will record the details and notify

COPFS. This agreement shall not prejudice proceedings in undertakings involving limited timescales, ie next day undertakings, where provision of a translated version of the undertaking form cannot reasonably be obtained

- (4) Otherwise, where a requirement has been identified in terms of regulation 4(4) (Right to translation of essential documents in police custody), including circumstances where an oral translation or oral summary has been provided, Police Scotland will record the details and notify COPFS or SCS of said requirements prior to the person's appearance at court.

In addition:

- (5) Police Scotland will advise COPFS within the Standard Prosecution Report of all reviews undertaken in terms of regulation 5 and any complaints raised in terms of regulation 6 and will provide details of all circumstances relevant thereto including details of any determinations made, any directions given and any actions taken.

Court proceedings

Essential documents

- (1) Regulation 9(4) states:

In this regulation, "essential document" means –

(a) Any of the following in so far as they are required by any enactment to be provided to the person in writing –

- (i) A document authorising the deprivation of the person's liberty;*
- (ii) A document charging the person with having committed an offence;*
- (iii) A court judgment relating to the proceedings; and*

(b) Any other document which the court hearing the proceedings determines to be essential for the purpose of safeguarding their fairness.

- (2) For the purpose of this protocol, "essential documents" are agreed by Criminal Justice Partners to be:

- Criminal petitions;
- Indictments;
- Summary complaints;
- Judgments;
- Orders of court required by any enactment to be provided to the accused in writing; and
- Any other document which the court determines to be essential for the purpose of safeguarding the fairness of proceedings

- (3) Criminal petitions will be translated into a language that the accused can understand by COPFS within a reasonable time of the accused's first appearance in court. This will normally be within 3 working days.
- (4) Indictments will be translated into a language that the accused can understand by COPFS within a reasonable time from issue of the Indictment in English. This will normally be within 7 working days. Only the part of the indictment which contains the charge(s) against the accused will be translated, in terms of regulation 9(3)(a).
- (5) In relation to summary proceedings, COPFS will [in cited cases] translate the summary complaint, where the accused person has indicated that they require a translated version. This will normally be within 7 working days of receiving notice of such a request. In relation to all other summary cases, the summary complaint will be translated into a language that the accused can understand by COPFS within a reasonable time after the accused's first appearance in court. This will normally be within 3 working days.
- (6) Written judgments (such as appeal opinions) will be translated into a language the accused can understand by SCS within a reasonable period of time. This will normally be within 14 working days.
- (7) Orders of court which are required by any enactment to be provided to the accused person in writing will be translated into a language the accused can understand by SCS within a reasonable period of time. This will normally be within 7 working days.
- (8) For other documents that the court determine to be essential for the purpose of safeguarding the fairness of proceedings; the court is required to determine if a document, or parts of a document, falls under regulations 9(2) or 12(1)(b) and requires to be translated into a language that the accused can understand. The court (at that time) will require to give a direction as to which organisation would be responsible for providing the translation and associated costs.

Information to be recorded by the clerk of court

- (10) In terms of regulation 14 the clerk of court currently records in the court minute the fact that proceedings have been orally translated into another language and the identity of the person who has provided said oral translation in court. The nature of the relevant language is also recorded.
- (11) In terms of regulation 14(b), the clerk of court will require to record in the court minute that an oral translation or oral summary of an essential document has been undertaken by the interpreter present in court.
- (12) In terms of regulation 14(c), the clerk of court shall record the fact that the accused person has waived their right to a written translation in respect of any or all essential documents in terms of regulation 15(1) where this information is provided in court.

Annex D

WGIT Members/Useful Contacts

Crown Office Procurator Fiscal Service - DiversityTeam@copfs.gsi.gov.uk

Police Scotland – DiversityUnit@scotland.pnn.police.uk or
SCDEdinburghDiversityUnit@scotland.pnn.police.uk

Scottish Courts and Tribunals Service - csbenquiries@scotcourtribunals.gov.uk

Law Society – AlanMcCreadie@lawscot.org.uk

Scottish Legal Aid Board – General@slab.org.uk

Scottish Children's Reporter Administration - practicehelpline@scra.gsi.gov.uk