

Home Office consultation on PACE (closing date 25/09/13)

The proposed PACE draft includes the Ministry of Justice Framework Agreement as ‘an example of services provided that satisfy the requirements of the EU Directive’ and proposes to remove the National Agreement for the use of interpreters in the Criminal Justice System.

Please respond to this consultation if you share the concerns explained below and email your responses to: pacereview@homeoffice.gsi.gov.uk by 25/09/13.

On 21 August 2013 the Home Office launched a consultation on the proposed changes to the [PACE codes of practice C and H](#) which aim to implement the EU Directive on the right to interpretation and translation in criminal proceedings.

The right to high quality interpretation and translation during criminal proceedings is a cornerstone of a fair trial, and will be enforceable under EU law from October 2013.

Interpreters and translators are primarily used by the Police Service for evidential purposes and so are required to be of the highest standards. These include procedures such as PACE interviews, witness interviews, taking of statements etc. Only properly trained and qualified interpreters can provide an evidentially reliable service.

Please note the following proposed amendments:

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.

Professional legal interpreters and their representative bodies object to the following changes:

- the inclusion of the Ministry of Justice Framework Agreement as an example of services provided that satisfy the requirements of the EU 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.

The scope of the failings of the Ministry of Justice’s outsourcing of interpretation services in the justice sector to Capita Translation and Interpreting cannot have escaped anyone involved in interpreting in the criminal justice system. This situation must not be allowed to be extended to the police forces so that similar disruption and poor quality service is avoided.

We understand that ‘national arrangements approved or prescribed by the Secretary of State’ refers to the National Agreement on Arrangements for the Use of Interpreters in the CJS, which guaranteed minimum standards and quality. The NA is a safeguard to basic human rights and was put in place following the recommendations of Lord Justice Auld to ensure the right to a fair trial.

For a comprehensive overview of the situation, please refer to the Parliamentary inquiries and reports from the National Audit Office, the Public Accounts Committee and the Justice Select Committee and the extensive reports in the media, all of which can be found on the [Professional Interpreters for Justice Campaign](#) (PI4J) website.

Links for further information

[Home Office Consultation on PACE](#)

[National Agreement on Use of Interpreters \(NA\)](#)

[Professional Interpreters for Justice \(PI4J\)](#) website containing parliamentary and media reports

[Right to interpretation and translation](#) EU Directive – Safeguarding the right to a fair trial

[National Register of Public Service Interpreters \(NRPSI\)](#)



[National Registers of Communication Professionals working with Deaf and Deafblind People \(NRCPD\)](#)

[Right to interpretation and translation](#)

The EU is taking action to tackle the problem of varying standards and different levels of access to legal interpreting and translation available in criminal proceedings throughout its territory.

All EU countries are signatories to the [European Convention on Human Rights \(ECHR\)](#) - this is a requirement for joining the EU. The ECHR provides that anyone facing a criminal charge should be provided with **the services of an interpreter**, free of charge, if he/she doesn't understand the language of the proceedings.

Safeguarding the right to a fair trial

The 2010 [Directive on the right to interpretation and translation in criminal proceedings](#)   was adopted in order to rectify this situation.

In line with the requirements of the ECHR, as interpreted in the case-law of the [European Court of Human Rights \(ECtHR\)](#), it requires EU countries to put in place the following mechanisms:

Interpretation

It should be provided, free of charge, where necessary for the purpose of safeguarding the fairness of the proceedings. This includes:

- police interrogation,
- essential meetings between client and lawyer, and
- at trial.

Remote interpretation via videoconference, telephone, or Internet can be used if the physical presence of the interpreter is not required to safeguard fairness.

Translation of essential documents

Suspected or accused persons who do not understand the language of the proceedings must be provided with a written translation of documents that are essential for them to exercise their right of defence. This includes:

- the detention order,
- the indictment, and
- the judgment.

Quality control



A quality sufficient to ensure that suspected or accused persons have knowledge of the case against them and are able to exercise their right of defence is required.

To ensure that qualified legal interpreters and translators are available, EU countries are called on to set up a register of qualified translators and interpreters, and to make it available to legal counsels and relevant authorities.

Training

To ensure efficient and effective communication, relevant training of judges, prosecutors and judicial staff must be provided.

EU countries have until 27 October 2013 to implement the directive.

It was adopted following the 2009 [Roadmap for strengthening procedural rights](#)  , which included a measure on translation and interpretation.

<https://www.gov.uk/government/consultations/revised-pace-codes-of-practice-c-and-h>

Summary

This consultation concerns the treatment of 17-year-olds in police custody and the translation and interpretation of essential documents for non-English speaking detainees.

Open consultation **Revised PACE codes of practice: C and H**

Organisation: [Home Office](#)

Page history: Published 21 August 2013

Policy: [Helping the police fight crime more effectively](#)

Minister: [The Rt Hon Damian Green MP](#)

Series: [Police and Criminal Evidence Act 1984 \(PACE\): current versions](#)

Documents

[Revised PACE code C \(detention\)](#)

[Revised PACE code H \(detention-terrorism\)](#)

Consultation description

This consultation runs until Wednesday 25 September 2013.

Each draft has a covering note and detailed table outlining all the changes and their purpose with links to the paragraphs concerned. The changes to the Codes and reasons for the changes are summarised below.

Proposed changes to Codes of Practice C (Detention) and H (Detention – Terrorism)

The draft changes to the codes have been made in order to:

- comply with the Divisional Court judgment in [HC v The Secretary of State for the Home Department and the Commissioner of Police of the Metropolis](#).

- implement the [EU Directive on the right to interpretation and translation in criminal proceedings](#)
HC judgment

In the judgment, the court held that PACE Code C must be amended so that 17-year-olds were not treated in the same way as adults aged 18 and over.

The changes apply the safeguards in codes C and H currently applicable to juveniles (aged 16 or under) to 17-year-olds except in relation to primary legislation which cannot be extended to 17-year-olds unless it is amended by Parliament.

The main effect is to require an appropriate adult be called to help a 17-year-old and for a person responsible for the welfare of the 17-year-old (such as a parent or guardian) to be informed of their status as a detainee.

EU Directive 2010/64

The EU Directive came into force on 20 October 2010 and is required to be implemented in UK law by 27 October 2013. To comply with the directive, the changes include a new requirement for suspects to be provided with a written translation of certain 'essential' documents. Such documents are those concerning decisions to deprive a person of their liberty by keeping them in police custody and documents which set out any offence for which they are charged or reported.

A number of other minor changes have been made in the interests of legal accuracy and to reflect current practice.

Next steps

These drafts are being circulated for consultation in accordance with section 67(4) of PACE.

Please email your responses to: pacereview@homeoffice.gsi.gov.uk