

To
The Home Office

By email to pacereview@homeoffice.gsi.gov.uk

24 September 2013

Response to the open consultation "Revised PACE codes of practice: C and H"

Dear Sir or Madam,

I am writing on behalf of the Society of Official Metropolitan Interpreters UK Ltd (SOMI UK). Please consider our response below in conjunction with that of the Joint Professional Interpreters for Justice (PI4J) of which we are a party.

All our members are official Metropolitan Police interpreters. Under the National Agreement on the use of Interpreters in the Criminal Justice System (NA)¹, we are required to be on the National Register of Public Service Interpreters (NRPSI)² or the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD)³. We are vetted to CTC level or above by the Metropolitan Police Service (MPS). We are all professional interpreters with academic qualifications and proven experience of interpreting within the criminal and civil justice systems.

The comments below concern the Home Office consultation on the proposed changes to the PACE codes of practice C and H⁴ which aim to implement the EU Directive on the right to interpretation and translation in criminal proceedings, and in particular the 'Notes for Guidance 13A' copied below.

Notes for Guidance

13A Chief officers have discretion when determining the individuals or organisations they use to provide interpretation and translation services for their forces provided that the services which are provided satisfy the requirements of the Directive. One example would be the Ministry of Justice Framework Agreement for interpretation and translation services. Whenever possible, interpreters should be provided in accordance with national arrangements approved or prescribed by the Secretary of State.

We strongly object to the following points:

- the inclusion in PACE of the Ministry of Justice Framework Agreement as an example of services provided that satisfy the requirements of the Directive
- the deletion of the sentence stating that wherever possible, interpreters should be provided in accordance with national arrangements approved or prescribed by the Secretary of State.

It is our contention that (i) the Ministry of Justice Framework Agreement in PACE should not be cited as "an example of services that satisfy the requirements of the Directive" for the reasons explained below, and (ii) that the national arrangements approved or prescribed by the Secretary of State should not be removed from PACE as this is counterproductive and not in the interest of justice.

An essential pre-requisite to achieving justice is reliable communication provided by qualified professional legal interpreters and translators, who are an essential resource which ensures that justice and human rights are upheld.

The introduction of the tier system by the Ministry of Justice Framework Agreement has profoundly compromised the quality of service provided to the police and court services, and constitutes an unacceptable lowering of the standard required for interpreting in the Criminal Justice System. *It does not satisfy the requirements of the EU Directive* and is resulting in costly delays, collapsed trials and may lead to miscarriages of justice.

This is evidenced extensively in the reports of the National Audit Office, the Public Accounts and the Justice Select Committees, and the Parliamentary Debate that followed, as well as in the stream of national and international articles published in the media since 30 January 2012, when the Ministry of Justice Framework was introduced (see Professional Interpreters for Justice and RPSI Linguist Lounge⁵). The vast majority of our qualified public service colleagues have not and will not register with the Ministry of Justice Framework Agreement.

A more suitable example would be the Metropolitan Police Service, which has made substantial savings since the introduction of their Language Programme in 2009, through efficiency and technology, whilst maintaining high standards of quality. Last year's spending on Language Services was reduced to 2004/5 levels (please see below chart)⁶.

An appropriate and professional interpreting service upholds both the suspect's and the victim's ECHR rights, and the MPS, through Language and Cultural Services and its Language Programme, ensures that all Victims and Witnesses - which constitute about 35% of LCS use - are afforded equal access to the highest levels of linguistic support.

It is noteworthy that court interpreting is mainly held in public and open to scrutiny by interpreters, official bodies and the public alike and therefore misinterpreting can be readily detected and nipped in the bud. However, police Interpreting by nature is held in private and misinterpreting can only be detected at a later stage, for example, when the case goes to solicitors or in court. Therefore, a different approach to the FWA should be applied.

We assume that 'the national arrangements approved or prescribed by the Secretary of State' proposed for deletion in the draft PACE refers to the National Agreement (NA)¹, which was introduced to address concerns raised by Lord Runciman with regards to the difficulty of obtaining good quality interpreters in his Report to the Royal Commission on Criminal Justice in July 1993, and Lord Justice Auld's Review of Criminal Justice in 2001⁷. The NA is a safeguard to basic human rights and was put in place following the recommendations of Lord Justice Auld in order to ensure the right to a fair trial. In 2006 a Home Office Circular reinforced the importance of the NA and the quality of interpreting services, and subsequent amendments were made to strengthen it, ensuring only registered and qualified interpreters could practise in the Criminal Justice System.

Under the previous arrangements, interpreters used in criminal proceedings were primarily drawn from the NRPSI² and the NRCPD³, which ensured interpreters' competence, reliability, accountability and security vetting by independently verifying their credentials and qualifications. These interpreters are bound by more stringent and robust codes of practice and conduct than those proposed in the Framework Agreement.

Interpreters, the organisations representing them, and other professionals in Criminal Justice are also fearful of the consequences for Equal Access to Justice and Fair Trial for non-English speakers⁸, which may be put at risk if quality legal interpreting or translation is not provided. There are inherent dangers to the delivery of justice that can arise out of inadequate interpreting or complete failure to supply an interpreter at all. The potential cost due to failed prosecutions and appeals also cannot be underestimated.

It is often the victims that are overlooked in this and they too will suffer if the standards are dropped and quality is sacrificed for profit.

The only way to ensure quality of result for the victim and fairness for the perpetrator in any case is having good-quality interpreters, resulting in improved integrity of investigations and trials, better treatment of victims, witnesses and detainees, compliance with legal obligations, and good race relations.

Yours faithfully,



Klasiena Slaney
Company Secretary
For and on behalf of SOMI UK Ltd

Specific links for further information

- 1) [National Agreement on the Use of Interpreters \(NA\)](#)
- 2) [National Register of Public Service Interpreters \(NRPSI\)](#)
- 3) [National Registers of Communication Professionals working with Deaf and Deafblind People \(NRCPD\)](#)
- 4) [Home Office consultation on the proposed changes to the PACE codes of practice C and H](#)
- 5) [RPSI Linguist Lounge](#) and [Professional Interpreters for Justice \(PI4J\)](#)
- 6) Metropolitan Police Service opted out of the MoJ Framework Agreement
MPS FOI, January 2013, [Language services costs 2011/12](#)
- MPS FOI, September 2011, [Expenditure on Interpreters and Translators for the past 7 years](#)
- 7) In 2001 Lord Justice Auld made recommendations in respect of interpreting provisions.
[Auld Recommendations](#) (paras 276-286, pages 63-64)
- 8) [Equal Access to Justice and Fair Trial for non-English speakers](#)

Metropolitan Police Language Services Cost – Savings achieved through the Language Programme

01/04/2004 - 31/03/2005	£7,599,844.00	
01/04/2005 - 31/03/2006	£8,823,838.00	16.11
01/04/2006 - 31/03/2007	£9,881,520.00	11.99
01/04/2007 - 31/03/2008	£10,541,236.00	6.68
01/04/2008 - 31/03/2009	£10,897,315.00	3.38
01/04/2009 - 31/03/2010	£9,598,849.00	-11.92
01/04/2010 - 31/03/2011	£8,829,552.00	-8.01
01/04/2011 - 31/03/2012	£7,624,797.00	-13.64
01/04/2012 - 01/01/2013	£4,424,524.00	