



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2012-03159

**Keyword:** Organisational Information/Governance

**Subject:** Written Statements Using Interpreters

**Request and Answer:**

### Question

We write with regards to a request under the Freedom of Information Act. In particular we require you, the PSNI, to provide to us a copy of all police documents, memo, rules, regulations and/or directions, or any other document relating to obtaining written statements of individuals to whom English is not their first language. We understand that the position is that police obtain statements from witnesses in the witnesses own first language and thereafter any such witness statement is translated. We presume that documents, policies or procedures exist in relation to same and we would therefore be obliged to receive a copy of same under the Freedom of Information Act.

### Answer

This is to inform you that the Police Service of Northern Ireland has now completed its search for the information you requested. The decision has been taken to disclose the located information to you in full.

PSNI policy on the provision of interpreters is governed by PACE Codes of Practice and outlines that a person must not be interviewed in the absence of a person capable of interpreting if:

- i) they have difficulty understanding English
- ii) the interviewer cannot speak the person's own language
- iii) the person wants an interpreter present

PACE Codes of Practice can be accessed via the link provided below:

[http://www.nio.gov.uk/police\\_and\\_criminal\\_evidence\\_ni\\_order\\_1989\\_codes\\_of\\_practice\\_2007\\_edition.pdf](http://www.nio.gov.uk/police_and_criminal_evidence_ni_order_1989_codes_of_practice_2007_edition.pdf)

Please also see extracts from the Guidance document and A Guide to Culture and Diversity – appendix C at the end of this correspondence.

If you have any queries regarding your request or the decision please do not hesitate to contact me

on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this letter.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing [foi@psni.pnn.police.uk](mailto:foi@psni.pnn.police.uk).

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that PSNI replies under Freedom of Information may be released into the public domain via our website @ [www.psni.police.uk](http://www.psni.police.uk)

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

## Written Statements

Written statements are important documents which not only provide a witness or suspect with an important opportunity to outline what has taken place but may ultimately determine the outcome of any criminal proceedings.

Any statement recorded by an interpreter will be retained by the relevant Police Officer. Interpreters will not be permitted to retain original statements or other documentation relating to the investigation. This is necessary to ensure the confidentiality, integrity and continuity of evidence. Where an interpreter has been requested to carry out an interpretation assignment and a member of the Police Service will not be available to attend, the interpreter should:

- Decline the request
- Refer the Officer to the notes of guidance and,
- Inform the relevant Interpretation Service Co-ordinator, who will liaise with the Police Service Co-ordinator, Community Safety Branch, Police Headquarters.

An interpreter may be required to assist a Police Officer interview someone other than a detained person. Interpreters should remember that written statements are factual documents. They should **not** include what the witness thinks has happened or include their opinion. A witness statement made by a non-English speaker will be recorded on a witness statement form (Form 38/36) and continue, if necessary, on Form 38/36a. The perjury declaration must be written out by the interpreter at the beginning of the statement, in the language of the witness. The witness should then read and sign the form after the declaration. The signature will normally be witnessed by the interpreter, who will also endorse the document with their own signature. The main text of the statement may then commence.

Whenever a witness statement is recorded in the language of a non-English speaking person, the investigating officer will make the necessary arrangements to have a translation carried out by the relevant service provider. Only in exceptional circumstances will the interpreter be asked to undertake this process and should the interpreter have any concerns in relation to their ability to do so they should make this known to the requesting officer. The translation may be used as an exhibit at Court and an exhibit label (signed by the interpreter) must be completed and attached to it. The interpreter must then make a witness statement, in English, on a 38/36.

If at any time during the assignment, the interpreter makes notes to which they may later refer, they must: -

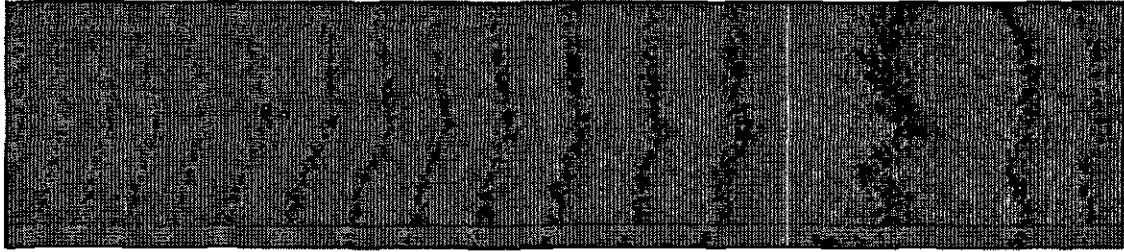
- Retain these notes;
- Ensure the officer in charge is informed of their existence and where they will be retained.

This will enable the Disclosure Officer in any impending prosecution to document the notes as 'unused material' on the case file and ensure compliance with the Criminal Procedures and Investigations Act 1996.

If the original witness statement and the translation are tendered as evidence in any subsequent court proceedings, the interpreter will be considered to be a witness.

If, having completed a statement, it becomes apparent that an error or omission has occurred on the part of either the person making the statement or by the interpreter, under no circumstances should the interpreter re-visit the document in order to make the necessary adjustment/amendment or alteration. Instead, the following procedure should be followed:

The interpreter should take a new form 38/36 and, having followed the relevant procedure, refer to the new document as being an additional statement to the previous one. The non-English speaking person should then proceed to detail the omission or error they wish to clarify and the interpreter should record the additional statement. This document will be referred to in the interpreter's statement as an exhibit.



## Appendix C: Interpreters

