



<u>Policy Title</u>	Interpreters and Translators
<u>CCMT Sponsor</u>	ACC Specialist Operations
<u>Department/Area</u>	Criminal Justice Department
<u>Section/Sector</u>	Criminal Justice

1 Rationale

- 1.1 It is important that all persons contacting the police or being spoken to by staff working for or with Thames Valley Police are able to do so without being disadvantaged because of an inability to speak the English language. Additionally the Disability Discrimination Act 1995 makes it unlawful for 'service providers', including the police, to treat disabled people less favourably than other people for a reason related to their disability. This includes people with speech or hearing impairment.

2 Intention

- 2.1 The intention of this policy is to ensure that all persons wishing to communicate information to any Thames Valley Police employee are able to do so free from any difficulties associated with language spoken, or difficulties relating to any other form of physical communication.

3 General Principles

- 3.1 The force will provide suitably qualified interpreters or translators, whenever and wherever they are required, to assist in communicating with:
- 3.1.1 persons who are detained and are subject of a criminal investigation (see Section 5);
 - 3.1.2 persons who are witnesses to crimes or other incidents of interest to the Force (see Section 6);
 - 3.1.3 persons who are the victims of crime (see Section 6); or
 - 3.1.4 persons requiring any other information that is the duty of the police to provide.
- 3.2 Thames Valley Police will comply with the recommendations of the National Guidance for Interpreters issued by the Trials Issue Group (TIG) which includes membership by the Police, the Bar Council, the Crown Prosecution Service (CPS), the Court Service, Customs and Excise, Home Office, Judiciary, Justices' Clerks Society, Law Society, Lord Chancellor's Department, Magistrates' Association, Victim Support and the National Probation Service.
- 3.3 This includes the use of interpreters registered with either the National Register of Public Service Interpreters (NRPSI) - for spoken languages - or the Council for the Advancement of Communication with Deaf People (CACDP) for 'evidential' interpreting in respect of statements and interviews to be used in court.

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- 3.3.1 A copy of the CACDP register is held securely in each designated custody suite with further copies available in Administration of Criminal Justice Departments.
- 3.3.2 A copy of the NRPSI register is available via the internet on www.nrpsi.co.uk. User ID and passwords are held by each custody suite and witness care units.
- 3.3.3 The registers are updated periodically. Any old paper copies of the NRPSI register should be destroyed.
- 3.3.4 The contents of the registers are copyright and details of interpreters obtained from the registers must not be disclosed outside the criminal justice agencies, i.e. the police, courts or solicitors whilst acting for a person subject of police investigation.
- 3.3.5 Although all persons listed in the registers are bound by a Code of Conduct and have been subject to a basic vetting procedure, there will be cases where the officers involved in the investigation will need to make more thorough checks before using an interpreter (for example investigations concerning terrorism when Special Branch may need to be consulted over the suitability of a particular interpreter).

(When interpreters register with the National Register they are informed that such checks may occasionally be required.)

Liaison in respect of interpreters is managed by HQ Criminal Justice Department and any issues, including poor quality work or difficulties obtaining an interpreter, should be brought to their notice.

- 3.4 For more simple communications, including the establishment of the circumstances surrounding a reported crime (but not the recording of a statement of evidence), use may be made of a telephone interpreting service with which Thames Valley Police have a contract. The procedures for using this service are detailed at Appendix A. Interpreters used by this company will be highly qualified but may not be located within the United Kingdom and may not be available to attend a police station or court. Therefore they will not be used to obtain evidence (other than in 'Drink/Drive' cases – see section 5.7).
- 3.4.1 Staff must always bear in mind the provisions of the "Protective Marking Scheme" agreed by the Chief Constables Council as regards communicating 'Restricted' or 'Confidential' information via public telephone networks or to a person not in the United Kingdom.
- 3.5 To enhance contact with members of ethnic minorities police areas may use local persons with interpreting skills to act as "advocates" for a person who cannot otherwise communicate with us. The difference between 'advocacy' and 'interpreting' can be summarised in that an "advocate" will explain a situation on behalf of another person instead of simply relaying what has been said.
- 3.6 Different provisions will apply in respect of each circumstance when interpreters are required.
- 3.7 Further guidance on minimum qualifications, defence responsibilities, etc can be found by referring to the Trials Issue Group Revised Agreement on the Arrangements for the Attendance of Interpreters in Investigations and Proceedings within the Criminal Justice System. This document is available on the Criminal Justice Intranet site.

4.0 Challenges and Representations

- 4.1 This policy is owned by the Head of Criminal Justice Department. Challenges and Representations to this policy should be addressed to:

Head of Criminal Justice Department
Thames Valley Police Headquarters
Kidlington

Oxon
OX5 2DH

5.0 Guidance, Procedures and Tactics

5.1 Detained Persons

- 5.1.1 In respect of detained persons, Thames Valley Police comply with the requirements of Code C of the Codes of Practice issued under the Police and Criminal Evidence Act 1984 (PACE). These detail the provisions which have to be made available to those persons who have difficulty in communicating with, or understanding police officers because of language differences, or other physical communication impairment.
- 5.1.2 There are two elements to communicating with detained persons:
- interviews to secure evidence; and
 - the giving and receiving of basic information (for example rights and entitlements).
- 5.1.3 In order to secure evidence it is vital that a suitably qualified interpreter is used and we will always endeavour to use an interpreter who is listed in the current edition of the National Register of Public Service Interpreters (NRPSI) or Council for the Advancement of Communication with Deaf People (CACDP).
- 5.1.4 See paragraph 3.3 for the availability of these registers.
- 5.1.5 When providing more basic information or simply to enable communication with a detained person, use may be made of a telephone interpreting service. See Appendix A.
- 5.1.6 For this task it may also be appropriate for an interpreter present at the police station to assist but not by formally translating 'word for word' what is said but by explaining in more general terms what is happening. ('Word for word' interpreting is a very cumbersome process in these circumstances but must be used for evidential purposes.)
- 5.1.7 This 'telephone interpreting' is also suitable for communicating with a detained person who is suspected of a 'drink/drive' offence and who is required to provide a specimen for analysis. To ensure the integrity of this translation the conversation will be tape recorded with a summary of the interview being recorded on the normal 'drink/drive' forms. (No further transcription of the tape recording will be made but a copy of the tape will be made available to the defence so that they may check the accuracy of the translation.)
- 5.1.8 The procedure for tape recording this process is detailed in the Custody Standard Operating Procedure.
- 5.1.9 If the suspect refuses or fails to provide samples after all relevant warnings have been given, an 'approved' interpreter must be called for a formal interview. If this is at an appropriate time for further samples to be provided, they should be requested so that a "back calculation" can be achieved. In other cases the interview should establish any reasons for refusal and the recording of the original requests can be used as part of this interview to confirm the authenticity of the original process.
- 5.1.10 The Custody Officer is responsible for all decisions regarding the provision of interpreters for person detained at a police station - although other members of staff may actually make the arrangements.
- 5.1.11 The procedure for contacting and using an interpreter is detailed at Appendix B.
- 5.1.12 When it is not possible to obtain the services of an interpreter as detailed above, the procedure to be followed is explained at Appendix C.
- 5.1.13 The police are also responsible for arranging for an interpreter to be present at the first court hearing (See Appendix B for further details).

5.2 Witnesses, Victims and Other contacts

- 5.2.1 In respect of victims of crime, witnesses to crimes or other incidents of interest to the Force, and other persons requiring information from Thames Valley Police, the Force will make available contact with an interpreter wherever appropriate to assist in overcoming difficulties relating to differences in language spoken, or difficulties relating to any other form of physical communication.
- 5.2.2 To expedite this communication, use may be made of the telephone interpreting service as detailed in Appendix A. Using this facility it is possible to complete communication with a person via a 'conference call'.
- The decision whether to use an interpreter should take account of the needs of the individual as well as the needs of the organisation and society. The decision should not be arbitrary and should be proportionate and least intrusive.
- 5.2.3 When vulnerable or intimidated witnesses are involved it is important that their needs are explicitly considered and the 'Gateway Officers' (selected staff responsible for managing interviews of vulnerable or intimidated witnesses) and interviewing officers must ensure that a suitable interpreter is used in the particular circumstances.
- 5.2.4 Interpreters used by Thames Valley Police for face to face interpreting will wherever possible be accredited members of the National Register of Public Interpreters (NRPSI), or the Council for the Advancement of Communication with Deaf People (CACDP). These two organisations operate codes relating to professional standards and competency.
- 5.2.5 The procedure to be followed when an accredited interpreter is not available is detailed at Appendix C.
- 5.2.6 In situations where telephone interpreting is appropriate to facilitate dialogue and understanding between a Thames Valley Police employee and a member of the public, only organisations providing the highest standards of service will be used. Thames Valley Police will maintain contracts with such organisations for staff to use.

5.3 Written Statements and Translations

- 5.3.1 The procedure for obtaining statements, or translations of documents, is very similar to using an interpreter in a 'face to face' environment and their services will be secured using the procedures outlined above.
- 5.3.2 When a statement is obtained from a non-English speaking person, the original (which is signed by the maker) shall be recorded in their own language and the interpreter shall then produce and exhibit a copy translated into English.

5.4 Documentation of Decisions

5.4.1 Detained Persons

The Custody Officer is responsible for all decisions in respect of the use of an interpreter for any detained person and all decisions will be recorded in the Custody Log.

The decision whether to use an interpreter should take account of the needs of the individual as well as the needs of the organisation and society. The decision should not be arbitrary and should be proportionate and least intrusive.

If there is any doubt about the need for an interpreter, the Custody Officer will err on the side of safety and engage the services of one.

5.4.2 Victims, Witnesses and Others

Any officer or employee of the Force who is in any doubt as to whether to make use of the services of an interpreter should confer with a supervisor or line manager for guidance.

If the Supervisor or Manager decides that use of an interpreter will not take place, then such a decision should be recorded in all relevant case papers and, in the case of a police officer, in their pocket notebook.

In all cases the use of an interpreter will be recorded on the combined attendance/claim form (form FIN36). This form also records the agreed contract between the interpreter and Thames Valley Police and must be submitted, via Area Finance staff, to HQ Finance Department as soon as possible so that the interpreter may be paid promptly.

A copy of this form will also be used when a person has been charged and is appearing at court to advise the court of details of the interpreters arranged and those used to date.

5.4.3 AUDIT AND INSPECTION OF DECISION MAKING

The use of interpreters in respect of detained persons will be monitored by researching custody records of such persons as part of the normal 'self-inspection' process.

The use of interpreters in respect victims of crime, witnesses to crimes and other incidents, and persons requiring information from the Force will be monitored through records maintained in respect of payments made to interpreters.

5.5 Concerns about quality of interpretation

- 5.5.1 Although interpreters arranged through the National Register or contracted Telephone Interpreting Service will have been approved as regards their abilities it is important that interpreters always act impartially and provide a quality service. Anyone who considers a particular interpreter has failed to meet this standard will report details to HQ Criminal Justice Department.

6.0 Communication

6.1 Links to Police National Legal Database/Other Policies

Link to PNLD PACE Codes of Practice

Link to Custody Standard Operating Procedures

Link to Vulnerable and Intimidated Witness Policy

Link to Trials Issue Group – Revised Agreement on the Arrangements for the Attendance of Interpreters in Investigation and Proceedings within the Criminal Justice System.

6.2 Communication Strategy

Intranet Policy and Procedures site

Force Internet site

Force Weekly Orders

Through BCU Custody Inspectors

Target audience: All staff working for Thames Valley Police.

7.0 Compliance and Certification

7.1 Human Rights Audit

Legal Basis

- The Police and Criminal Evidence Act 1984
- The Disability Discrimination Act 1995
- The Human Rights Act 1998

This policy has been drafted and audited in accordance with the Human Rights Act 1998.

It is acknowledged that this policy has the potential to engage the following Articles:-

- Article 5 - Right to liberty and security
Article 5(2) requires that *“Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.”*
- Article 6 - Right to a fair trial
Article 6(1) requires that *“In the determination of his civil rights and obligation or any criminal charge against him, every one is entitled to a fair and public hearing.... and*
Article 6(3)(e) provides that *“Everyone charged with a criminal offence has the ... right ... to have free assistance of an interpreter if he cannot understand or speak the language used ...”*
- Article 14 – Prohibition of discrimination

See below.

Prohibition of Discrimination

There is potential for discrimination against minority groups and other vulnerable persons, vulnerable persons being the deaf, blind, speech impaired or the mentally ill. This policy seeks to prevent such discrimination taking place.

Audited by (name): Inspector P Coles
Audited on (date): 11 August 2003 and 6 February 2004.

7.2 Race Equality Impact Assessment

A race equality impact assessment has been completed. This policy has been rated as medium and is available from the Thames Valley Police Policy Management Unit, the Thames Valley Police Intranet and Internet sites.

7.3 Diversity (Human Resources)

In the application of the policy, the Force will not discriminate against any persons regardless of sex, sexual orientation, race, colour, language, religion, political, or other opinion, national or social origin, association with national minority, property, birth, or other status as defined under Article 14, European Convention on Human Rights (ECHR).

7.4 Data Protection

Personal data held in connection with this policy will be processed in accordance with the provisions of the Data Protection Act 1998.

7.5 Freedom of Information Act

This policy is available to the public and can be included in the Thames Valley Police Freedom of Information Publication Scheme.

7.6 Protective Markings

This document has been reviewed using Government Protective Marking criteria and does not require a protective mark.

7.7 Health and Safety at Work

There are no specific risk assessments in respect of this policy.

The safety of all visitors in the custody environment is covered by the Force Custody Policy and Safe Working Procedures.

The risks associated with interpreters working within the custody environment are included in the above and additionally covered at paragraph 1.4 of Appendix B.

8.0 Monitoring and Review

8.1 Links to Best Value/PPAF/Force Priorities

This policy has links to the Best Value Reviews of Custody, Crime Investigation and Criminal Justice.

Under the Police Performance Assessment Framework, each of the Statutory Performance Indicators are supported by the existence of this policy.

This policy supports two of our strategic objectives:

- To provide an effective and timely response focussed on the needs of the citizen.
- To equip our frontline staff to deliver on our objectives.

8.2 Review Process

This policy will be reviewed every two years.

The review will take account of the following criteria:

- changes in legislation
- human rights challenges in domestic and Human Rights Courts
- changes in Home Office guidance
- changes in National Interpreters Working Group guidance
- representations by non-Governmental organisations
- representations by individuals.

APPENDICES

Appendix A

Obtaining the Services of a “Telephone Interpreter”

- 1 Telephone interpreting services provide an efficient and cost effective means of communicating with non-English speaking members of the public whom Thames Valley Police staff come into contact with in the course of their general duties.
- 2 At present they cannot be used to provide evidence for court use although they can be used in a custody environment to deal with:
 - 2.1 rights and entitlements; and
 - 2.2 the provision of ‘drink/drive’ samples - subject to the tape recording of the procedure and conversation as detailed at paragraph 5.7 of this policy.
- 3 All that is needed is a telephone and a language identification card (available from Area Training Officers). The procedure is then:
 - 3.1 Show the language identification card to the non-English speaker to ascertain the language they speak;
 - 3.2 Dial the service access number and give the following information:
 - The language for which you need an interpreter;
 - Your client ID number (available from Area Training Officers, Custody or Front Office staff);
 - Your organisation (Thames Valley Police);
 - Your name (initial and surname) and rank;
 - If necessary, specify if you need a male or female interpreter;
 - 3.3 You will be placed on hold whilst an interpreter is located and ‘conferenced’ into the call. **Do not hang up.**
 - 3.4 Connection is available 24 hours per day throughout the year and is normally made within 2 minutes.
 - 3.5 When the interpreter joins the conversation obtain and note their ID number and provide any special instructions you may have. Explain the method of communication you will be using (i.e. passing the telephone handset back and forth between you and the person or using a conference/speaker phone or separate handsets, etc.) and ask the interpreter to introduce you and themselves to the non-English speaker.
 - 3.6 As with any conversation, confirm or clarify details. Think how common miscommunication is just in the English language. Consider potential misunderstandings and avoid jargon or slang if possible.
 - 3.7 Before ending the conversation check that the non-English speaker understands what has been discussed and has no further questions and then complete the call by telling the interpreter “End of call”.

3.8 If during the use of this facility information comes to light that could be used as evidence, you must cease telephone interpreting and make arrangements for the use of an 'approved' interpreter.

3.9 Examples of when this facility should be used include:

- Emergencies;
- First contact situations;
- Enquiries and referrals;
- Confirming and making appointments;
- Giving and receiving information - including reports of crime;
- Breathalyser procedures at the roadside/in custody;
- In the custody environment as detailed above (at paragraph 2) as above.

Procedure for obtaining and using an interpreter.

- 1 Contact is made directly with interpreters using the appropriate directory.
 - 1.1 The NRPSI directory is split into sections for Law, Health and Local Government and an interpreter from the Law section should be used whenever possible. If an interpreter cannot be located from this section then one from another section should be contacted and their suitability discussed with them.
 - 1.2 Ascertain the type of interpreter required by the deaf or hard of hearing individual. A lipspeaker, or speech to text reader may be preferred by some as opposed to a sign language interpreter. Interpreters for deafblind people are also available for those with dual sensory impairment.
 - 1.3 When an interpreter agrees to attend the police station, whether at the time or later, the terms of attendance will be agreed at that time. Matters to be agreed include:
 - Ensure the interpreter has directions to the police station, knows who to ask for, when they should attend and the fees they are entitled to. This must also include the method of transport to be used and associated costs (Interpreter rates are updated approximately bi-annually and current rates are available on the intranet, under Corporate Finance/Fees and Charges/ Interpreters' Fees.);
 - Any agreement reached during this conversation between the staff member and interpreter is contractually binding upon Thames Valley Police and appropriate care must be taken over what is agreed.
 - 1.4 When the interpreter attends the police station the following points should be borne in mind:
 - The interpreter should attend the Front Office and be escorted to the Custody Suite after their identity has been verified;
 - The interpreter is acting for the member of the Criminal Justice agencies (police, solicitors, etc.,) and should **NEVER** be left alone with the suspect or detained person;
 - Initial procedures take place with the detained person and custody staff and include:
 - Ensuring that we have recorded correct details of the detained person;
 - How the detained person should be addressed;
 - Ensuring that the detained person knows the reasons for their arrest and detention (confining the information to that recorded on the initial detention log);
 - Giving PACE rights and entitlements and actioning any requests, ensuring that the right to **free** legal advice is understood.

- 1.5 When the interview commences the interpreter should be seated near to the detained person so that you can speak directly to the suspect (not the interpreter) whilst the interpreter interprets. Then:
- After the normal introductions on tape, the interpreter may explain their role to the detained person but thereafter will only directly interpret the interview;
 - Remember that the interpreter will need to interpret your question so break after every two or three sentences to allow this. Also remember that the interpreter cannot explain matters for you but must state to you what the interviewee has said. You may therefore get an unexpected response to a question, such as "What does that mean?" and you must explain through the interpreter;
 - Regular checks should be incorporated to ensure the detained person understands the questions and associated procedures;
 - Any notes made by anyone present, other than a solicitor, **must** be retained for disclosure purposes.
- 1.6 When the interview, and any necessary consequent procedures, have been concluded the interpreter should complete a claim form (local form FIN36) and hand it to the Officer in the Case or Custody Officer for certification.
- 1.6.1 The form consists of 4 copies; the original claim form plus copies for the file, the court (if the detained person is appearing at court) and the interpreter.
- 1.6.2 The certified claim form must then be submitted to Area Finance for completion and submission to HQ Finance for payment to be made.
- 1.6.3 If requested, sign the entry in the Registered Public Service Interpreters log book.
- 1.7 It is highly desirable for the detained person to be charged, bailed or released whilst the interpreter is present but this is not mandatory if there will be a lengthy delay and can be done using a telephone interpreter.
- 1.8 Whenever the detained person has been charged and either remanded or bailed to court, the police are responsible for arranging the interpreter for the first court appearance. Thereafter the courts are responsible for arranging interpreters.
- 1.8.1 Ideally a different interpreter should be arranged for the court hearing but often this is not possible. The independence of separate interpreters is aimed at maintaining admissibility of evidence by removing any sympathy or bias the first interpreter may have had towards a detained person.
- 1.8.2 When the person is bailed to court, it is appropriate to determine the first court date by the availability of the interpreter - even if this is beyond any target period - and it may be most appropriate to agree a suitable date with the interpreter whilst they are present at the police station.

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- 1.8.3 Form FIN36 caters for the supply to the court of details of the interpreter arranged for the first appearance and any other interpreters used in the investigation.
- 1.9 Whilst details of witnesses requiring an interpreter must be recorded on the prosecution file on the form MG6, any interpreters used to interview a suspect may be a potential trial witness and they should all be listed on the witness availability form MG10.

Procedure to be followed when a qualified interpreter is not available to assist with a Detained Person

Whenever it proves impracticable to obtain the services of a qualified interpreter to deal with a person in police detention, the first question to be considered is 'Can the matter be deferred until one is available?' Therefore the following procedure will be followed:

- 1 Consider bailing the suspect in accordance with section 47(3) PACE to return to the police station when a suitable interpreter is available.
 - 1.1 Any necessary conversations with the suspect can be done with the assistance of a telephone interpreter or similar.

 - 2 If 47(3) bail, as above, is not appropriate then the services of an interpreter who is not on the approved registers may be used subject to the following criteria:
 - 2.1 This must only be done when there is no alternative to keeping the detained person in custody;
 - 2.2 The authority of an Inspector must be obtained confirming the need to use a 'non-approved' interpreter. This should be recorded, together with a PACE review of detention, on the custody record;
 - 2.3 The interpreter should be selected from the most credible source possible (i.e. on an Immigration Service list or similar) and the Custody Officer will need to satisfy themselves that the person is an effective interpreter;
 - 2.4 The interpreter will be required to complete their details and a declaration that they understand the role they will be performing on the form provided for the purpose. This form will be retained on the case file and the "interpreters" details will not be recorded on any central database;
 - 2.5 The reason(s) for using a 'non-approved' interpreter must be included on the prosecution file for the information of the CPS (enter details on forms MG6);
 - 2.6 A report must be submitted to the Superintendent Criminal Justice (including a copy of the above) explaining the difficulties encountered in obtaining an 'approved' interpreter.
-