

[illegible]

The Legalities

PACE Code C

(B) Interviewing suspects - foreign languages

13.2 Unless paragraphs 11.1 or 11.18(c) apply, a suspect who for the purposes of this Code requires an interpreter because they do not appear to speak or understand English (see paragraphs 3.5(c)(ii) and 3.12) must **not** be interviewed unless arrangements are made for a person capable of interpreting to assist the suspect to understand and communicate.

13.2A If a person who is a juvenile or a vulnerable person is interviewed and the person acting as the appropriate adult does not appear to speak or understand English, arrangements must be made for an interpreter to assist communication between the person, the appropriate adult and the interviewer, unless the interview is urgent and paragraphs 11.1 or 11.18(c) apply.



The Legalities

Human Rights Act 1998 Article 6 Right to a Fair trial

3 Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

© to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court



Interpreter vs Translator



Translators

We translate written text.



books



contracts



websites



Interpreters

We interpret spoken or sign language.



medical appointments



court proceedings



conferences



When should we use an Interpreter?

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



Interpreter

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.

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.



Identifying the right Language?

How many different languages are there in the world?

A: 7000

Identifying the right language should be done at the earliest opportunity with the custody officer. This may present some issues as there are variations of the same language. For example Arabic has over 20 different variations across several countries.

We must also consider the cultural impacts. This can include the interpreter themselves (some countries with a paramilitary style Police service).



Exercise

You are going to work in your groups and will be assigned a different scenario.

You will be tasked to research the relevant country that your arrested suspect is from:-

- identifying languages spoken.
- Any cultural issues, race, religion, nationality
- The perception of law and order in that country (the Judicial system).
- Any other relevant information that may impact the interview.



Exercise

Group 1:-

Your subject is a 25 year old male. He has stated in custody that he is a Chinese national. He is currently staying with family in the Newport area.

He has been arrested on suspicion of robbery. It is alleged he has approached the victim at a cash point. When the victim has withdrawn money, he has pushed them over and taken the money from the machine.



Exercise

Group 2:-

Your subject is a 35 year old male. He has previously been in custody. His custody record states he is from Iran and has been in the UK for 3 years. He can speak English. He has been arrested on suspicion of supplying class A drugs. It is alleged he has been seen by officers, hand a package to a person and receive money from them. Upon seeing police he has fled on foot but as been detained and was found to be in possession of several wraps of white powder and a quantity of cash.



Exercise

Group 3:-

Your subject is a 28 year old male who states he is from Saudi Arabia. He stated he has been in the UK on a business trip and is planning on returning to Saudi Arabia upon in two weeks.

The allegation is that he was seen by officers push a woman to the floor outside the Passport office. He has then been seen to take by force a passport from the female. She was reluctant to get involved but stated she was his wife and he had taken the passport from her.



Exercise

Group 4:-

Your subject is a 45 year old male. He has been located in an address whereby all floors were being used to cultivate cannabis.

He speaks English and states he is from Singapore.

Early indications is that he will state, he is being forced to grow the cannabis on behalf of an OCG.



Role of the Interpreter

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.





Dealing with Interpreters

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. This is the responsibility of the interviewing officer.

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 (they may have travelled a long distance)
- Familiarise the interpreter with the facilities and provide them with a single point of contact for any questions.

Dealing with Interpreters

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 all the time**, 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



Briefing the Interpreter

When dealing with serious and complex crime further consideration should be given to the briefing of the interpreter, this conversation will take place before the interpreter meets the interviewee.

Things the interpreter needs to know:

- what is likely to be discussed, including the nature of the offending and the context.
- the terminology that is likely to be used, such as medical or legal terminology (understanding the **caution**).
- details about the individual for whom they will be interpreting, including their name and any other relevant information.
- relevant place names and the names of any other people, including you, who may be referred to during the interview.
- any exhibits, images or CCTV that may be referred to during the interview, particularly if they include disturbing images.
- whether specific procedures are to be used, such as special warnings – these must be explained if required and any terminology or abbreviations must be clarified prior to the interview.



Briefing the Interpreter cont..

Although most interpreters will be used to the Police interview process it will still be beneficial to discuss the requirements from them in the interview itself.

Things to consider could include:

- Using the direct approach everything said is directly translated for example when interviewee says *"I don't understand?"* repeat *"I don't understand"* not *"He doesn't understand?"*.
- Work together to keep a suitable pace for all involved
- Do not speak on behalf of the interviewee
- Do not engage with the interviewee in any side conversation
- Please stop me where necessary
- Always clarify what is being said if you are unsure
- Please do not compress anything that is said (again check a suitable pace for the interview)



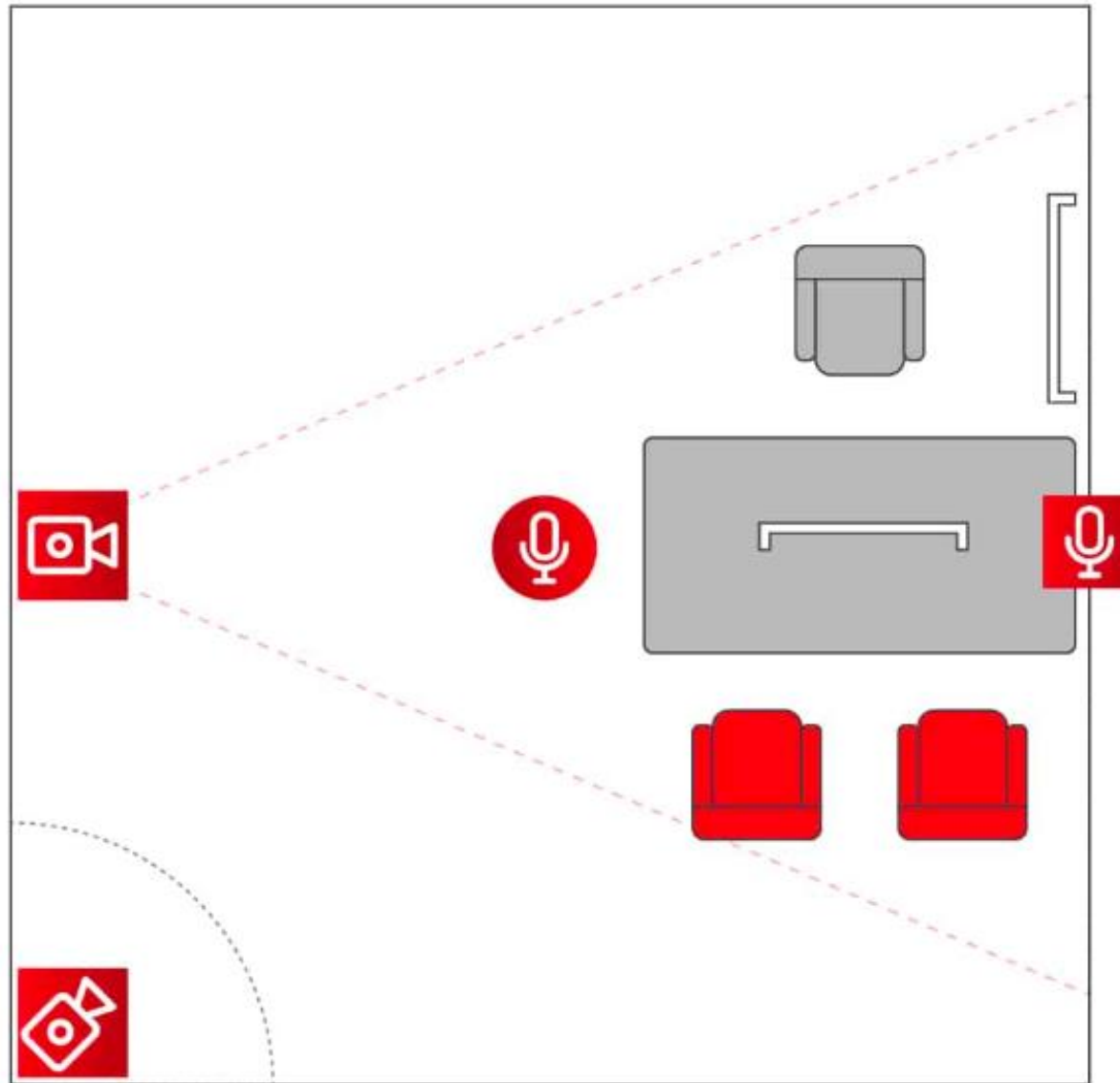
Briefing the Interpreter

In your groups create a briefing document that could be used to assist you when using an interpreter.

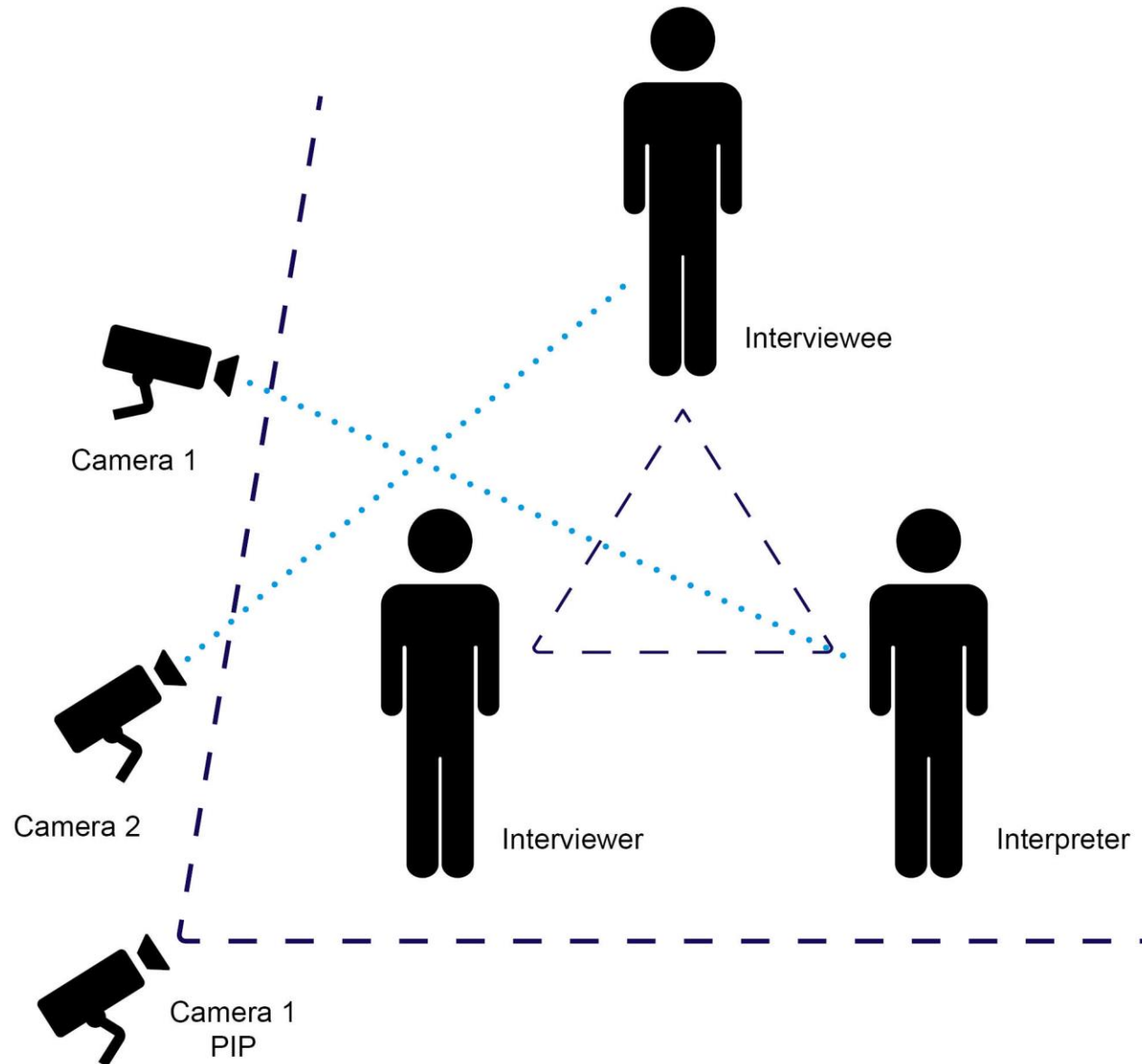
This could also include a document for researching the interviewee's country, language culture etc..



In the interview?



In the interview?



Briefing the Interviewee

The person who requires interpretation services will need to be briefed via the interpreter. You must conduct this briefing. The interpreter may add points for clarification. Your Aide memoire may contain points such as:-

- We will speak to one another via an interpreter
- The interpreter is not part of the police. They are here to put what you say into my language, and what I say into yours.
- The interpreter will keep everything that is said during the interview confidential.
- Please do not try to have any separate conversation with the interpreter. They are not allowed to engage
- The interpreter will interpret everything we say.
- If you have any questions, please ask me or your legal adviser. The interpreter is not allowed to give you any advice.
- We will speak directly to one another as though we share the same language. The interpreter will interpret what we say and speak in the first person.



Briefing the interviewee cont..

- We will pause after each sentence to allow the interpreter to do their job.
- If one of us speaks for too long, the interpreter might stop us with a gesture like this.
(The interpreter should then show how they will stop the interview. The gesture may vary in different cultures).
- We must not speak too quickly. If we speak too quickly, the interpreter might have to stop us and ask us to slow down.
- The interpreter is not an investigator and they will not ask questions. They will only interpret what we say.
- You may understand English, but please listen to the interpretation before answering the question in the language you share with the interpreter.
- The interpreter may ask questions to clarify what has been said to ensure the most accurate interpreting.



Conducting the interview

Things to consider when conducting the interview:-

- address the interviewee as though you are having a direct conversation (for example, ask the interviewee '*where were you?*', rather than asking the interpreter '*where was he/she?*')
- make eye contact with the interviewee to note any body language or non-verbal reactions (always clarify non-verbal reactions with the interpreter to ensure that they are correctly understood)
- ensure that only one person speaks at a time during a recorded interview (overlap can lead to inaudible fragments in the interview transcript)
- take a brief pause after one or two sentences to allow the interpreter time to interpret
- speak in short and unambiguous sentences to avoid confusion and unnecessary clarifications



Conducting the interview cont..

- rephrase questions, if necessary, to ensure that the interviewee fully understands what is being asked and that you fully understand their answer (it is particularly important to make sure the interviewee understands the caution)
- if you need information or clarification about cultural differences that arise during the interview, ask the interviewee to clarify these via the interpreter
- if you think that the interpreter is having a protracted conversation with the interviewee at any point, ask them to stop and clarify what is being said



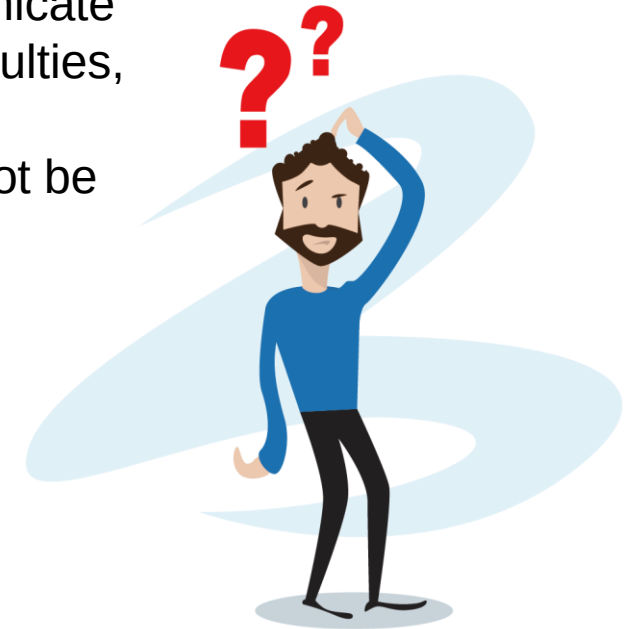
Legal advisor using the Interpreter

6.1 Unless Annex B applies, all detainees must be informed that they may at any time consult and communicate privately with a solicitor, whether in person, in writing or by telephone, and that free independent legal advice is available

13.9 If paragraph **6.1** applies and the detainee cannot communicate with the solicitor because of language, hearing or speech difficulties, arrangements must be made for an interpreter to enable communication. A police officer or any other police staff may not be used for this purpose.

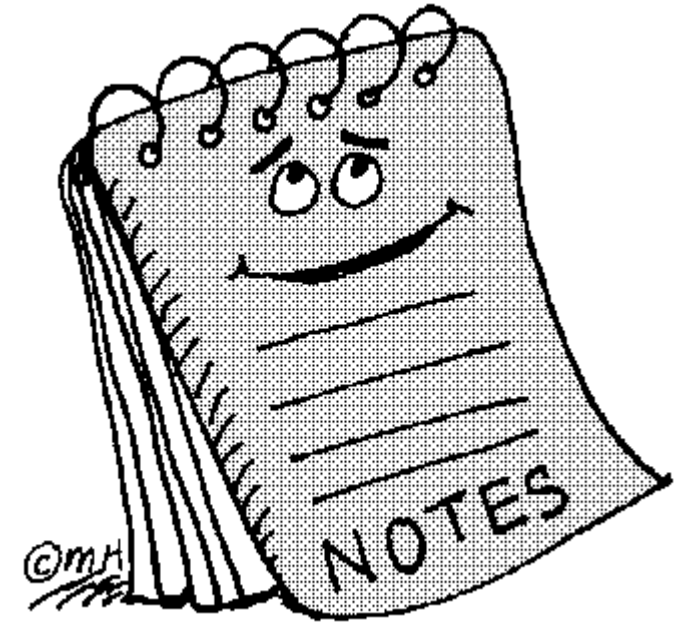
The interpreter is bound by a duty of confidentiality not to disclose what was said in consultation between the suspect and their legal representative.

Bozkurt v South Thames Magistrates' Court [2002]
R.T.R.15, the Divisional Court held that “*legal professional privilege attached to an interpreter who was present between a client and his solicitor.*”



After the interview

- Interpreters are usually trained to take notes to aid their memory during interviews.
- Any notes must be taken in hard copy.
- The interpreter must hand their notes to you 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.



Any
1.1

Questions