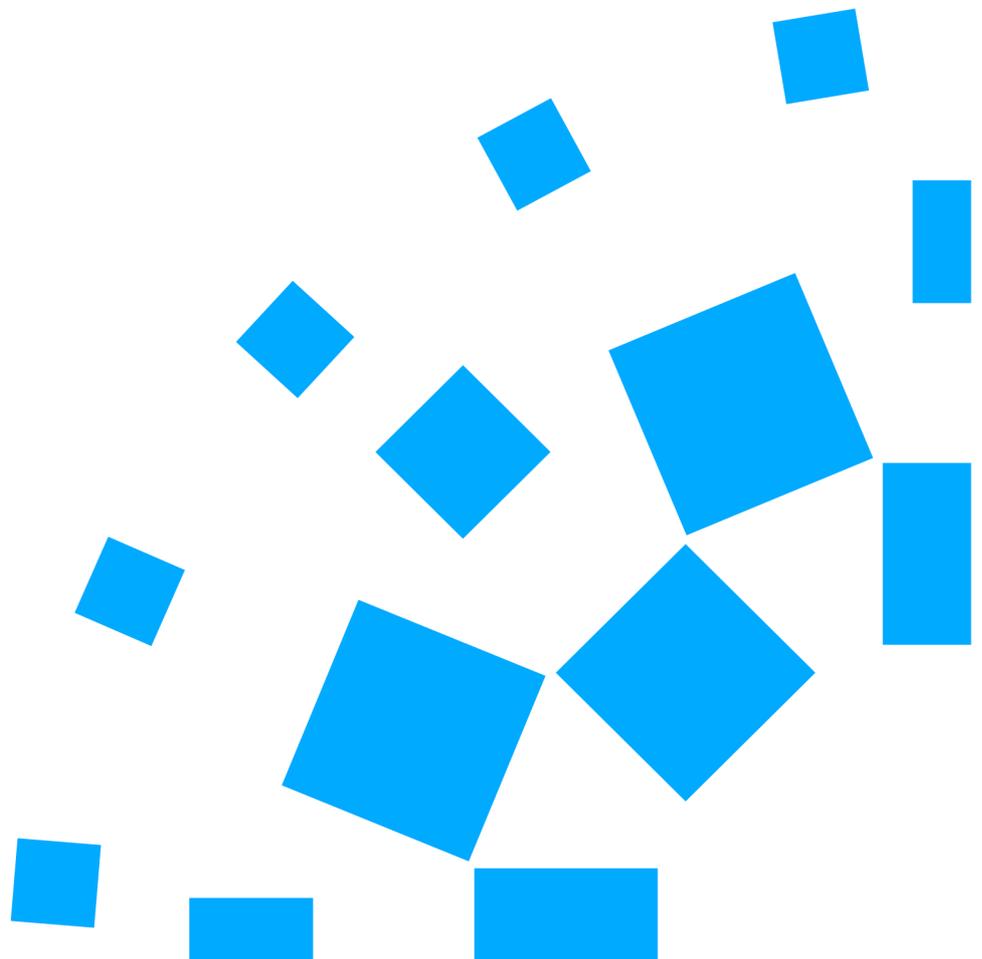


# Briefing note: Using language services

Version number 1.0



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## Introduction

This briefing note is for frontline officers and investigators using interpreting, translation and transcription services to communicate with victims, witnesses and suspects during an investigation.

## Legal framework

Victims and witnesses have the right to be able to communicate effectively throughout criminal proceedings and to have language services supplied if needed.

- Under the **Ministry of Justice (2015) Code of Practice for Victims of Crime**, a victim or witness is entitled to request interpretation and/or translation services in a language they understand – for example, when reporting a crime, being interviewed or giving evidence.
- Under the **Equality Act 2010**, the police must have due regard to the need to eliminate discrimination.
- Sign language interpreting services must be provided to people who are deaf or have a hearing impairment. British Sign Language (BSL) is commonly used in the UK, but interpreting services in other sign languages may also be required.
- A language professional must be used if clear and concise communication is not possible without them, and/or if a person who is deaf or has a hearing impairment requests it.

A person who is deaf or has a hearing impairment may communicate using spoken language, sign language, lip-reading or a combination of these.

Sign languages are not signed versions of spoken languages – they have their own linguistic structure. Hundreds of sign languages are in use around the world. The sign languages most commonly used in the UK are BSL and Irish Sign Language (ISL).

Deafblindness is a combination of sight and hearing loss. Most people who are deafblind have some residual sight and/or hearing, but the combined impact of two sensory impairments can be severe.

The principles set out in this briefing apply to sign language or lip-speaking interpreting services as well.

Suspects also have the right to have access to language services under the Police and Criminal Evidence Act 1984 (PACE) and **PACE Code C, 13** and **Code H** for terrorism matters. See also the **Directive 2010/64/EU** of the European Parliament and of the Council of 20 October 2010.

The **Human Rights Act 1998** and **Article 6 (3) of the European Convention on Human Rights** (ECHR) guarantees the right to have the free assistance of an interpreter if the accused cannot understand or speak the language used in court.

## Language professionals

In this document, language professionals are usually considered to be qualified professionals who specialise in work relating to law enforcement and provide interpreting, translation or transcription services.

Language professionals are usually skilled and trained professionals whose role is to assist communication by conveying verbally, or in writing, the meaning of an exchange between parties.

Sign language interpreters are language professionals. Their role is to aid non-verbal communication where one party speaks and the other uses sign language.

Police officers and staff with language skills are **not** language professionals.

## When should a language professional be used?

If English is not the interviewee's first language, or if the interviewee is deaf or deafblind, a language professional must be used whenever:

- clear and concise communication is not possible without a language professional
- the interviewer perceives the interviewee's comprehension and language ability to be insufficient for an effective interview
- the victim, witness or suspect requests it
- an interviewee may appear to be fluent in English but prefers to use their first language to convey intimate or difficult concepts
- the interaction will, or is likely to become, evidential and/or criminal justice proceedings will follow

## Identifying a suitable language professional

Any language professional used in formal evidential and/or criminal justice procedures should be qualified and a member of the Police Approved Interpreter and Translator Scheme (PAIT). Where possible, they should have experience of law enforcement or working in a police interview environment.

## Identifying the right language

Your custody suite should have a language identification chart available to help you identify the right language. If not, contact your language provider for assistance.

A language professional working with people who are deaf or deafblind should be registered with the National Registers of Communication Professionals working with Deaf and Deafblind People (**NRCPD**) or the Regulatory Body for Sign Language Interpreters and Translators (**RBSLI**), in addition to PAIT. This includes:

- interpreters for people who are deafblind
- lip speakers
- note takers
- sign language interpreters
- sign language translators
- speech-to-text reporters

It is important that a sign language interpreter engaged to work with a person who is deafblind has appropriate experience. Ask them about their specialist training and/or experience with the criminal justice system before making a booking.

## Vetting

A language professional should be vetted to an appropriate level for the assignment. As a minimum, this should be NPPV3. If a vetted language professional is unavailable, contact your supervisor for advice and risk management.

## Cultural requirements

It is important to respect cultural differences. This can be discussed with your assigned language professional.

## Booking

Language professionals should be booked according to local booking procedures.

If this is not possible, you must confirm that they are registered or that they hold the appropriate qualifications, vetting and/or Disclosure and Barring Service disclosure.

## Police officers and staff with language skills

Police officers and staff with language skills are encouraged to use these skills to benefit day-to-day policing activity.

It is the responsibility of the investigating officer to ensure that colleagues with language skills are used appropriately.

Police forces may hold a voluntary directory of police officers and staff with language skills who are able to provide assistance when appropriate, advise on cultural aspects or help with visits abroad.

The **Common European Framework of Reference for Languages - Self-assessment grid** can be used to assess the language skills of volunteers.

**Note:** A police officer or staff member with language skills must **not** act as an interpreter for another investigator to obtain evidential statements or information. However, an investigator can take a witness statement in a foreign language if they are linguistically competent to speak and write in that language. See also:

**Statement taking by a police officer or staff member with language skills.**

Police officers and staff with relevant language skills are specifically excluded from assisting a suspect to obtain legal advice. See PACE Code C paragraph 13.9.

## Interpreting

An interpreter's role is to directly interpret the spoken or signed exchange between the officer and an interviewee. They are independent and impartial.

An interpreter will interpret **everything** that is said in the presence of the interviewee, both inside and outside the interview room.

An interpreter is **not** part of the investigation team, nor are they an interviewer, witness statement taker, investigator, legal adviser, advocate, representative, appropriate adult, confidante, social worker, coordinator, chaperone or friend.

A police interviewer may **not** delegate any part of the interview to the interpreter.

Do **not** leave an interpreter unsupervised with the interviewee at any time.

## Logistics, health, safety and welfare

Allow twice the normal amount of time for an interpreter-assisted interview. Where possible, use a different interpreter for each victim, witness or suspect during the same investigation. Carry out a risk assessment where appropriate to ensure the health, safety and welfare of the interpreter.

When the interpreter arrives, you should do the following.

- Check the interpreter's ID. While there is currently no national standard, an ID card should include a photograph, names of the interpreter and the supplier, vetting status and vetting expiry date as a minimum. If in doubt, crosscheck with the relevant supplier.
- Check that the interpreter is briefed on basic information prior to the interview, such as the name of the interviewee, the language and the length of the assignment.
- If time allows, build rapport with the interpreter before introducing them to the interviewee.
- Familiarise the interpreter with the facilities and provide them with a single point of contact for any questions.

### **See also:**

Working with an interpreter: aide-memoire for interpreter-assisted interviews.

Briefing the interviewee: aide-memoire for interpreter-assisted interviews.

## Multiple or long interviews

Interpreting is a mentally intensive activity and can lead to cognitive overload and fatigue. This may lead to inaccuracies in the interpreting. Therefore:

- consider using a team of two or more interpreters for multiple or lengthy interviews during a complex investigation, or for operations involving several interviewees
- where sign language services are required for long periods, also consider using more than one language professional – you can ask the professional or their agency for advice
- in the event of any waiting time, language professionals should, where possible, be given a quiet room to wait in

## Welfare

The welfare of the interpreter is primarily the responsibility of the investigating officer for the duration of the assignment (see **PACE Code C, 3.6 and 3.8**). The investigating officer should:

- carry out a risk assessment for the interpreter's attendance, considering the location of the interview and any known medical information about the interviewee – all pertinent information should be included in the interpreter briefing
- make sure that the interpreter is not left alone with the interviewee
- ensure the interpreter's safety at all times, for example, by providing them with an escort to their car at the end of an assignment, and by ensuring that they do not leave the location at the same time, or through the same exit, as the interviewee or their supporters
- ensure that sufficient breaks are provided during lengthy operations or investigations (a 10-15 minute break every 40-60 minutes should be facilitated whenever possible and more frequent breaks may be needed for sign language interpreters)
- encourage the interpreter to ask for welfare support following a potentially traumatic assignment, for example, from their agency or professional association
- do **not** provide the interpreter's contact details to the victim, witness or suspect

## Briefing the interpreter before the interview

Accurate interpreting is the result of good preparation. Your interpreter needs to be briefed properly before the interview.

See **Working with an interpreter: aide-memoire for interpreter-assisted interviews**.

## Briefing the interviewee before an interpreter-assisted interview

The interviewee will need to be briefed via the interpreter so that they understand how an interpreter-assisted interview is conducted. The police interviewer **must** conduct the briefing, but the interpreter may add points for clarification. If the interview is to be video or audio recorded, then the briefing must also be recorded.

See **Briefing the interviewee: aide-memoire for interpreter-assisted interviews**.

## Interpreters' notes

Interpreters are trained to take notes to aid their memory during interviews. Each interpreter develops their own note-taking strategy and it is unlikely that two interpreters take notes in the same way. Any notes taken must be in hard copy. Electronic devices cannot be used.

The interpreter's notes must be handed to the interviewer at the end of the interview, except where the notes are subject to legal privilege, and these notes must be referenced in the interpreter's witness statement. Interpreters' notes should be included in the disclosure schedule of unused material.

To comply with data protection regulations, interpreters cannot retain a copy of their notes since they may contain names, addresses or other personal information relevant to the case. Interpreters can make a separate note of any terminology of linguistic value for their professional glossary.

## After the interview

After the interview, the interviewer or investigation team may wish to conduct a short debrief and ask the interpreter for feedback on the way the interview was conducted.

Do not ask the interpreter for their opinion on the interviewee, the interviewee's nationality, ethnicity, race or religion, or the wider investigation. Interpreters are obliged to stay impartial and abide by their professional body's code of conduct.

## Products produced from an interpreter-assisted interview

The following products are produced from an interpreter-assisted interview.

- A statement written in the foreign language, signed by the victim or witness and countersigned by the interpreter. The declaration on the statement should also be translated into the foreign language.
- An English language statement that accurately matches the foreign language version, appropriately labelled as an exhibit.
- Any notes taken by the interpreter during the interview.
- The interpreter or translator's statement confirming:
  - their involvement in the process
  - their qualifications
  - the statement-taking method they used (if applicable)
  - that the English language version is an accurate translation of the foreign language version
  - that the witness statement has been handed to the investigating officer for continuity

## Witness statements following an interpreter-assisted interview

A witness should be interviewed in the language of their choice. See **Ministry of Justice (2011) Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures**, page 57.

## Taking a witness statement via an interpreter

The interviewer must conduct the interview and take their notes as normal.

1. At the point of writing a statement, the interviewer asks the questions and makes notes in English (as required), from which they will dictate the statement later. This allows the interviewer to ask supplementary questions to clarify or expand where required.
2. The interviewer dictates the statement to the interpreter sentence by sentence, and the interpreter writes it out in the language of the interviewee (only applicable to foreign language statements). The declaration on the statement should also be translated into the interviewee's language.
3. At the end of the interview, the interpreter reads the foreign language statement back to the interviewee in the interviewee's own language, or the interviewee reads the statement themselves. The interpreter sight-translates for the benefit of the interviewer if required.
4. The interviewee signs the foreign language version of the statement, and the interpreter countersigns it. The witness is now free to leave.
5. The interpreter translates the foreign language statement into English at a time agreed between the interviewer and the interpreter. This may be the following day. Under no circumstances should a witness statement be prepared on the interpreter's personal laptop or tablet, nor should a witness statement be removed from law enforcement premises for later translation.
6. The interpreter provides an additional statement to confirm that the witness' foreign language version and the English language version match, and exhibits the English language version. In their statement, the interpreter must include details of their qualifications, specify their role in the statement-taking process, and confirm that they have passed the English language version to the investigating officer for continuity.

**Note:** at the end of this process there will be three documents produced, as detailed below.

<b>Foreign language witness statement</b>	<b>English language witness statement</b>	<b>Interpreter's witness statement</b>
Evidential statement	Translation of foreign language witness statement	Describes how the foreign language statement was produced, and exhibits the English language witness statement
Signed by the victim or witness	Signed by the language professional to verify that it is a true translation	Signed by language professional
Countersigned by language professional		Countersigned by interviewing officer

Using this approach, the interviewer is in control of the statement-taking process at all times.

## Statement taking by a police officer or staff member with language skills

An investigator with the appropriate level of interviewing skill, who is linguistically competent in the language of the victim or witness, and can write in that language, may take a written statement without the assistance of an interpreter.

Once completed, a qualified interpreter or translator must translate the foreign language statement into English.

As when taking a statement using an interpreter, there will be three products produced during this process:

- the foreign language statement
- the English language statement translated by the interpreter or translator
- the interpreter or translator's own statement exhibiting the English language version

## Live-link interpreting

Revisions to Code C enable interpreting to take place via a secure video link. This will be particularly useful in situations where it would take excessive time for an interpreter to travel to an interview location, for example, for rare languages where few interpreters are available.

Use of live-link is subject to suitable technology being available and protocols being developed. See **PACE Code C 13.12** for more information.

If live-link is used, the conversation must be audio recorded. The same qualification and registration requirements apply. Ideally, the language professional should also have experience of video interpreting.

## Telephone interpreting

Telephone interpreting can be used for brief, straightforward communication in non-evidential situations. Members of the public are provided with access to telephone interpreting when calling 999 or 101 to report crime.

Telephone interpreting is **not** appropriate for formal victim, witness or suspect interviews.

Telephone-interpreting services are acceptable where a matter is time-critical – for example, procedures under the Road Traffic Act 1988 in relation to drink or drug driving offences – or where it is not possible to secure the attendance of a face-to-face interpreter within a reasonable amount of time.

To prevent challenges at a later date, it is advisable to:

- request a UK-based interpreter where possible
- confirm that the interpreter can understand the interviewee
- confirm, through the interpreter, that the interviewee can understand the interpreter
- audio and/or video record the interaction and responses

You should consider any disclosure issues that may occur in relation to the interpreter's notes, including advising the interpreter to retain their original notes under third-party disclosure rules.

## Transcription

A transcript is a written record of a spoken or non-verbal communication, such as a written record of a police interview, body-worn camera footage or material obtained through overt or covert monitoring. A communication is monolingual if it occurred in one language, or bilingual if it occurred in two languages, for example, via an interpreter.

Current practice in England and Wales is to produce monolingual transcripts (written in English), even for bilingual communications, such as interviews conducted via an interpreter. This is sufficient in most cases. However, bilingual transcripts may be required for complex or major investigations. This is a decision for the senior investigating officer to make following advice from the transcriber.

## Translation

Translation is the rendering of the written word into another language. This could be from English into a second language, or vice versa. It may also involve translating written documents into BSL for people who are deaf or deafblind, or translating and transcribing sign language communication into a written document.

Investigative materials (such as documents, telephone downloads, or online communications) may need to be translated into English as part of the investigative process. Only a qualified translator can translate evidential material, and it is preferable that they specialise in legal translation.

Translation can be expensive and time-consuming. Before requesting translation services, decide whether the material is evidential or non-evidential (materials that may be presented in court are typically classed as evidential). Material should also be sorted according to protective marking.

Police officers or staff with language skills and police interpreters can help to do an initial assessment.

Appropriate security measures must be put in place for the translation of any material marked official sensitive or above. See: Taking a witness statement via an interpreter, point 5.

When translating to or from BSL, the deaf individual's level of literacy must be taken into account.

Translators should be booked according to force policy. The assignment will need a detailed brief that sets out the purpose of, and target audience for, the translation. Specific language requirements should be stated, for example, extensive use of text abbreviations, slang or other non-standard forms of language.

The translator will be required to provide a statement exhibiting any output from the translation process, and include their qualifications.

## Complaints

If you think a language professional has acted unprofessionally, complaints should be raised through your force's service provider contract manager in the first instance.

Further advice is available from the National Police Framework Contract Manager, who will refer the matter to the appropriate service provider. In serious cases, they will also investigate the allegation.

## Evidence base

The evidence underpinning this briefing note was gathered during the Transnational Organised Crime and Translation project, funded by the Arts and Humanities Research Council (AHRC) and the Economic and Social Research Council (ESRC) through the Partnership for Conflict, Crime and Security Research programme.

Project data for which consent was obtained is publicly available via the UK Data Service, **ReShare Record 853663**. This includes copies of interview and focus group questions, as well as anonymised interview responses.

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Working together with everyone in policing, we share the skills and knowledge officers and staff need to prevent crime and keep people safe.

We set the standards in policing to build and preserve public trust and we help those in policing develop the expertise needed to meet the demands of today and prepare for the challenges of the future.

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